FREE TRADE AGREEMENT

BETWEEN

THE EFTA STATES

AND

THE KINGDOM OF THAILAND

PREAMBLE

Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (EFTA States),

and

the Kingdom of Thailand (Thailand),

hereinafter each individually referred to as a "Party" or collectively as the "Parties",

RECOGNISING the common wish to strengthen the links between the Parties by establishing close and lasting relations;

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 (WTO Agreement) and the other concluded agreements negotiated thereunder, 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 Charter of the United Nations and the Universal Declaration of Human Rights;

AIMING to create new employment opportunities, improve living standards, ensure high levels of public health, and protection of occupational safety and health and of the environment;

REAFFIRMING their commitment to pursue the objective of sustainable development and recognising the importance of coherent and mutually supportive trade, environmental 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 relevant International Labour Organisation (ILO) Conventions to which they are a party;

RECOGNISING the importance of ensuring predictability for the trading communities of the Parties and of trade facilitation in promoting efficient and transparent procedures;

REAFFIRMING their commitment to promote inclusive economic growth by ensuring equal opportunities for all;

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 responsible business conduct for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, the OECD Principles of Corporate Governance, the UN Global Compact, and the UN Guiding Principles on Business and Human Rights;

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

RECOGNISING the significant contributions of small and medium-sized enterprises, including micro-sized enterprises, to economic growth, employment, and innovation, and the desire to increase their ability to benefit from the opportunities arising from this Agreement;

DESIRING to encourage broader and deeper economic cooperation between the Parties;

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

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1.1

Objectives

1. The Parties hereby establish a free trade area in accordance with the provisions of this Agreement, based on trade relations between market economies, with a view to spurring prosperity and sustainable development.

2. 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 (GATT 1994);

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

(c) to mutually enhance investment opportunities;

(d) to prevent, eliminate or reduce unnecessary technical barriers to trade and unnecessary sanitary and phytosanitary measures;

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

(f) to develop cooperation and facilitate participation in the government procurement markets of the Parties;

(g) to foster trade and economic cooperation in order to facilitate the implementation of the overall objectives of this Agreement;

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

(i) 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

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

ARTICLE 1.2

Geographical Scope

1. Except as otherwise specified in Annex I (Rules of Origin), this Agreement applies to:

(a) the land territory, internal 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 1.3

Trade and Economic Relations Governed by this Agreement

1. This Agreement applies to the trade and economic relations between, on the one side, the individual EFTA States and, on the other side, Thailand. This Agreement shall not apply to the economic relations between individual EFTA States, unless otherwise provided in this Agreement.

2. In accordance with the Customs Treaty of 29 March 1923 between Switzerland and Liechtenstein, Switzerland shall represent Liechtenstein in matters covered thereby.

ARTICLE 1.4

Relation to Other International Agreements

1. The Parties confirm their rights and obligations under the WTO Agreement and the other concluded agreements negotiated thereunder to which they are a party, and any other international agreement to which they are 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 1.5

Fulfilment of Obligations

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

2. Each Party shall 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 1.6

Transparency and Confidential Information

1. Each Party 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. Each Party shall, without undue delay, respond to specific questions and provide, upon request, information to the other Parties on matters referred to in paragraph 1.

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

4. Where a Party provides information to another Party in accordance with this Agreement and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information. Such information shall be used only for the purpose for which the information is provided and shall not be otherwise disclosed without the specific written permission of the Party providing the information.

5. In case of any inconsistency between this Article 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 GOODS

ARTICLE 2.1

Scope

This Chapter applies to trade in goods between the Parties.

ARTICLE 2.2

Customs Duties on Imports

1. Unless otherwise provided for in this Agreement, a Party shall apply customs duties on imports on goods originating in another Party in accordance with Annex I (Rules of Origin) and Annexes II to V (Schedules of Tariff Commitments on Goods).

2. Unless otherwise provided for in this Agreement, no Party shall introduce new customs duties on imports or increase customs duties on imports on goods originating in another Party covered by Annexes II to V (Schedules of Tariff Commitments on Goods).

