FREE TRADE AGREEMENT

BETWEEN

THE EFTA STATES

AND

THE PHILIPPINES

PREAMBLE

Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (hereinafter referred to as the "EFTA States"), and the Republic of the Philippines (hereinafter referred to as "the Philippines"), hereinafter each individually referred to as a "Party" or collectively as the "Parties",

RECOGNISING the common wish to establish close and lasting relations between the EFTA States and the Philippines;

DESIRING to create favourable conditions for the development and diversification of trade between the Parties and for the promotion of commercial and economic cooperation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law;

DETERMINED to promote and further strengthen the multilateral trading system, building on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization* (hereinafter referred to as the "WTO Agreement") and the other agreements negotiated thereunder to which they are a party, thereby contributing to the harmonious development and expansion of world trade;

REAFFIRMING their commitment to democracy, the rule of law, human rights and fundamental freedoms in accordance with their obligations under international law, including as set out in the *United Nations Charter* and the *Universal Declaration of Human Rights*;

AIMING to create new employment opportunities, improve living standards, and raise levels of protection of health and safety, and of the environment;

REAFFIRMING their commitment to pursue the objective of sustainable development and recognising the importance of coherence and mutual supportiveness of trade, environment and labour policies in this respect;

DETERMINED to implement this Agreement in line with the objectives to preserve and protect the environment through sound environmental management and to promote an optimal use of the world's resources in accordance with the objective of sustainable development;

RECALLING their rights and obligations under multilateral environmental agreements to which they are a party, and the respect for the fundamental principles and rights at work, including the principles set out in the International Labour Organization (hereinafter referred to as the "ILO") Conventions to which they are a party;

RECOGNISING the importance of ensuring predictability for the trading communities of the Parties;

AFFIRMING their commitment to prevent and combat corruption in international trade and investment and to promote the principles of transparency and good public governance;

ACKNOWLEDGING the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, established by international organisations such as the Organisation for Economic Cooperation and Development (OECD) and the United Nations (UN);

CONVINCED that this Agreement will enhance the competitiveness of their enterprises in global markets and create conditions encouraging economic, trade and investment relations between the Parties;

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

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1.1

Establishment of a Free Trade Area

The EFTA States and the Philippines hereby establish a free trade area in accordance with the provisions of this Agreement.

ARTICLE 1.2

Objectives

The objectives of this Agreement are:

(a) to achieve the liberalisation of trade in goods, in conformity with Article XXIV of the *General Agreement on Tariffs and Trade 1994* (hereinafter referred to as the "GATT 1994");

(b) to achieve the liberalisation of trade in services, in conformity with Article V of the *General Agreement on Trade in Services* (hereinafter referred to as the "GATS");

(c) to mutually enhance investment opportunities;

(d) to prevent, eliminate or reduce unnecessary technical barriers to trade and to further the implementation of the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* (hereinafter referred to as the "SPS Agreement") and the *WTO Agreement on Technical Barriers to Trade* (hereinafter referred to as the "TBT Agreement");

(e) to promote competition in their economies, particularly as it relates to the economic relations between the Parties;

(f) to achieve further liberalisation on a mutual basis of the government procurement markets of the Parties;

(g) to ensure adequate and effective protection of intellectual property rights, in accordance with international standards;

(h) to develop international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties' trade relations; and

(i) to contribute to the harmonious development and expansion of world trade.

ARTICLE 1.3

Geographical Scope

1. This Agreement shall, except as otherwise specified in Annex I (Rules of Origin), apply to:

(a) the land territory, internal waters, archipelagic waters and the territorial sea of a Party, and the air-space above the territory of a Party, in accordance with international law; and

(b) the exclusive economic zone and the continental shelf of a Party, in accordance with international law.

2. This Agreement shall not apply to the Norwegian territory of Svalbard, with the exception of trade in goods.

ARTICLE 1.4

Trade and Economic Relations Governed by this Agreement

1. This Agreement shall apply to the trade and economic relations between the Philippines and the individual EFTA States. This Agreement shall not apply to the trade and economic relations between individual EFTA States, unless otherwise provided for in this Agreement.

2. As a result of the customs union established by the *Customs Treaty of 29 March 1923* between Switzerland and Liechtenstein, Switzerland shall represent Liechtenstein in matters covered thereby.

ARTICLE 1.5

Relation to Other Agreements

1. Each Party reaffirms its rights and obligations under the WTO Agreement and the other agreements negotiated thereunder to which it is a party, and any other international agreement to which it is a party.

2. If a Party considers that the maintenance or establishment of a customs union, free trade area, arrangement for frontier trade or another preferential agreement by another Party has the effect of altering the trade regime provided for by this Agreement, it may request consultations. The Party concluding such agreement shall afford adequate opportunity for consultations with the requesting Party.

ARTICLE 1.6

Fulfilment of Obligations

Each Party shall take any general or specific measures required to fulfil its obligations under this Agreement.

ARTICLE 1.7

Central, Regional and Local Governments

Each Party shall, subject to the provisions of this Agreement, ensure the observance of all obligations and commitments under this Agreement by its respective central, regional and local governments and authorities, and by non-governmental bodies in the exercise of governmental powers delegated to them by central, regional and local governments or authorities.

ARTICLE 1.8

Transparency

1. The Parties shall publish, or otherwise make publicly available, their laws, regulations, judicial decisions, administrative rulings of general application as well as their respective international agreements, that may affect the operation of this Agreement.

2. The Parties shall promptly respond to specific questions in English and provide, upon request, information to each other on matters referred to in paragraph 1. The information to be provided should, as far as practicable, be in English.

3. Nothing in this Agreement shall require any Party to disclose confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

4. In case of any inconsistency between paragraphs 1 and 2 and provisions relating to transparency in other parts of this Agreement, the latter shall prevail to the extent of the inconsistency.

CHAPTER 2

TRADE IN NON-AGRICULTURAL PRODUCTS

ARTICLE 2.1

Scope

This Chapter shall apply to trade between the Parties relating to goods as set out in Annex II (Product Coverage of Non-Agricultural Products).

ARTICLE 2.2

Rules of Origin

The rules of origin are set out in Annex I (Rules of Origin).

ARTICLE 2.3

Import Duties

1. Upon entry into force of this Agreement, the Philippines shall eliminate its import duties and charges having equivalent effect to import duties on goods originating in an EFTA State covered by this Chapter, except as otherwise provided for in Annex III (Schedule of Tariff Commitments of the Philippines on Non-Agricultural Products Originating in the EFTA States).

2. Upon entry into force of this Agreement, the EFTA States shall eliminate all import duties and charges having equivalent effect to import duties on goods originating in the Philippines covered by this Chapter.

3. No new import duties or charges having equivalent effect to import duties shall be introduced by the Parties.

4. Import duties and charges having equivalent effect to import duties include any duty or charge of any kind imposed in connection with the importation of goods, including any form of surtax or surcharge, but does not include any charge imposed in conformity with Articles III and VIII of the GATT 1994.

ARTICLE 2.4

Export Duties

1. The Parties shall, upon entry into force of this Agreement, eliminate all customs duties and other charges, including any form of surcharges and other forms of

contributions, in connection with the exportation of goods to another Party, except as provided for in Annex IV (Export Duties).

2. No new export duties or charges having equivalent effect to export duties shall be introduced by the Parties.

ARTICLE 2.5

Customs Valuation[1]

Article VII of the GATT 1994 and Part I of the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.6

Quantitative Restrictions

1. Article XI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Before taking a measure in accordance with paragraph 2 of Article XI of the GATT 1994, the Party considering taking such measures shall provide the Joint Committee with all relevant information, with a view to arriving at a mutually acceptable solution. If no mutually acceptable solution has been reached within 30 days from the receipt of the notification to the Joint Committee, the Party may apply the necessary measures in accordance with this Article.

3. In the selection of measures, priority shall be given to those which least disturb the functioning of this Agreement. Any measure applied pursuant to this Article shall be immediately notified to the Joint Committee. Such measure shall not be applied in a manner, which would constitute a means of arbitrary or unjustifiable discrimination where the same conditions prevail, or a disguised restriction on trade. The measure shall be subject to periodic consultations in the Joint Committee and shall be eliminated when the conditions no longer justify their maintenance.

4. Any measure taken by a Party pursuant to this Article shall be terminated no later than three years from its imposition.

ARTICLE 2.7

Import Licensing

1. The *WTO Agreement on Import Licensing Procedures* shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

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[1] Switzerland applies customs duties based on weight and quantity rather than *ad valorem* duties.

2. In adopting or maintaining non-automatic import licensing procedures, the Parties shall implement the measures consistent with this Agreement. A Party adopting non-automatic import licensing procedures shall indicate clearly the purpose of such licensing procedures.