3. For the purposes of this Agreement, "customs duties on imports" means any duties or charges imposed in connection with the importation of goods, except for:

(a) charges equivalent to an internal tax imposed in conformity with Article III of the GATT 1994;

(b) duties imposed in conformity with Articles 2.13 (Subsidies and Countervailing Measures), 2.14 (Anti-Dumping), 2.15 (Global Safeguard Measures), 2.16 (Bilateral Safeguard Measures) of this Agreement or Article 5 of the WTO Agreement on Agriculture;

(c) fees or other charges imposed in conformity with Article VIII of the GATT 1994.

ARTICLE 2.3

Export Duties

If a Party agrees with a non-Party to abolish export duties, it shall, upon request by another Party, enter into consultation with the requesting Party with the objective to accord treatment no less favourable to the other Party.

ARTICLE 2.4

Rules of Origin and Administrative Cooperation

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

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 apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.6

Classification of Goods and Transposition of Schedules

1. For the purposes of this Agreement, the classification of goods in trade between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the Harmonized Commodity Description and Coding System (HS). In Annexes II to V (Schedules of Tariff Commitments on Goods) and Appendix 1 (Product Specific Rules) to Annex I (Rules of Origin), the version of the HS and the year shall be indicated.

2. The transposition of the Schedules of tariff commitments and the Product Specific Rules (PSR) as a result of periodic amendments to the HS by the World Customs Organization (WCO) or other technical adjustments in the respective tariff nomenclature shall not impair or nullify commitments including dismantling periods listed in Annexes II to V (Schedules of Tariff Commitments on Goods), and Appendix 1 (Product Specific Rules) to Annex I (Rules of Origin).

3. Pursuant to paragraph 2, the PSR applicable to the corresponding goods under the amended HS by the WCO shall not impair, nullify or render more restrictive the PSR applicable to the original tariff line.

4. Each Party shall notify the other Parties promptly, preferably no later than six months after the entry into force of the transposition of its domestic customs tariff as a result of periodic amendments to the HS by the WCO by providing the transposed tariff commitments under this Agreement and respective HS correlation tables in English. The Parties shall publish the information on transposed tariff commitments under this Agreement. Such information shall, if possible, be in English.

5. On request of one or several Parties, the requested Party shall address any raised concern regarding the other Party's transposed tariff commitments under this Agreement within a reasonable period of time after receiving the request.

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

6. Parties shall enter into technical exchanges regarding updates of PSR following the periodic amendments to the HS by the WCO. The updates of the PSR accepted by the Parties shall be published by the Parties in English.

ARTICLE 2.7

Import Licensing

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

2. The Parties may only adopt or maintain licensing procedures as a condition for importation if other appropriate procedures to achieve an administrative purpose are not reasonably available.

3. No Party shall adopt or maintain import licensing procedures in order to implement a measure that is inconsistent with this Agreement, the GATT 1994 or the WTO Agreement on Trade-Related Investment Measures. A Party adopting non-automatic licensing procedures shall clearly indicate the measure implemented through such licensing procedures.

4. The Parties shall ensure that all automatic and non-automatic import licensing procedures are neutral in application, and administered in a fair, equitable, non-discriminatory, transparent, predictable and least trade-restrictive manner.

5. If a Party has denied an application for an import licence it shall, without undue delay, provide the applicant with a written explanation of the reasons for the denial.

6. Each Party shall provide effective, non-discriminatory and prompt and easily accessible procedures in accordance with its domestic laws and regulations to guarantee the right of appeal against administrative decisions on applications for import licences. Appeal procedures shall include administrative review by the supervising authority or judicial review in accordance with the domestic laws and regulations of each Party. If the denial of an import licence is upheld in an appeal, the Party granting the licence shall provide the applicant with a written justification without undue delay.

7. No application for an import licence shall be refused for minor documentation errors that do not alter the basic data contained therein. Minor documentation errors may include formatting errors, such as the width of a margin or the font used, and spelling errors which are obviously made without fraudulent intent or gross negligence.

8. A Party adopting or amending regulations related to import licensing that are likely to affect trade between the Parties shall promptly notify the other Parties, but no later than 60 days after publication. The notice shall clearly state the purpose of such licensing procedures and any conditions on eligibility for obtaining an import licence. A notification made by a Party in accordance with the WTO Agreement on Import Licensing Procedures shall be deemed equivalent to a notification under this Agreement.

ARTICLE 2.8

Quantitative Restrictions

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

2. A Party introducing a measure in accordance with paragraph 2 of Article XI of the GATT 1994 shall promptly notify the Joint Committee. A notification by a Party in accordance with Article XI of the GATT 1994 shall be deemed equivalent to a notification under this Agreement.

3. Any measure applied in accordance with this Article shall be temporary, non-discriminatory, transparent and may not go beyond what is necessary to remedy circumstances described in paragraph 2 of Article XI of the GATT 1994 and may not create unnecessary obstacles to trade between the Parties.

ARTICLE 2.9

Fees and Formalities

Article VIII of the GATT 1994 applies and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*, subject to Article 7 (Fees and Charges) of Annex VI (Trade Facilitation).

ARTICLE 2.10

National Treatment on Internal Taxation and Regulations

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

ARTICLE 2.11

Trade Facilitation

The provisions on trade facilitation are set out in Annex VI (Trade Facilitation).

ARTICLE 2.12

WTO Agreement on Agriculture

The Parties confirm their rights and obligations under the WTO Agreement on Agriculture unless otherwise specified in this Chapter.

ARTICLE 2.13

Subsidies and Countervailing Measures

1. The right and obligations of the Parties with respect 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 products are subject to an investigation and allow for a 30-day period for consultations with a view to finding a mutually acceptable solution. Consultations shall take place in the Joint Committee, unless the Parties making and receiving the request for consultations agree otherwise.[2]

ARTICLE 2.14

Anti-dumping

1. The rights and obligations of the Parties with regard to anti-dumping measures shall be governed by Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (WTO Anti-dumping Agreement). The Parties shall endeavour to refrain from initiating anti-dumping procedures or applying anti-dumping measures against each other.

2. When a Party receives a properly documented application and before initiating an investigation concerning imports of another Party, the Party shall immediately notify in writing the other Party whose products are allegedly being dumped and allow for a 30-day period for consultations with a view to finding a mutually acceptable solution. Consultations shall take place in the Joint Committee, unless the Parties making and receiving the notifications agree otherwise.[3]

3. A definitive anti-dumping measure shall be terminated no later than five years from its imposition or from the most recent review, unless the authorities determine, in a review initiated pursuant to Article 11.3 of the WTO Anti-dumping Agreement and notified to the other Parties before that date, that the expiry of the measure would be likely to lead to continuation or recurrence of dumping and injury. The Party applying a definitive anti-dumping measure shall afford adequate opportunity for consultations on issues arising from the expiry review and avoid applying a perpetual measure.

4. No Party shall impose an anti-dumping measure with regard to the same product from the same Party within one year from the termination of an anti-dumping measure or

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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 Agreement on Anti-Dumping Measures.

a determination which resulted in the non-application or revocation of anti-dumping measures.

5. 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.

6. If a Party decides to apply an anti-dumping duty, the Party shall apply the "lesser duty" rule by determining a duty which is less than the dumping margin, when such lesser duty would be adequate to remove the injury to the domestic industry.

7. Five years after the entry into force of this Agreement, the Parties shall review the provisions of this Article in the Joint Committee.

ARTICLE 2.15

Global Safeguard Measures

1. The rights and obligations of the Parties with respect to global safeguards shall be governed by Article XIX of the GATT l994 and the WTO Agreement on Safeguards. In taking measures under these WTO provisions, a Party shall, consistent with its obligations under the WTO Agreements, endeavour to 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.

2. A Party initiating an investigation to impose global safeguard measures shall immediately inform the Parties concerned and provide adequate opportunity for consultations.

3. No Party shall adopt definitive safeguard measures until 30 days after the offer for consultations was made.

4. A Party adopting global safeguard measures shall impose them in a way that least affects bilateral trade.

ARTICLE 2.16

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is 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 bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to paragraphs 2 to 10.

2. Bilateral 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. The Party intending to take a bilateral safeguard measure pursuant to this Article shall immediately, and in any case before taking 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. A Party that may be affected by the bilateral safeguard measure shall be provided an opportunity to consult in order to mutually agree on appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effects as those resulting from the measure.