ARTICLE 2.8

Article Trade in Fish and Other Marine Products

Additional provisions related to trade in fish and other marine products are set out in Annex V (Trade in Fish and Other Marine Products).

ARTICLE 2.9

Fees and Formalities

Article VIII of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*, subject to Article 9 of Annex VI (Trade Facilitation).

ARTICLE 2.10

Internal Taxation and Regulations

Article III of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.11

Trade Facilitation

With the aim to facilitate trade between the EFTA States and the Philippines, the Parties shall, in accordance with Annex VI (Trade Facilitation):

(a) simplify, to the greatest extent possible, procedures for trade in goods and related services;

(b) promote multilateral cooperation among the Parties in order to enhance their participation in the development and implementation of international conventions and recommendations on trade facilitation; and

(c) cooperate on trade facilitation within the mandate of the Sub-Committee on Trade in Goods.

ARTICLE 2.12

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the *WTO Agreement on Subsidies and Countervailing Measures*, except as provided for in paragraph 2.

2. Before a Party initiates an investigation to determine the existence, degree and effect of any alleged subsidy in another Party, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to an investigation and allow for a 60 day period for consultations with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if a Party so requests within 20 days from the receipt of the notification.[2]

ARTICLE 2.13

Anti-dumping

1. The rights and obligations of a Party relating to anti-dumping measures shall be governed by Article VI of the GATT 1994 and the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (hereinafter referred to as the "WTO Anti-dumping Agreement"), subject to paragraphs 2 to 8. The Parties shall endeavour to refrain from initiating anti-dumping procedures against each other.

2. When a Party receives a petition and before initiating an investigation under the WTO Anti-dumping Agreement, the Party shall notify in writing the Party whose goods are allegedly being dumped and allow for a 60 day period for consultations with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if a Party so requests within 20 days from the receipt of the notification.[3]

3. A Party shall not initiate an anti-dumping investigation within one year of a determination regarding the same product from the same Party, which resulted in the non-application or revocation of anti-dumping measures.

4. If an anti-dumping measure is applied by a Party, the measure shall be terminated no later than five years from its imposition.

5. An investigation shall not be initiated unless the application has been made by or on behalf of the domestic industry. The application shall be considered to be made "by

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[2] It is understood that investigations may be undertaken in parallel with ongoing consultations and that in the absence of a mutually agreed solution each Party retains its rights and obligations under Article VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.

[3] It is understood that investigations may be undertaken in parallel with ongoing consultations and that in the absence of a mutually agreed solution each Party retains its rights and obligations under Article VI of the GATT 1994 and the WTO Anti-dumping Agreement, subject to paragraphs 3 to 8.

or on behalf of the domestic industry" if it is supported by those domestic producers whose collective output constitutes more than 50 percent of the total production of the like product produced by the domestic industry.[4] The term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products. In the case of an application made or supported by a trade association, only the production of those member producers who support the application shall count towards the standing threshold.

6. If a Party decides to impose an anti-dumping duty, the Party shall apply the "lesser duty" rule if such lesser duty would be adequate to remove the injury to the domestic industry.

7. When anti-dumping margins are established, assessed or reviewed under Articles 2, 9.3, 9.5, and 11 of the WTO Anti-dumping Agreement regardless of the comparison bases under Article 2.4.2 of the WTO Anti-dumping Agreement, all individual margins, whether positive or negative, shall be counted toward the average.

8. Five years after the entry into force of this Agreement, the Parties shall in the Joint Committee review whether there is a need to maintain the possibility to take anti-dumping measures between them. If the Parties decide after the first review to maintain this possibility, biennial reviews shall thereafter be conducted in the Joint Committee.

ARTICLE 2.14

Global Safeguard Measures

The rights and obligations of a Party in respect of global safeguards shall be governed by Article XIX of the GATT 1994 and the *WTO Agreement on Safeguards*. In taking measures under these WTO provisions, a Party shall, in accordance with WTO rules, exclude imports of an originating product from one or several Parties if such imports do not in and of themselves cause or threaten to cause serious injury.

ARTICLE 2.15

Transitional Safeguard Measures

1. Where, as a direct result of the reduction or elimination of an import duty under this Agreement, any product originating in a Party is being imported into the territory of another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take transitional safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to paragraphs 2 to 14.

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4 The exception provided for in Article 4.1(i) of the WTO Anti-dumping Agreement shall not apply.

2. Transitional safeguard measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

3. If the conditions set out in paragraph 1 are met, the importing Party may take measures consisting in increasing the rate of import duty for the product to a level not to exceed the lesser of:

(a) the MFN rate of duty applied at the time the transitional safeguard measure is taken; or

(b) the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

4. Transitional safeguard measures shall be taken only for a period not exceeding one year. In exceptional circumstances, transitional safeguards measures may be extended beyond one year to a maximum period of three years. The Party extending transitional safeguard measures beyond one year shall provide compensation for the duration of the extension in the form of substantially equivalent concessions.

5. The Party intending to take or extend a transitional safeguard measure under this Article shall immediately, and in any case before taking or extending a measure, notify the other Parties. The notification shall contain all pertinent information, including evidence of serious injury or threat thereof caused by increased imports, a precise description of the product concerned, and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure. In case of extension of the measure pursuant to paragraph 4 the notification shall also contain the intended compensation.

6. A Party may request consultations within 30 days from the receipt of the notification. The Joint Committee shall, within a 60 day period, examine the information provided under paragraph 5 in order to arrive at a mutually acceptable solution.

7. In the absence of a mutually acceptable solution, the importing Party may adopt or extend the transitional safeguard measure. In case of extension of the measure and in the absence of mutually agreed compensation, the Party against whose product the transitional safeguard measure is taken may take compensatory action by withdrawing substantially equivalent concessions under this Agreement. The transitional safeguard measure and the compensatory action shall be immediately notified to the other Parties. The Party taking compensatory action shall apply the action only for the minimum period necessary to achieve the substantially equivalent trade effects and in any event, only while the extended transitional safeguard measure under paragraph 4 is being applied.

8. In the selection of the transitional safeguard measure and the compensatory action, priority must be given to the action or measure which least disturbs the functioning of this Agreement.

9. No transitional safeguard measures shall be applied to the import of a product, which has previously been subject to such a measures nor shall safeguard measures be applied concurrent with anti-dumping or countervailing duties.

10. Upon the termination of the transitional safeguard measure, the rate of import duty shall be the rate which would have been in effect but for the measure.

11. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional transitional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The Party intending to take such a measure shall immediately notify the other Parties thereof. Within 30 days from the receipt of the notification, the procedures set out in this Article shall be initiated.

12. Any provisional transitional safeguard measure shall be terminated within 200 days at the latest. The period of application of any such provisional transitional safeguard measure shall be counted as part of the duration, and any extension thereof, of the transitional safeguard measure, set out in paragraphs 3 and 4 respectively. Any import duty increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

13. Five years after the entry into force of this Agreement, the Parties shall review whether there is a need to maintain the possibility to take safeguard measures between them. Following the review, the Parties may decide whether they want to apply this Article any longer.

14. A transitional safeguard measure may be applied on a product no later than five years from the completion of each tariff commitment pursuant to Article 2.3 (Import Duties).

ARTICLE 2.16

State Trading Enterprises

Article XVII of the GATT 1994 and the *Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994* shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.17

General Exceptions

Article XX of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.18

Security Exceptions

Article XXI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.19

Balance-of-Payments

1. A Party, in serious balance of payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under the GATT 1994 and the *WTO Understanding on the Balance of Payments Provisions of the General Agreement on Tariffs and Trade 1994*, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation.

2. The Party introducing a measure under this Article shall promptly notify the Joint Committee.

ARTICLE 2.20

Modification of Concessions

In exceptional circumstances, where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, subject to an agreement with the other interested Parties, modify or withdraw a concession contained in its schedule of tariff commitments. In order to reach such agreement, a Party shall engage in negotiations with the other interested Parties. In such negotiations, the Party proposing to modify or withdraw a concession shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the other interested Parties than that provided for in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. The mutually agreed outcome of the negotiations, including any compensatory adjustments, shall be incorporated into this Agreement in accordance with Article 14.2 (Amendments).

ARTICLE 2.21

Consultations

A Party may request consultations regarding any matter under this Chapter. The requested Party shall promptly reply to the request and enter in consultations in good faith. The Parties shall make every attempt to arrive at a mutually acceptable solution.[5]

[5] It is understood that consultations pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Dispute Settlement) or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

ARTICLE 2.22

Contact Points

The Parties shall exchange names and addresses of contact points for this Chapter in order to facilitate the communication and the exchange of information.