4. If the conditions set out in paragraph 1 are met, the importing Party may:

(a) suspend the further reduction of any rate of customs duty provided for under this agreement for the product; or

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

(i) the most-favoured-nation (MFN) rate of duty applied at the time the bilateral safeguard measure is taken; or

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

5. Bilateral safeguard measures shall be taken for a period not exceeding 18 months. In very exceptional circumstances, after review by the Joint Committee, measures may be taken up to a total maximum period of three years. No bilateral safeguard measures shall be applied to the import of a product, which has previously been subject to such a measure.

6. The Joint Committee shall, within 30 days from the receipt of the notification, examine the information provided under paragraph 3 in order to facilitate a mutually acceptable solution. In the absence of such solution, the importing Party may adopt a bilateral safeguard measure pursuant to paragraph 4 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the bilateral safeguard measure is taken may take compensatory action. The bilateral safeguard measure and the compensatory action shall be immediately notified to the other Parties. In the selection of the bilateral safeguard measure and the compensatory action, priority must be given to the action or measure which least disturbs the functioning of this Agreement. 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 bilateral safeguard measure under paragraph 4 is being applied.

7. Upon the termination of the bilateral safeguard measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

8. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional bilateral 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 paragraphs 2 to 6, including for compensatory action, shall be initiated. Any compensation shall be based on the total period of application of the provisional bilateral safeguard measure and of the bilateral safeguard measure.

9. Any provisional bilateral safeguard measure shall be terminated within 200 days at the latest. The period of application of any such provisional bilateral safeguard measure shall be counted as part of the duration, and any extension thereof, of the bilateral safeguard measure, set out in paragraphs 4 and 5 respectively. Any tariff 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.

10. 20 years after 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. If the Parties decide after the first review to maintain this possibility, biennial reviews shall thereafter be conducted by the Joint Committee.

ARTICLE 2.17

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 apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis.*

ARTICLE 2.18

General Exceptions

For the purposes of this Chapter, Chapter 3 (Technical Barriers to Trade), and Chapter 4 (Sanitary and Phytosanitary Measures), Article XX of the GATT 1994 and its interpretative notes apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.19

Security Exceptions

For the purposes of this Chapter, Chapter 3 (Technical Barriers to Trade), and Chapter 4 (Sanitary and Phytosanitary Measures), Article XXI of the GATT 1994 and its interpretative notes apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.20

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 according to paragraph 1 shall promptly notify the other Parties.

ARTICLE 2.21

Preference Utilisation

1. For the purposes of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics and preferential tariff rates under this Agreement as well as applied MFN tariff rates.

2. Bilateral import statistics exchanged shall pertain to the three most recent calendar years available and comprise all imports from the Party concerned, including trade values and volumes listed at the level of national subheadings. Each Party shall exchange separate statistics for imports from the other Parties:

(a) benefiting from preferential treatment under this Agreement;

(b) benefiting from any other reduced tariff rates; and

(c) under MFN tariff rates.

The preferential tariff rates and applied MFN tariff rates exchanged shall pertain to the same year as the import statistics. Upon request, the Parties shall provide any available additional information and explanations related to the exchanged data subject to paragraph 1.

3. The exchange of import statistics, preferential tariff rates under this Agreement and applied MFN tariff rates shall start one year from the entry into force of this Agreement or upon a time agreed by the Parties.

4. Notwithstanding paragraphs 1 and 2, no Party shall be obliged to exchange data that is confidential in accordance with its domestic laws and regulations.