ARTICLE 2.23

Sub-Committee on Trade in Goods

1. A Sub-Committee on Trade in Goods (hereinafter referred to as "Sub-Committee") is hereby established.

2. The mandate of the Sub-Committee is set out in Annex VII (Mandate of the Sub-Committee on Trade in Goods).

ARTICLE 2.24

Review

1. No later than five years from the entry into force of this Agreement, or on request of a Party, consultations shall be held in the Joint Committee with the aim to accelerate the elimination of import duties or otherwise improving tariff commitments. An agreement among all Parties to accelerate or improve tariff commitments shall be incorporated into this Agreement, in accordance with Article 14.2 (Amendments).

2. A Party may, at any time, unilaterally accelerate the reduction and elimination of customs duties or otherwise improve tariff commitments. A Party intending to do so shall inform the other Parties before the new rate of customs duties takes effect, or in any event, as early as practicable.

CHAPTER 3

TRADE IN AGRICULTURAL PRODUCTS

ARTICLE 3.1

Scope

This Chapter shall apply to trade between the Parties relating to goods other than those covered in Annex II (Product Coverage of Non-Agricultural Products).

ARTICLE 3.2

Tariff Concessions

1. The Philippines shall grant tariff concessions for goods originating in an EFTA State as specified in Annexes VIII to X (Schedules of Tariff Commitments on Agricultural Products).

2. Each EFTA State shall grant tariff concessions for goods originating in the Philippines as specified in Annexes VIII to X (Schedules of Tariff Commitments on Agricultural Products).

ARTICLE 3.3

Agricultural Export Subsidies

The Parties shall not apply export subsidies, as defined in Article 9 of the *WTO Agreement on Agriculture*, to trade in originating products for which a tariff concession is granted in accordance with this Agreement.

ARTICLE 3.4

Other Provisions

1. With respect to trade in goods covered by this Chapter, the following provisions of Chapter 2 (Trade in Non-Agricultural Products) shall apply, *mutatis mutandis*: Articles 2.2 (Rules of Origin), 2.4 (Export Duties), 2.5 (Customs Valuation), 2.6 (Quantitative Restrictions), 2.7 (Import Licensing), 2.9 (Fees and Formalities), 2.10 (Internal Taxation and Regulations), 2.11 (Trade Facilitation), 2.13 (Anti-dumping), 2.14 (Global Safeguard Measures), 2.15 (Transitional Safeguard Measures), 2.16 (State Trading Enterprises), 2.17 (General Exceptions), 2.18 (Security Exceptions), 2.19 (Balance-of-Payments), 2.20 (Modification of Concessions), 2.21 (Consultations) and 2.23 (Sub-Committee on Trade in Goods).

2. The rights and obligations of the Parties with respect to subsidies and

countervailing duties shall be governed by the applicable WTO Agreements.

3. With respect to Article on Rules of Origin, only bilateral accumulation between an EFTA State and the Philippines shall be allowed for goods covered by this Chapter.

ARTICLE 3.5

Further Liberalisation

The Parties shall continue efforts to achieve further liberalisation on trade in goods covered by this Chapter, taking into account the pattern of trade in agricultural products between the Parties, the particular sensitivities of such products, the development of each Party's agricultural policy and developments in bilateral and multilateral fora. With a view to achieving this objective, the Parties may consult in conjunction with the Joint Committee meetings.

CHAPTER 4

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 4.1

Objectives

The objectives of this Chapter are to:

(a) further the implementation of the SPS Agreement;

(b) strengthen cooperation between the Parties in the field of sanitary and phytosanitary measures to facilitate trade and access to their respective markets;

(c) facilitate information exchange between the Parties and enhance mutual understanding of each Party's regulatory system; and

(d) effectively solve trade concerns affecting trade between the Parties within the scope of this Chapter.

ARTICLE 4.2

Scope

This Chapter shall apply to sanitary and phytosanitary measures, which may, directly or indirectly, affect trade between the Parties.

ARTICLE 4.3

Affirmation of the SPS Agreement

Except as otherwise provided for in this Chapter, the SPS Agreement shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 4.4

Definitions

For the purposes of this Chapter:

(a) **international standards** mean the standards, guidelines and recommendations of the Codex Alimentarius Commission (CAC), the World Organisation for Animal Health (OIE) and the relevant international

and regional organisations operating within the framework of the *International Plant Protection Convention* (IPPC);

(b) **perishable goods** mean goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;

(c) **serious sanitary or phytosanitary issues** mean cases for which international standards, in particular in the *Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*, by the CAC[6], foresee a notification between competent authorities.

ARTICLE 4.5

Inspections, Certification System and System Audits

1. An importing Party shall base assessments of the inspection and certification system of the exporting Party on international standards.

2. Without prejudice to the right of the Parties to approve establishments seeking access to the export market on the basis of individual inspections and audits, the Parties agree to primarily audit the inspection and certification system of the exporting Party.

3. The competent authorities of the Parties shall agree in advance on the anticipated costs of an inspection or audit.

4. Corrective actions, timeframes and follow-up procedures shall, if applicable, be clearly documented in an assessment report.

5. The importing Party shall provide the relevant information in writing to the exporting Party within 60 days from the audit. The exporting Party may comment on such information within 45 days. Comments made by the exporting Party shall be included in the assessment report.

ARTICLE 4.6

Certificates

1. The Parties agree to cooperate in order to minimise the number of SPS certificates as far as possible. Where official certificates are required, these should be in line with the principles laid down in international standards. A Party shall accept SPS certificates in English, issued by the competent authority of another Party, without any further requirements or charges.

2. If a Party introduces or modifies a certificate, it shall notify the other Parties as early as possible, in English. The Party shall provide the factual basis and justification

[6] CAC/GL 25/1997.

for the new or modified certificate. The exporting Parties shall be given sufficient time to adapt to the new requirements.

ARTICLE 4.7

Cooperation

1. The Parties shall strengthen cooperation with a view to increasing the mutual understanding of each other's systems and facilitating access to their respective markets. Such cooperation shall include, but is not limited to, collaboration between the relevant scientific institutions that provide the Parties with scientific advice and risk analysis.

2. The Parties shall ensure that all adopted SPS regulations are published and available on the internet. Upon request, a Party shall provide supplementary information regarding import requirements in English.

3. The Parties shall notify any substantial change in structure, organisation and division of responsibilities of their competent authorities and contact points to the other Parties.

4. When a Party introduces new SPS measures, its competent authority shall, upon request, provide, as far as practicable in English, the background of the change, appropriate risk assessment or scientific basis justifying the measure and other relevant information.

ARTICLE 4.8

Movement of Products

The Parties shall ensure that goods fully complying with the relevant sanitary and phytosanitary requirements of an importing Party can freely move within their respective territories, once placed on the market.

ARTICLE 4.9

Import Checks

1. The import requirements and checks applied to imported goods covered by this Chapter shall be based on the risk that is associated with such goods and shall be applied in a non-discriminatory manner. Import checks shall be carried out as expeditiously as possible, in a manner that is no more trade-restrictive than necessary. The Parties shall make every effort to avoid any deterioration of perishable goods.

2. Upon request, information about the frequency of import checks or changes in this frequency shall be exchanged between competent authorities of the Parties.

3. Each Party shall ensure that adequate procedures exist to allow a person responsible for a consignment, subject to sampling and analysis, to apply for a supplementary expert opinion at a laboratory, accredited by the competent authority of the importing Party, as part of the official sampling.

4. Import control should be carried out according to international standards.

5. Goods subject to random and routine checks should not be detained at the border while awaiting the results of the tests.

6. Where a Party detains, at a port of entry, goods exported from another Party due to an alleged failure to comply with a sanitary or phytosanitary measure, the factual justification for the detention shall be promptly notified to the importer or his representative.

7. If goods are rejected at a port of entry due to a verified serious sanitary or phytosanitary issue, the competent authority of the exporting Party shall be promptly notified in writing of the factual basis and scientific justification.

8. If goods are rejected at the port of entry for reasons other than a verified serious sanitary or phytosanitary issue, the competent authority of the exporting Party shall, upon request, be notified in writing of the factual basis and scientific justification, as soon as possible.

9. Each Party shall ensure that appropriate procedures exist for the person responsible for the consignment or his representative to appeal the decision, if products are rejected at a point of entry.

ARTICLE 4.10

Consultations

Consultations shall be held at the request of a Party, which considers that another Party has taken a measure which is likely to create, or has created, an obstacle to trade. Such consultations shall take place within 30 days from the receipt of the request with the objective of finding a mutually acceptable solution. If consultations are not taking place in the Joint Committee, it should be informed thereof. In case of perishable goods, consultations between the competent authorities of the Parties shall be held without undue delay. The consultations may be conducted by any agreed method.[7]

[7] It is understood that consultations pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Dispute Settlement) or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

ARTICLE 4.11

Review

The Parties shall, no later than two years from the entry into force of this Agreement, and thereafter upon request by a Party, jointly review this Chapter with a view to extending treatment granted to a non-party, with whom all Parties have established arrangements concerning sanitary and phytosanitary regulations, to the Parties.

ARTICLE 4.12

Contact Points

The Parties shall exchange names and addresses of contact points for this Chapter in order to facilitate communication and the exchange of information.

CHAPTER 5

TECHNICAL BARRIERS TO TRADE

ARTICLE 5.1

Objectives

The objectives of this Chapter are to:

(a) further the implementation of the TBT Agreement;

(b) facilitate bilateral trade and access to respective markets for goods within the scope of this Chapter;

(c) facilitate information exchange and cooperation in the field of technical regulations, standards and conformity assessment between the Parties, and enhance mutual understanding of each Party's regulatory system;

(d) prevent, eliminate or reduce unnecessary obstacles related to trade between the Parties, in particular to avoid duplications in conformity assessment procedures;

(e) further the implementation of good regulatory practice in the area of product safety, including market surveillance; and

(f) effectively solve trade concerns affecting trade between the Parties within the scope of this Chapter.

ARTICLE 5.2

Scope

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

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

(a) sanitary and phytosanitary measures as defined in Chapter 4 (Sanitary and Phytosanitary Measures); nor

(b) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies.

ARTICLE 5.3

Affirmation of the TBT Agreement

Except as otherwise provided for in this Chapter, the TBT Agreement shall apply and is hereby incorporated and made part of this Agreement, *mutatis mutandis*.

ARTICLE 5.4

International Standards

For the purposes of this Chapter, standards issued by international standardising bodies, in particular, but not limited to the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and the Codex Alimentarius Commission (CAC) shall be considered relevant international standards in accordance with Article 2.4. of the TBT Agreement.

ARTICLE 5.5

Movement of Products, Border Control and Market Surveillance

1. The Parties shall ensure that goods fully complying with the relevant technical regulations of an importing Party can freely move within their respective territories, once placed on the market.

2. Where, a Party detains, at a port of entry, goods exported from another Party due to an alleged failure to comply with a technical regulation, the reasons for the detention shall be promptly notified to the importer or his representative.

3. Where a Party withdraws, from its market, goods exported from another Party, the reasons shall be promptly notified to the importer, his representative or a person responsible for placing the goods on the market.

ARTICLE 5.6

Conformity Assessment Procedures

1. The Parties acknowledge that a broad range of mechanisms exist to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in another Party's territory, but not limited to:

(a) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specified technical regulations conducted by recognised conformity assessment bodies;

(b) voluntary arrangements between conformity assessment bodies in each

Party's territory;

(c) use of accreditation based on international standards, to qualify conformity assessment bodies;

(d) government designation of conformity assessment bodies;

(e) recognition by a Party of the results of conformity assessments performed in the territory of another Party;

(f) use of regional or international arrangements and regional or international recognition agreements to which the Parties are parties; and

(g) the importing Party's acceptance of a supplier's declaration of conformity, based on international standards.

2. The Parties shall not prepare, adopt or apply conformity assessment procedures, which are likely to create unnecessary obstacles to trade and shall to this end:

(a) reinforce the role of international standards as a basis for technical regulations, including conformity assessment procedures;

(b) promote the accreditation of conformity assessment bodies on the basis of relevant Standards and Guidelines of ISO and IEC; and

(c) encourage the mutual acceptance of conformity assessment results of bodies accredited in accordance with paragraph (b), which have been recognised under the relevant international agreement.

3. Insofar as the Parties require a positive assurance of conformity with domestic technical regulations, the Parties shall, where applicable, encourage the acceptance of supplier's declarations of conformity, based on international standards as a documentation declaring conformity with domestic technical regulations.

ARTICLE 5.7

Cooperation

With a view to increasing the mutual understanding of each other's systems and facilitating access to respective markets, the Parties shall strengthen their cooperation, in particular in the following areas:

(a) activities of international standardisation bodies and the WTO Committee on Technical Barriers to Trade;

(b) communication between the competent authorities of the Parties, exchange of information in respect of technical regulations, good regulatory practice, standards, conformity assessment procedures, border control and market surveillance;

(c) encouraging their respective standardisation bodies to cooperate; and

(d) on request of a Party, make available, promptly, the full text or summary of technical regulations notified to WTO members, in English.

ARTICLE 5.8

Consultations

Consultations shall be held at the request of a Party, which considers that another Party has taken a measure which is likely to create, or has created, an obstacle to trade. Such consultations shall take place within 40 days from the receipt of the written request with the objective of finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if a Party so requests. The consultations may be conducted by any agreed method.[8]

ARTICLE 5.9

Review

1. The Parties shall no later than four years from the entry into force of this Agreement, and thereafter upon request by a Party, jointly review this Chapter with a view to extending treatment granted to a non-party, with whom all Parties have established arrangements concerning standards, technical regulations and conformity assessment procedures, to the Parties.

2. The Parties may conclude Annexes or side agreements to this Agreement to prevent, eliminate, or reduce unnecessary obstacles, including to avoid duplicative and unnecessarily burdensome conformity assessment procedures in specific product sectors.

ARTICLE 5.10

Contact Points

The Parties shall exchange names and addresses of contact points for this Chapter in order to facilitate communication and the exchange of information.

[8] It is understood that consultations pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Dispute Settlement) or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

CHAPTER 6

TRADE IN SERVICES

ARTICLE 6.1

Scope and Coverage

1. This Chapter applies to measures by Parties affecting trade in services and taken by central, regional or local governments and authorities as well as by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities. It applies to all services sectors, except services supplied in the exercise of government authority.

2. With respect to air transport services, this Chapter shall not apply to measures affecting air traffic rights or measures affecting services directly related to the exercise of air traffic rights, except as provided for in paragraph 3 of the GATS Annex on Air Transport Services. The definitions of paragraph 6 of the GATS Annex on Air Transport Services are hereby incorporated and made part of this Agreement.

3. Articles 6.3 (Most-Favour-Nation Treatment), 6.4 (Market Access) and 6.5 (National Treatment) shall not apply to laws, rules, regulations or requirements governing the procurement by governmental agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale.

ARTICLE 6.2

Definitions

1. Where a provision of this Chapter provides that a provision of the GATS is incorporated into and made part of this Agreement, the meaning of the terms used in the GATS provision shall be understood as follows:

(a) **Member** means Party;

(b) **Schedule** means a Schedule referred to in Article 6.16 (Schedules of Specific Commitments) and contained in Annex XI (Schedules of Specific Commitments); and

(c) **specific commitment** means a specific commitment in a Schedule referred to in Article 6.16 (Schedules of Specific Commitments).

2. The following definitions of Article I of the GATS are hereby incorporated into and made part of this Agreement:

(a) **trade in services**;

(b) **services**; and

(c) **a service supplied in the exercise of governmental authority**;

3. For the purposes of this Chapter:

(a) **service supplier** means any person that supplies a service;[9]

(b) **natural person of another Party** means a natural person who, under the legislation of that other Party, is:

(i) a national of that other Party who resides in the territory of any WTO Member; or

(ii) a permanent resident of that other Party who resides in the territory of a Party, if that other Party accords substantially the same treatment to its permanent residents as to its nationals in respect of measures affecting trade in services. For the purpose of the supply of a service through presence of natural persons (Mode 4), this definition covers a permanent resident of that other Party who resides in the territory of a Party;

(c) **juridical person of another Party** means a juridical person which is either:

(i) constituted or otherwise organised under the domestic laws, rules and regulations of that Party, and is engaged in substantive business operations in the territory of a Party; or

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

(aa) natural persons of that other Party; or

(bb) juridical persons of that other Party identified under subparagraph (c)(i).

4. The following definitions of Article XXVIII of the GATS are hereby incorporated into and made part of this Agreement:

(a) **measure**;

(b) **supply of a service**;

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

(c) **measures by Members affecting trade in services**;

(d) **commercial presence**;

(e) **sector of a service**;

(f) **service of another Member**;

(g) **monopoly supplier of a service**;

(h) **service consumer**;

(i) **person**;

(j) **juridical person**;

(k) **owned**, **controlled** and **affiliated**; and

(l) **direct taxes**.