5. The Parties shall exchange information in English.

ARTICLE 2.22

Sub-Committee on Trade in Goods

1. A Sub-Committee on Trade in Goods (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).

CHAPTER 3

TECHNICAL BARRIERS TO TRADE

ARTICLE 3.1

Incorporation of the TBT Agreement

With respect to technical regulations, standards and conformity assessment procedures, the WTO Agreement on Technical Barriers to Trade (TBT Agreement) applies and is hereby incorporated and made part of this Agreement, *mutatis mutandis.*

ARTICLE 3.2

Scope

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

2. This Chapter shall not apply to:

   (a) sanitary and phytosanitary measures as defined in Chapter 4 (Sanitary and Phytosanitary Measures); and

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

ARTICLE 3.3

Objectives

The objectives of this Chapter are to:

(a) enhance the implementation of the TBT Agreement;

(b) facilitate trade in goods between the Parties and access to their respective markets;

(c) facilitate exchange of information and cooperation in the fields of technical regulations, standards and conformity assessment procedures between the Parties, and enhance mutual understanding of their regulatory systems;

(d) prevent, eliminate or reduce unnecessary costs related to trade between the Parties, including by, but not limited to, avoiding duplications of conformity assessment procedures;

(e) promote the implementation of good regulatory practices; and

(f) solve issues related to trade under this Chapter arising between the Parties.

ARTICLE 3.4

International Standards, Guides and Recommendations

For the purposes of this Chapter, "relevant international standards, guides and recommendations" within the meaning of Articles 2 and 5, and Annex 3 of the TBT Agreement mean standards issued by international standardising bodies, including but not limited to the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), the International Telecommunication Union and Codex Alimentarius.

ARTICLE 3.5

Movement of Goods, Border Control and Market Surveillance

1. An importing Party shall ensure free movement of goods complying with its relevant technical regulations once placed on its market.

2. If a Party detains a product exported from another Party at a port of entry, it shall promptly notify the reasons for the detention to the importer or the importer's representative.

3. If a Party withdraws a product exported from another Party from its market, it shall promptly notify the reasons to the importer or the person responsible for placing the product on the market.

ARTICLE 3.6

Conformity Assessment Procedures

1. The Parties acknowledge that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures conducted in another Party, including 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;

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

(d) government designation of conformity assessment bodies;

(e) unilateral recognition by a Party of the results of conformity assessment procedures conducted in another Party;

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

(g) a manufacturer's or supplier's declaration of conformity, based on international standards.

2. No Party shall prepare, adopt or apply conformity assessment procedures which are likely to create unnecessary obstacles to trade. To this end, the Parties shall:

(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 the ISO and IEC; and

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

3. If a Party requires positive assurance of conformity with domestic technical regulations, whenever possible, it shall encourage acceptance of a supplier's declaration of conformity based on international standards as a documentation declaring conformity with domestic technical regulations.

ARTICLE 3.7

Cooperation

With a view to increasing mutual understanding of their respective systems and facilitating access to their respective markets, the Parties shall strengthen 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 their competent authorities, exchange of information with respect to technical regulations, good regulatory practice, standards, conformity assessment procedures, border control and market surveillance; and

(c) promoting cooperation between their standardisation bodies.

ARTICLE 3.8

Consultations

1. If a Party considers that a technical regulation, standard or conformity assessment procedure of another Party is likely to create, or has created, an obstacle to trade, or raises issues related to this Chapter, it may request consultations with the Party concerned with a view to reaching a mutually acceptable solution.

2. Such consultations shall take place within 30 days from the receipt of the request and may be conducted by any method agreed by the Parties concerned. The Joint Committee shall be informed thereof.

ARTICLE 3.9

Review

Upon request of a Party, the Parties shall agree on an arrangement extending to each other treatment related to technical regulations, standards and conformity assessment procedures which all Parties have agreed with a third party.

ARTICLE 3.10

Contact Points

1. The Parties shall within 30 days of entry into force of this Agreement, exchange names and addresses, including telephone number, email address and other relevant details of contact points for this Chapter, in order to facilitate communication and the exchange of information.

2. Each Party shall promptly notify the other Parties of any change to those contact details.

CHAPTER 4

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 4.1

General Provision

With respect to sanitary and phytosanitary measures, the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) applies and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 4.2

Definitions

For the purposes of this Chapter:

(a) the definitions provided in Annex A of the SPS Agreement shall apply;

(b) the definitions developed by Codex Alimentarius Commission (CAC), the World Organisation for Animal Health (WOAH), and the International Plant Protection Convention (IPPC) shall be taken into account;

(c) "international standards" means the standards, guidelines and recommendations of the CAC, the WOAH and the IPPC;

(d) "perishable goods" means goods which rapidly decay due to their natural characteristics, and particularly in the absence of appropriate storage conditions; and

(e) "competent authorities" means those authorities within each Party authorised by domestic laws and regulations to enforce the sanitary and phytosanitary measures within that Party.

ARTICLE 4.3

Scope

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

ARTICLE 4.4

Objectives

The objectives of this Chapter are to:

(a) enhance the implementation of the SPS Agreement;

(b) protect human, animal or plant life or health in the territory of the Parties, while facilitating trade between the Parties;

(c) facilitate exchange of information and cooperation in the field of sanitary and phytosanitary measures between the Parties and enhance mutual understanding of their regulatory systems; and

(d) solve trade issues related to this Chapter arising between the Parties.

ARTICLE 4.5

Audit, Inspection and Certification

1. The Parties agree to use system audits as their preferred assessment method. If necessary, an importing Party may perform an inspection of a facility for the purposes of determining whether the facility conforms with the importing Party's sanitary or phytosanitary requirements.

2. The importing Party shall assess the inspection and certification systems of an exporting Party based on international standards.

3. The importing Party shall clearly document any corrective actions, timeframes and follow-up procedures in an assessment report. The draft assessment report shall be provided to the exporting Party within 90 days from the audit. The exporting Party may comment on the draft assessment report. Comments made by the exporting Party shall be taken into account in the final assessment report.

4. The costs incurred in carrying out the audit shall be borne by the importing Party, unless otherwise agreed between the importing Party and the exporting Party.

ARTICLE 4.6

Certificates

1. The Parties agree to cooperate to limit the number of model SPS certificates per food category. Official certificates, where required, shall be in line with the principles laid down in international standards.

2. An importing Party which introduces or modifies a certificate shall inform the exporting Party on the proposed new or revised certificate in English as soon as possible. The importing Party shall provide the factual basis and justification of the new or modified certificate and give the exporting Party sufficient time to adapt to the new

requirements.

3. The Parties are encouraged to establish an electronic SPS certification exchange system.

ARTICLE 4.7

Cooperation

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

2. Each Party shall make their final SPS measures available to the public. Upon request, a Party shall provide supplementary information regarding import requirements in English.

3. When a Party introduces new SPS measures, the importing Party shall, upon request, and as far as practicable in English, provide the appropriate risk assessment or scientific information that justifies the measure.

ARTICLE 4.8

Movement of Goods

An importing Party shall ensure free movement of goods complying with its relevant sanitary and phytosanitary requirements once placed on its market.

ARTICLE 4.9

Import Checks

1. Each Party shall ensure that import checks applied to imported goods are based on the risks associated with such goods and applied in a non-discriminatory manner. The Parties shall carry out border controls without undue delay and in the least trade restrictive manner.

2. Each Party shall carry out import controls in accordance with international standards.

3. If a Party detains a product at the border due to a perceived risk, it shall take a decision on clearance as soon as possible and shall make every effort to avoid deterioration of perishable goods. That Party shall promptly inform the importer about the factual justification for the detention.

4. If a Party rejects a product at a port of entry, it shall, upon request, provide the exporting Party with the factual basis and scientific justification as soon as possible.

5. If an importing Party prohibits or restricts the importation of a good of an exporting Party on the basis of non-compliance of that good found during an import check, the importing Party shall notify the competent authority, the importer or its representatives of such non-compliance.

6. When the importing Party identifies a significant or recurring sanitary or phytosanitary non-compliance associated with exported consignments, the Parties concerned shall, on request of any of those Parties, discuss the non-compliance to ensure that appropriate remedial actions are taken to avoid such non-compliance.

ARTICLE 4.10

Technical Consultations

1. If a Party considers that an SPS measure of another Party is likely to create, or has created, an obstacle to trade, or raises significant concerns related to this Chapter, it may, through contact points, request technical consultations with the Party concerned with a view to reaching a mutually acceptable solution.

2. The other Party shall respond to such a request within 30 days. Such consultations may be conducted by any agreed method. The Joint Committee shall be informed thereof.