ARTICLE 6.3

Most-Favoured-Nation Treatment

1. Without prejudice to measures taken in accordance with Article VII of the GATS, and except as provided for in its List of MFN Exemptions contained in Annex XII (Lists of MFN Exemptions), each Party shall accord immediately and unconditionally, in respect of all measures affecting the supply of services, to services and service suppliers of another Party treatment no less favourable than the treatment it accords to like services and service suppliers of any non-party.

2. Treatment granted under other existing or future agreements concluded by a Party and notified under Article V or Article V *bis* of the GATS shall not be subject to paragraph 1.

3. If a Party concludes an agreement of the type referred to in paragraph 2 after the entry into force of this Agreement or amends such agreement, it shall notify the other Parties without delay. The former Party shall, upon request by another Party, negotiate the incorporation into this Agreement of a similar treatment no less favourable than that provided under that agreement.

4. Paragraph 3 of Article II of the GATS shall apply to the rights and obligations of the Parties with respect to advantages accorded to adjacent countries and is hereby incorporated into and made part of this Agreement.

ARTICLE 6.4

Market Access

Article XVI of the GATS shall apply and is hereby incorporated into and made part of this Agreement.

ARTICLE 6.5

National Treatment

Article XVII of the GATS shall apply and is hereby incorporated into and made part of this Agreement.

ARTICLE 6.6

Additional Commitments

Article XVIII of the GATS shall apply and is hereby incorporated into and made part of this Agreement.

ARTICLE 6.7

Domestic Regulation

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

2. (a) Each Party shall maintain or institute, as soon as practicable, judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of another Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

(b) The provisions of subparagraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where authorisation is required by a Party for the supply of a service, the competent authorities of that Party shall, within a reasonable period of time after the submission of an application is considered complete under that Party's domestic laws, rules and regulations, inform the applicant of the decision concerning the application.

At the request of the applicant, the competent authorities of that Party shall provide, without undue delay, information concerning the status of the application.

4. Each Party shall ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures, in sectors in which a Party has undertaken specific commitments, are based on objective and transparent criteria such as competence and the ability to supply the service.

5. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures do not constitute unnecessary barriers to trade in services, the Joint Committee shall take a decision aiming at incorporating into this Agreement any disciplines developed in the WTO in accordance with paragraph 4 of Article VI of the GATS. The Parties may also, jointly or bilaterally, decide to develop further disciplines.

6. (a) In sectors in which a Party has undertaken specific commitments, pending the entry into force of a decision incorporating WTO disciplines for these sectors pursuant to paragraph 5, and, if agreed between Parties, disciplines developed jointly or bilaterally under this Agreement pursuant to paragraph 5, the Party shall not apply qualification requirements and procedures, technical standards and licensing requirements and procedures that nullify or impair such specific commitments in a manner which is:

(i) more burdensome than necessary to ensure the quality of the service; or

(ii) in the case of licensing procedures, in itself a restriction on the supply of the service.

(b) In determining whether a Party is in conformity with the obligation under subparagraph (a), account shall be taken of international standards of relevant international organisations[10] applied by that Party.

7. Each Party shall provide for adequate procedures to verify the competence of professionals of another Party.

ARTICLE 6.8

Recognition

1. For the purpose of the fulfilment of its relevant standards or criteria for the authorisation, licensing or certification of service suppliers, each Party shall give due consideration to any requests by another Party to recognise the education or experience obtained, requirements met, or licences or certifications granted in that other Party. Such recognition may be based upon an agreement or arrangement with that other Party, or otherwise be accorded unilaterally.

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[10] The term **relevant international organisations** refers to international bodies whose membership is open to the relevant bodies of at least all Parties.

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

3. Any such agreement or arrangement or unilateral recognition shall be in conformity with the relevant provisions of the WTO Agreement, in particular paragraph 3 of Article VII of the GATS.

ARTICLE 6.9

Movement of Natural Persons

1. This Article applies to measures affecting natural persons who are service suppliers of a Party, and natural persons of a Party who are employed by a service supplier of a Party, in respect of the supply of a service.

2. 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 nationality, residence or employment on a permanent basis.

3. Natural persons covered by a specific commitment shall be allowed to supply the service in accordance with the terms of that commitment.

4. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment.[11]

ARTICLE 6.10

Transparency

Paragraphs 1 and 2 of Article III and Article III *bis* of the GATS shall apply and are hereby incorporated into and made part of this Agreement.

[11] The sole fact of requiring a visa for natural persons shall not be regarded as nullifying or impairing benefits under a specific commitment.

ARTICLE 6.11

Monopolies and Exclusive Service Suppliers

Paragraphs 1, 2 and 5 of Article VIII of the GATS shall apply and are hereby incorporated into and made part of this Agreement.

ARTICLE 6.12

Business Practices

Article IX of the GATS shall apply and is hereby incorporated into and made part of this Agreement.

ARTICLE 6.13

Payments and Transfers

Article XI of the GATS shall apply and is hereby incorporated into and made part of this Agreement.

ARTICLE 6.14

Restrictions to Safeguard the Balance of Payments

1. The Parties shall endeavour to avoid the imposition of restrictions to safeguard the balance of payments.

2. Paragraphs 1 to 3 of Article XII of the GATS shall apply and are hereby incorporated into and made part of this Agreement.

3. A Party adopting or maintaining such restrictions shall promptly notify the Joint Committee.

ARTICLE 6.15

Exceptions

Article XIV and paragraph 1 of Article XIV *bis* of the GATS shall apply and are hereby incorporated into and made part of this Agreement.

ARTICLE 6.16

Schedules of Specific Commitments

1. Each Party shall set out in a Schedule the specific commitments it undertakes under Articles 6.4 (Market Access), 6.5 (National Treatment) and 6.6 (Additional Commitments). With respect to sectors where such commitments are undertaken, each Schedule shall specify:

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

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments referred to in Article 6.6 (Additional Commitments); and

(d) where appropriate, the timeframe for implementation of such commitments and the date of entry into force of such commitments.

2. Measures inconsistent with both Articles 6.4 (Market Access) and 6.5 (National Treatment) shall be subject to paragraph 2 of Article XX of the GATS.

3. The Parties' Schedules of Specific Commitments are set out in Annex XI (Schedule of Specific Commitments).

ARTICLE 6.17

Modification of Schedules of Commitments

1. The Parties shall, upon written request by a Party, hold consultations to consider any modification or withdrawal of a specific commitment in the requesting Party's Schedule of Specific Commitments. The consultations shall be held within three months from the receipt of the request. In the consultations, the Parties shall aim to ensure that a general level of mutually advantageous commitments no less favourable to trade than that provided for in the Schedule of Specific Commitments prior to such consultations is maintained.

2. Modifications of Schedules are subject to Articles 12.1 (Joint Committee) and 14.2 (Amendments). Such modifications may only take place three years after the entry into force of this Agreement.

ARTICLE 6.18

Review

With the objective of further liberalising trade in services between them and promoting their interests on a mutually advantageous basis, the Parties shall review at least every two years, or more frequently if so agreed, their Schedules of Specific

Commitments and their Lists of MFN Exemptions, taking into account, in particular, any unilateral liberalisation and on-going work under the auspices of the WTO. The first review shall take place no later than three years from the entry into force of this Agreement.

ARTICLE 6.19

Annexes

The following Annexes form an integral part of this Chapter:

(a) Annex XI (Schedules of Specific Commitments);

(b) Annex XII (Lists of MFN-Exemptions);

(c) Annex XIII (Financial Services);

(d) Annex XIV (Telecommunications Services);

(e) Annex XV (Movement of Natural Persons Supplying Services);

(f) Annex XVI (Maritime Transport and Related Services); and

(g) Annex XVII (Energy Related Services);

CHAPTER 7

INVESTMENT

ARTICLE 7.1

Investment Conditions

1. The Parties shall endeavour to provide stable, non-discriminatory, and transparent investment conditions for investors of the other Parties that make or seek to make investments in their territories.

2. The Parties shall admit investments by investors of the other Parties in accordance with their domestic laws, rules and regulations. They recognise that it is inappropriate to encourage investment by relaxing health, safety or environmental standards.

ARTICLE 7.2

Investment Promotion

The Parties recognise the importance of promoting investment flows as a means for achieving economic growth and development, including:

(a) appropriate means of identifying investment opportunities and information channels on investment regulations;

(b) exchange of information on measures to promote investment abroad; and

(c) the furthering of a legal environment conducive to increased investment flows.

ARTICLE 7.3

Review

The Parties affirm their commitment to review issues related to investment in the Joint Committee no later than five years from the entry into force of this Agreement, including the right of establishment of investors of a Party in the territory of another Party, taking into consideration the treatment accorded in free trade agreements and agreements on economic integration concluded by a Party with a non-party.

CHAPTER 8

INTELLECTUAL PROPERTY

ARTICLE 8

Protection of Intellectual Property Rights

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, including counterfeiting and piracy, in accordance with the provisions of this Chapter, Annex XVIII (Protection of Intellectual Property), and the international agreements referred to therein. Parties understand that, in accordance with the *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights* (hereinafter referred to as the "TRIPS Agreement"), the grant of rights by the Parties is subject to compliance with the substantive conditions for acquisition of such rights.

2. The Parties shall accord to nationals of another Party treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Articles 3 and 5 of the TRIPS Agreement.

3. The Parties shall grant to nationals of another Party treatment no less favourable than that accorded to nationals of a non-party. If a Party concludes a trade agreement containing provisions on the protection of intellectual property rights with a non-party, notified under Article XXIV of the GATT 1994, it shall notify the other Parties without delay and accord to them treatment no less favourable than that provided under such agreement. The Party concluding such an agreement shall, upon request by another Party, negotiate the incorporation into this Agreement of provisions of the agreement granting a treatment no less favourable than that provided under that agreement. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5.

4. The Parties agree, upon request of any Party to the Joint Committee, to review the provisions, implementation and application, of this Chapter and Annex XVIII (Protection of Intellectual Property), and to discuss issues related to intellectual property, with a view, *inter alia*, to further improving the protection and enforcement of intellectual property rights.

CHAPTER 9

GOVERNMENT PROCUREMENT

ARTICLE 9.1

Transparency

1. The Parties shall enhance the mutual understanding of each other's government procurement laws and regulations with a view to progressively liberalise their respective procurement markets on the basis of non-discrimination and reciprocity.

2. The Parties shall publish, or otherwise make publicly available, their laws, regulations, judicial decisions, and administrative rulings of general application as well as their respective international agreements to which they are a party that may affect their procurement markets. The Parties shall promptly respond in English to specific questions and provide, upon request, information to each other on such matters.

ARTICLE 9.2

Further Negotiations

If a Party grants to a non-party additional benefits with regard to the access to its procurement markets after the entry into force of this Agreement, it shall without delay notify the other Parties. The Party granting additional benefits shall, upon request by another Party, enter into negotiations to extend similar benefits to the other Parties on a reciprocal basis.

ARTICLE 9.3

Review

The Joint Committee shall review this Chapter and examine the possibility of developing the Parties' commitments in government procurement within three years from the entry into force of this Agreement.

CHAPTER 10

COMPETITION

ARTICLE 10.1

Rules of Competition

1. The Parties recognise that the following practices of enterprises are incompatible with the proper functioning of this Agreement insofar as they may affect trade between the Parties:

(a) agreements, decisions by associations and concerted practices which have as their object or effect the prevention, restriction or lessening of competition; and

(b) abuse of dominant position that would prevent or restrict competition.

2. The provisions of paragraph 1 shall also apply to state owned enterprises or enterprises with special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them under domestic laws, rules and regulations.

3. The rights and obligations under this Chapter shall only apply between the Parties.

ARTICLE 10.2

Cooperation

1. The competent authorities of the Parties concerned shall cooperate and consult in their dealings with anti-competitive practices referred to in paragraph 1 of Article 10.1 (Rules of Competition), with the aim of putting an end to such practices or their adverse effects on trade, in a manner consistent with their domestic laws, rules and regulations.

2. Cooperation may include exchange of pertinent information that is available to the Parties. No Party shall be required to disclose information that is confidential according to its domestic laws, rules and regulations.

ARTICLE 10.3

Consultations

1. A Party may request consultations regarding any matter under this Chapter. The addressed Party or Parties shall promptly reply to the request and enter into

consultations in good faith. The Parties shall make every attempt to arrive at a mutually acceptable solution.

2. If a Party considers that a given practice continues to affect trade in the sense of Article 10.1 (Rules of Competition), after cooperation or consultations, it may refer the matter to the Joint Committee. The Parties involved shall give to the Joint Committee all the assistance required in order to examine the matter and, where appropriate, eliminate the practice objected to.

ARTICLE 10.4

Dispute Settlement

No Party may have recourse to dispute settlement under Chapter 13 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 11

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 11.1

Context and Objectives

1. The Parties recall the *Declaration of the United Nations Conference on the Human Environment of 1972*, the *Rio Declaration on Environment and Development of 1992*, *Agenda 21 on Environment and Development of 1992*, the *Johannesburg Plan of Implementation on Sustainable Development of 2002*, *the Rio+20 Outcome Document "The Future We Want" of 2012*, *the UN Sustainable Development Summit Outcome Document "Transforming Our World: the 2030 Agenda for Sustainable Development" of 2015,* the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998*, the *Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006* and the *ILO Declaration on Social Justice for a Fair Globalization of 2008*.

2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually supportive pillars of sustainable development. They recognise the benefits of cooperation on trade-related labour and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties reaffirm their commitment to the promotion of international trade with the aim to contribute to the objective of sustainable development and to integrate and reflect this objective in the Parties' trade relations.

4. The Parties agree that the provisions of this Chapter shall not be used for protectionist trade purposes.

ARTICLE 11.2

Scope

1. Except as otherwise provided in this Chapter, this Chapter shall apply to measures adopted or maintained by the Parties affecting trade-related and investment-related aspects of labour and environmental issues.

2. The reference to labour in this Chapter includes the issues relevant to the Decent Work Agenda as agreed in the ILO.

ARTICLE 11.3

Right to Regulate and Levels of Protection

1. Recognising the right of each Party, subject to the provisions of this Agreement, to establish its own levels of labour and environmental protection, and to adopt or modify accordingly its relevant laws, rules, regulations and policies, each Party shall seek to ensure that its laws, rules, regulations, policies or practices provide for and encourage high levels of labour and environmental protection, consistent with standards, principles and agreements referred to in Articles 11.5 (International Labour Standards and Agreements) and 11.6 (Multilateral Environmental Agreements and Environmental Principles) and shall strive to improve the level of protection provided for in those laws, rules, regulations and policies.

2. The Parties recognise the importance of taking account of scientific, technical and other information, and relevant international standards, guidelines and recommendations, in preparing and implementing measures related to environment and labour conditions that affect trade and investment between them.

ARTICLE 11.4

Upholding Levels of Protection in the Application and Enforcement of Laws, Rules, Regulations or Standards

1. A Party shall not fail to effectively enforce its labour and environmental laws, rules, regulations or standards in a manner affecting trade or investment between the Parties.

2. Subject to Article 11.3 (Right to Regulate and Levels of Protection), a Party shall not:

(a) weaken or reduce the level of environmental or labour protection provided by its laws, rules, regulations or standards with the sole intention to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory; or

(b) waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, rules, regulations or standards in order to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory.

ARTICLE 11.5

International Labour Standards and Agreements

1. The Parties recall the obligations deriving from membership of the ILO and *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, to respect, to promote and realise the principles concerning the fundamental rights, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) elimination of all forms of forced or compulsory labour;

(c) effective abolition of child labour; and

(d) elimination of discrimination in respect of employment and occupation.

2. The Parties reaffirm their commitment, under the *Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006*, to recognise full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promote the development of international trade in a way that is conducive to full and productive employment and decent work for all.

3. The Parties recall the obligations deriving from membership of the ILO to effectively implement the ILO Conventions which they have ratified and to make continued and sustained efforts towards ratifying the core ILO Conventions and other conventions classified as "up-to-date" by the ILO.

4. The Parties reaffirm that, as set out in the *ILO Declaration on Social Justice for a Fair Globalization* adopted by the International Labour Conference at its 97th session in 2008, the violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage.

ARTICLE 11.6

Multilateral Environmental Agreements and Environmental Principles

The Parties reaffirm their commitment to the effective implementation in their laws, rules, regulations and practices of the multilateral environmental agreements to which they are a party, as well as their adherence to environmental principles reflected in the international instruments referred to in Article 11.1 (Context and Objectives).

ARTICLE 11.7

Promotion of Trade and Investment Favouring Sustainable Development

1. The Parties shall strive to facilitate and promote investment, trade in and dissemination of goods and services that contribute to sustainable development, such as environmental technologies, sustainable renewable energy, as well as goods and services that are energy efficient, eco-labelled or subject to schemes such as fair and ethical trade. Related non-tariff barriers will be addressed as part of these efforts.

2. The Parties agree to exchange views and may consider, jointly or bilaterally, cooperation in this area. They shall encourage such cooperation between enterprises.

ARTICLE 11.8

Trade in Forest-Based Products

1. In order to promote the sustainable management of forest resources and thereby, *inter alia*, reduce greenhouse emissions from deforestation and degradation of natural forests and peat lands related to activities beyond the forest sector, the Parties will work together in the relevant multilateral fora in which they participate and through existing bilateral cooperation if applicable to improve forest law enforcement and governance and to promote trade in legal and sustainable forest-based, agricultural and mining products.