3. The Parties shall make every attempt to address any concerns relating to an SPS measure through technical consultations under this Article.

ARTICLE 4.11

Review

Upon request of a Party, the Parties shall review the measures granted to a third party with whom the Parties have established arrangements concerning SPS measures. The Parties shall agree on an arrangement extending to each other treatment related to SPS measures which all Parties have agreed with a third party.

ARTICLE 4.12

Contact Points and Competent Authorities

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

2. Each Party shall notify any substantial change in structure, organisation and division of responsibilities of its competent authorities and contact points to the other Parties.

CHAPTER 5

TRADE IN SERVICES

ARTICLE 5.1

Scope and Coverage

1. This Chapter applies to measures by the 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.

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*, mutatis mutandi*s.

3. Nothing in this Chapter shall be construed to impose any obligation with respect to government procurement.

4. This Chapter shall not apply to subsidies and grants including government supported loans, guarantees and insurance, provided by a Party or to any conditions attached to the receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers.

ARTICLE 5.2

Definitions

1. For the purposes of this Chapter:

   (a) "trade in services" is defined as the supply of a service:

      (i) from the territory of one Party into the territory of another Party;

      (ii) in the territory of one Party to the service consumer of another Party;

      (iii) by a service supplier of one Party, through commercial presence in the territory of another Party; or

      (iv) by a service supplier of one Party, through presence of natural persons of a Party in the territory of another Party;

   (b) "services" includes any service in any sector except services supplied in the exercise of government authority;

(c) "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

(d) "service supplier" means any person that supplies, or seeks to supply, a service;[4]

(e) "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 Member of the WTO; 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 or in the territory of any Member of the WTO;

(f) "juridical person of another Party" means a juridical person which is either:

(i) constituted or otherwise organised under the law of that other Party, and is engaged in substantive business operations in the territory of:

(aa) a Party; or

(bb) any Member of the WTO and is owned or controlled by natural persons of that other Party or by juridical persons that meet all the conditions of subparagraph (i)(aa); 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 (f)(i);

[4] Where the service is not supplied or sought to be 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 or sought to be supplied and need not be extended to any other parts of the service supplier located outside the territory where the service is supplied or sought to be supplied.

(g) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(h) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

(i) "measures by Parties affecting trade in services" include measures in respect of

(i) the purchase, payment or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by those Parties to be offered to the public generally;

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of another Party;

(j) "commercial presence" means any type of business or professional establishment, including through:

(i) the constitution, acquisition or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of supplying a service;

(k) "sector" of a service means:

(i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule in Annex VIII (Schedules of Specific Commitments);

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(l) "service of another Party" means a service which is supplied:

(i) from or in the territory of that other Party, or in the case of maritime transport, by a vessel registered under the laws of that other Party, or by a person of that other Party which supplies the service through the operation of a vessel and/or its use in whole or part; or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

(m) "monopoly supplier of a service" means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

(n) "service consumer" means any person that receives or uses a service;

(o) "person" means either a natural person or a juridical person;

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

(i) "owned" by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party,

(ii) "controlled" by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(iii) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

(q) "direct taxes" comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

ARTICLE 5.3

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 IX (Lists of MFN Exemptions), each Party shall accord immediately and unconditionally, with respect to 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 compliant with Article V or Article V *bis* of the GATS shall not be subject to paragraph 1.[5]

3. If a Party concludes or amends an agreement referred to in paragraph 2, after the conclusion of this Agreement, it shall notify the other Parties without delay and endeavour to accord to the other Parties treatment no less favourable than that provided under that agreement. The former Party shall, upon request of another Party, negotiate but not be obliged to incorporate into this Agreement treatment no less favourable than that provided under the former agreement.

[5] For the purposes of this Agreement, this obligation does not cover the notification requirement under GATS Article V, paragraph 7.

4. Nothing in this Chapter shall be so construed as to prevent a Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous zones of services that are both locally produced and consumed.