2. Useful instruments to achieve this objective may include, *inter alia*, effective use of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) with regard to endangered timber species, certification schemes for sustainably harvested forest products, bilateral Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreements.

ARTICLE 11.9

Cooperation in International Fora

The Parties shall strive to strengthen their cooperation on trade and investment-related labour and environmental issues of mutual interest in relevant bilateral, regional and multilateral fora in which they participate.

ARTICLE 11.10

Implementation and Consultations

1. The Parties shall designate the administrative entities, which shall serve as contact points for the purposes of implementing this Chapter.

2. A Party may, through the contact points, request expert consultations or consultations within the Joint Committee regarding any matter under this Chapter. The Parties shall make every attempt to arrive at a mutually acceptable solution of the matter. Where relevant, subject to the agreement of the Parties, they can seek advice of the relevant international organisations or bodies.

3. No Party may have recourse to arbitration under Chapter 13 (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 11.11

Review

This Chapter shall be subject to periodic review within the framework of the Joint Committee. The Parties shall discuss progress achieved in pursuing the objectives set out in this Chapter and consider relevant international developments in order to identify areas where further action could promote these objectives.

CHAPTER 12

INSTITUTIONAL PROVISIONS

ARTICLE 12

Joint Committee

1. The Parties hereby establish the EFTA-Philippines Joint Committee (hereinafter referred to as the "Joint Committee") comprising of representatives of each Party. The Parties shall be represented by senior officials delegated by them for this purpose.

2. The Joint Committee shall:

(a) oversee the implementation of this Agreement;

(b) keep under review the possibility of further removal of barriers to trade and other restrictive measures concerning trade between the EFTA States and the Philippines;

(c) oversee the further elaboration of this Agreement;

(d) set-up sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks;

(e) supervise the work of all sub-committees and working groups;

(f) endeavour to resolve disputes regarding the interpretation or application of this Agreement;

(g) consider and adopt amendments as provided for in this Agreement; and

(h) consider any other matter that may affect the operation of this Agreement.

3. The Joint Committee may take decisions as provided for in this Agreement. On other matters, the Joint Committee may make recommendations. The Joint Committee shall take decisions and make recommendations by consensus.

4. Where this Agreement foresees that a provision relates only to the Philippines and one or several EFTA States, consensus shall only involve the Parties concerned, and the decision or recommendation shall apply only to those Parties.

5. If a representative of a Party in the Joint Committee has accepted a decision subject to the fulfilment of domestic legal requirements, the decision shall enter into force on the date that the last Party notifies that its internal requirements have been fulfilled, unless otherwise specified by the decision.

6. The Joint Committee shall meet within one year of the entry into force of this Agreement. Thereafter, it shall meet whenever necessary but normally every two years.

Its meetings shall be co-chaired by one of the EFTA States and the Philippines. The Joint Committee shall establish its rules of procedure. Each Party may request at any time, through a notice in writing to the other Parties, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days from the receipt of the request, unless the Parties agree otherwise.

CHAPTER 13

DISPUTE SETTLEMENT

ARTICLE 13.1

Objective

The objective of this Chapter is to provide an efficient and transparent mechanism for the avoidance and settlement of disputes arising under this Agreement.

ARTICLE 13.2

Scope and Coverage

1. The provisions of this Chapter shall apply to the settlement of any dispute concerning the interpretation or application of this Agreement.

2. For purposes of this Chapter, the terms "Party", "party to the dispute", "complaining Party" and "Party complained against" can denote one or more Parties.

3. Where disputes regarding the same matter arising under this Agreement and the WTO Agreement, the complaining Party shall consider dispute settlement in the WTO. The dispute may however, be settled in either forum at the discretion of the complaining Party. The forum thus selected shall be used to the exclusion of the other.

4. For the purposes of paragraph 3, dispute settlement procedures under the WTO Agreement are deemed to be selected by a Party's request for the establishment of a panel under Article 6 of the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes,* whereas dispute settlement procedures under this Agreement are deemed to be selected upon a request for arbitration pursuant to paragraph 1 of Article 13.5 (Establishment of Arbitration Panel).

ARTICLE 13.3

Good Offices, Conciliation or Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the Parties so agree. They may begin and be terminated at any time. They may continue while proceedings of an arbitration panel established in accordance with this Chapter are in progress.

2. Proceedings involving good offices, conciliation and mediation shall be confidential and without prejudice to the rights of any Parties in any further proceedings.

ARTICLE 13.4

Consultations

1. The Parties shall make every attempt through cooperation and consultations to reach a mutually acceptable solution of any matter raised in accordance with this Article.

2. A Party may request consultations with another Party with respect to any measure it considers inconsistent with this Agreement. The Party receiving the request for consultations shall accord due consideration to the request and provide adequate opportunity for such consultations.

3. The Party requesting consultations shall make the request in writing, setting out the reasons for the request, including identification of the measure, which it considers inconsistent with this Agreement. The Party requesting consultations shall at the same time notify the other Parties in writing of the request. The Party to which the request is made shall reply within ten days from the receipt of the request.

4. Consultations shall take place in the Joint Committee, unless the Parties making and receiving the request for consultations agree otherwise.

5. The consultations shall commence within:

(a) 15 days from the receipt of the request in cases of urgency, including perishable goods; or

(b) 30 days from the receipt of the request for all other matters.

6. The consulting Parties shall provide sufficient information, including making available for the consultations personnel of relevant government agencies, to enable a full examination of whether the measure is inconsistent with this Agreement or not.

7. The consultations shall be confidential and without prejudice to the rights of the Parties in any further proceedings. The Parties shall treat any confidential information exchanged in the course of consultations in the same manner as the Party providing the information.

8. The consulting Parties shall inform the other Parties of any mutually agreed resolution of the matter.

ARTICLE 13.5

Establishment of Arbitration Panel

1. The complaining Party may request the establishment of an arbitration panel if:

(a) the Party to which the request is made does not reply within ten days from the receipt of the request;

(b) the Party complained against does not enter into consultations in accordance with the time periods specified in Article 13.4 (Consultations); or

(c) the consultations fail to resolve a dispute within:

(i) 30 days from the receipt of the request for consultations in cases of urgency, including perishable goods;

(ii) 60 days from the receipt of the request for consultations regarding any other matter.

2. Any request for the establishment of an arbitration panel shall identify:

(a) the specific measures at issue; and

(b) the legal and factual basis for the complaint.

3. A copy of the request shall be communicated to the other Parties so that they may determine whether to participate in the arbitration process.

4. The arbitration panel shall consist of three members who shall be appointed in accordance with the *Optional Rules for Arbitrating Disputes between Two States of the Permanent Court of Arbitration*, as effective from 20 October 1992 (hereinafter referred to as the "Optional Rules"), *mutatis mutandis*.

5. The date of establishment of the arbitration panel shall be the date on which the Chairperson is appointed.

6. Unless the parties to the dispute agree otherwise within 20 days from the receipt of the request for the establishment of the arbitration panel, the terms of reference for the arbitration panel shall be:

> "To examine, in light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 13.5 (Establishment of Arbitration Panel) and to make findings of law and fact together with the reasons, as well as recommendations, if any, for the resolution of the dispute and the implementation of the ruling."

7. Whenever feasible, a single arbitration panel should be established to examine complaints relating to the same matter where more than one Party requests the establishment of an arbitration panel or where the request involves more than one Party complained against.

8. A Party which is not a party to the dispute shall be entitled, on delivery of a written notice to the parties to the dispute, to make written submissions to the arbitration panel, receive written submissions, including annexes, from the parties to the dispute, attend hearings and make oral statements.

ARTICLE 13.6

Arbitration Panel Procedures

1. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the procedures of the panel shall be governed by the Optional Rules, *mutatis mutandis*.

2. The arbitration panel shall examine the matter referred to it in the request for the establishment of an arbitration panel in light of the relevant provisions of this Agreement interpreted in accordance with rules of interpretation of public international law.

3. The arbitration panel should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually acceptable solution. The arbitration panel shall provide for at least one hearing for the parties to the dispute to present their case to the arbitration panel.

4. The language of any proceedings shall be English. The hearings of the arbitration panel shall be open to the public, unless the parties to the dispute agree otherwise or the arbitration panel decides to close the hearing for the duration of any discussion of confidential information.

5. There shall be no *ex parte* communication with the arbitration panel concerning matters under its consideration.

6. A Party's written submissions, written versions of oral statements and responses to questions put by an arbitration panel shall, at the same time as it is submitted to the arbitration panel, be transmitted by that Party to the other party to the dispute.

7. The Parties, the panel and any individual involved in the arbitration proceedings shall treat as confidential the information submitted to the arbitration panel, which has been designated as confidential by the Party submitting the information.

8. The arbitration panel shall make its ruling by consensus. If the arbitration panel is unable to reach consensus, it shall make its ruling by majority vote. Any arbitrator may furnish separate opinions on matters not unanimously agreed. The arbitration panel shall not disclose which arbitrators are associated with majority or minority opinions. The deliberations of the arbitration panel and the initial report shall be kept confidential.

ARTICLE 13.7

Panel Reports

1. The arbitration panel should submit to the parties to the dispute an initial report containing its findings and rulings as well as recommendations, if any, not later than 90 days from the establishment of the arbitration panel. The parties to the dispute may submit comments on the initial report, in writing, to the arbitration panel within 15 days from the receipt of the initial report. The arbitration panel should present its final report

to the Parties within 30 days from the submission of the initial report. The findings of the final panel report shall include a discussion of the comments made by the parties to the dispute.

2. The final report, as well as any report under Articles 13.9 (Implementation of the Final Panel Report) and 13.10 (Compensation and Suspension of Benefits), shall be communicated to the Parties. A party to the dispute may make the report publicly available, subject to paragraph 7 of Article 13.6 (Arbitration Panel Procedures).

3. Any ruling of the arbitration panel under any provision of this Chapter shall be final and binding on the parties to the dispute.

ARTICLE 13.8

Suspension or Termination of Arbitration Panel Proceedings

1. Where the parties to the dispute agree, an arbitration panel may suspend its work at any time for a period not exceeding 12 months. If the work of an arbitration panel has been suspended for more than 12 months, the arbitration panel's authority for considering the dispute shall lapse, unless the parties to the dispute agree otherwise.

2. The proceedings of an arbitration panel shall be terminated:

(a) if the parties to the dispute agree by jointly notifying in writing the Chairperson of the arbitration panel; or

(b) if a complaining party withdraws its complaint at any time before the initial report has been issued.

3. An arbitration panel may, at any stage of the proceedings prior to the release of the final report, propose that the parties to the dispute seek to settle the dispute amicably.

ARTICLE 13.9

Implementation of the Final Panel Report

1. The Party complained against shall promptly comply with the ruling in the final report. If it is impracticable to comply immediately, the parties to the dispute shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement within 45 days, from the issuance of the final report, either party to the dispute may request the original arbitration panel to determine the length of the reasonable period of time, in light of the particular circumstances of the case. The ruling of the arbitration panel should be given within 60 days from the receipt of that request.

2. The Party complained against shall notify the complaining Party of the measure adopted in order to comply with the ruling in the final report, as well as provide a

detailed description of how the measure ensures compliance sufficient to allow the complaining party to assess the measure.

3. In case of disagreement as to the existence of a measure complying with the ruling in the final report or to the consistency of that measure with the ruling, such disagreement shall be decided by the same arbitration panel upon the request of either party to the dispute before compensation can be sought or suspension of benefits can be applied in accordance with Article 13.10 (Compensation and Suspension of Benefits). The ruling of the arbitration panel should be given within 90 days from the receipt of that request.

ARTICLE 13.10

Compensation and Suspension of Benefits

1. If the Party complained against does not comply with a ruling of the arbitration panel referred to in Article 13.9 (Implementation of the Final Panel Report), or notifies the complaining Party that it does not intend to comply with the ruling in the final panel report, that Party shall, if so requested by the complaining Party, enter into consultations with a view to agreeing on mutually acceptable compensation. If no such agreement has been reached within 20 days from the receipt of the request, the complaining Party shall be entitled to suspend the application of benefits granted under this Agreement but only equivalent to those affected by the measure that the arbitration panel has found to be inconsistent with this Agreement.

2. In considering what benefits to suspend, the complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure that the arbitration panel has found to be inconsistent with this Agreement. The complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

3. The complaining Party shall notify the Party complained against of the benefits, which it intends to suspend, the grounds for such suspension and when suspension will commence, no later than 30 days before the date on which the suspension is due to take effect. Within 15 days from the receipt of that notification, the Party complained against may request the original arbitration panel to rule on whether the benefits, which the complaining Party intends to suspend are equivalent to those affected by the measure found to be inconsistent with this Agreement, and whether the proposed suspension is in accordance with paragraphs 1 and 2. The ruling of the arbitration panel should be given within 45 days from the receipt of that request. Benefits shall not be suspended until the arbitration panel has issued its ruling.

4. Compensation and suspension of benefits shall be temporary measures and shall only be applied by the complaining Party until the measure found to be inconsistent with this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or until the parties to the dispute have resolved the dispute otherwise.

5. At the request of a party to the dispute, the original arbitration panel shall rule on the conformity with the final report of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel should be given within 30 days from the receipt of that request.

ARTICLE 13.11

Other Provisions

1. Whenever possible, the arbitration panel referred to in Articles 13.9 (Implementation of the Final Panel Report) and 13.10 (Compensation and Suspension of Benefits) shall comprise the same arbitrators who issued the final report. If a member of the original arbitration panel is unavailable, the appointment of a replacement arbitrator shall be conducted in accordance with the selection procedure for the original arbitrator.

2. Any time period mentioned in this Chapter may be modified by mutual agreement of the parties to the dispute.

3. When an arbitration panel considers that it cannot comply with a timeframe imposed on it under this Chapter, it shall inform the parties to the dispute in writing and provide an estimate of the additional time required. Any additional time required should not exceed 30 days.

CHAPTER 14

FINAL PROVISIONS

ARTICLE 14.1

Annexes and Appendices

The Annexes to this Agreement, including their Appendices, constitute an integral part of this Agreement.

ARTICLE 14.2

Amendments

1. Any Party may submit proposals for amendments to this Agreement to the Joint Committee for consideration and recommendation.

2. Amendments to this Agreement shall be submitted to the Parties for ratification, acceptance or approval in accordance with their respective legal requirements. The text of the amendments and the instruments of ratification, acceptance or approval shall be deposited with the Depositary.

3. Amendments to this Agreement shall enter into force on the first day of the third month following the date on which at least one EFTA State and the Philippines have deposited their instrument of ratification, acceptance or approval with the Depositary. In relation to an EFTA State depositing its instrument of ratification, acceptance or approval after that, the amendments shall enter into force on the first day of the third month following the deposit of its instrument.

4. The Joint Committee may decide to amend the Annexes and Appendices to this Agreement. The decision shall enter into force on the first day of the third month following the notification by the last Party that its internal requirements have been fulfilled. Subject to the domestic laws, rules and regulations of the Parties, the Joint Committee may agree on different entry into force provisions.

5. Amendments regarding issues related only to one or several EFTA States and the Philippines shall be agreed upon by the Parties concerned.

6. If its legal requirements permit, a Party may apply any amendment provisionally, pending its entry into force for that Party. Provisional application of amendments shall be notified to the Depositary.

ARTICLE 14.3

Accession

1. Any State becoming a Member of EFTA may accede to this Agreement, provided that the Joint Committee approves its accession, on terms and conditions to be agreed upon by the Parties and the acceding State.

2. The instrument of accession shall be deposited with the Depositary. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession, or the approval of the terms of accession by the existing Parties, whichever is later.

ARTICLE 14.4

Withdrawal and Expiration

1. Each Party may withdraw from this Agreement by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.

2. If the Philippines withdraws, this Agreement shall expire when its withdrawal becomes effective.

3. Any EFTA State which withdraws from the *Convention establishing the European Free Trade Association* shall, *ipso facto* on the same day as the withdrawal takes effect, cease to be a Party to this Agreement.

ARTICLE 14.5

Entry into Force

1. This Agreement is subject to ratification, acceptance or approval in accordance with the respective legal requirements of the Parties. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. This Agreement shall enter into force on the first day of the third month following the date on which at least one EFTA State and the Philippines have deposited their instrument of ratification, acceptance or approval with the Depositary.

3. In relation to an EFTA State depositing its instrument of ratification, acceptance or approval after this Agreement has entered into force, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument.

4. If its respective legal requirements permit, a Party may apply this Agreement provisionally, pending its entry into force for that Party. Provisional application of this Agreement shall be notified to the Depositary.

ARTICLE 14.6

Depositary

The Government of Norway shall act as Depositary.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Bern, this 28th day of April 2016, in one original in English, which shall be deposited with the Depositary, who shall transmit certified copies to all the Parties.

For Iceland

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For the Philippines

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For the Principality of Liechtenstein

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For the Kingdom of Norway

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For the Swiss Confederation

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