ARTICLE 5.4

Market Access

1. With respect to market access through the modes of supply identified in subparagraph 1(a) of Article 5.2 (Definitions) of this Chapter, each Party shall accord services and service suppliers of another Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule in Annex VIII (Schedules of Specific Commitments).[6]

2. In sectors where market-access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:

(a) limitation on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitation on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitation on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;[7]

(d) limitation on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

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[6] If a Party undertakes a market-access commitment in relation to the supply of service through the mode of supply referred to in subparagraph 1(a)(i) of Article 5.2 (Definitions) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 1(a)(iii) of Article 5.2 (Definitions), it is thereby committed to allow related transfers of capital into its territory.

[7] This subparagraph does not cover measures of a Party which limit inputs for the supply of services.

ARTICLE 5.5

National Treatment

1. Each Party shall, in the sectors inscribed in its Schedule in Annex VIII (Schedules of Specific Commitments), and subject to any conditions and qualifications set out therein, accord to services and service suppliers of another Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.[8]

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of another Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of another Party.

ARTICLE 5.6

Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 5.4 (Market Access) or 5.5 (National Treatment), including those regarding qualifications, standards or licensing matters. Such commitments shall be inscribed in a Party's Schedule in Annex VIII (Schedules of Specific Commitments).

ARTICLE 5.7

Domestic Regulation

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. 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.

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 and

[8] Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

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 all services sectors, are based on objective and transparent criteria, such as competence and the ability to supply the service.

5. In sectors in which a Party has undertaken specific commitments, Annex XIV (Domestic Regulation) shall apply.

6. 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 the Agreement any further 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.

7. 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 6, and, if agreed between the Parties, disciplines developed jointly or bilaterally under this Agreement pursuant to paragraph 6 that 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:

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

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

8. In determining whether a Party is in conformity with the obligation under paragraph 7, account shall be taken of international standards of relevant international organisations[9] applied by that Party.

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

ARTICLE 5.8

Recognition

1. For the purposes 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

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

recognition may be based upon an agreement or arrangement with that other Party, or otherwise be accorded autonomously.

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 autonomously, 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 autonomous recognition shall be in conformity with the relevant provisions of the WTO Agreement, in particular paragraph 3 of Article VII of the GATS.

ARTICLE 5.9

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, with respect to 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 a Party under the terms of a specific commitment.[10]

ARTICLE 5.10

Transparency

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Chapter. International agreements

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

pertaining to or affecting trade in services to which a Party is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.

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

ARTICLE 5.11

Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 5.3 (Most-Favoured-Nation Treatment) and specific commitments.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect, authorises or establishes a small number of service suppliers and substantially prevents competition among those suppliers in its territory.

ARTICLE 5.12

Business Practices

1. Parties recognise that certain business practices of service suppliers, other than those falling under Article 5.11 (Monopolies and Exclusive Services Suppliers), may restrain competition and thereby restrict trade in services

2. A Party shall, at the request of another Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The Party addressed shall also provide other available information to the requesting Party, subject to its domestic laws and regulations and to the conclusion of a satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

ARTICLE 5.13

Payments and Transfers

1. Except under the circumstances envisaged in Article 5.14 (Restrictions to Safeguard the Balance-of-Payments), no Party shall apply restrictions[11] on international transfers and payments for current transactions with another Party.[12]

2. Such payments and transfers shall be made in any freely convertible currency at the market rate of exchange prevailing at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its domestic laws and regulations relating to, *inter alia*:

(a) bankruptcy, insolvency, or the protection of the rights of creditors including employees;

(b) issuing, trading, or dealing in securities, futures, options, or derivatives;

(c) criminal or penal offences and the recovery of the proceeds of crime;

(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

4. Nothing in this Chapter shall affect the rights and obligations of the Parties under the Articles of Agreement of the International Monetary Fund (IMF), including the use of exchange actions which are in conformity with the Articles of Agreement of the IMF, provided that no Party shall impose restrictions on capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 5.14 (Restrictions to Safeguard the Balance-of-Payments) or at the request of the IMF.

ARTICLE 5.14

Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof,[13] a Party may adopt or maintain restrictions on trade in services including on payments or transfers for transactions. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of

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[11] Thailand may adopt or maintain any measure relating to Thai Baht for the purpose of preventing speculation on Thai Baht, in accordance with the Exchange Control Act B.E. 2485, the Bank of Thailand Act B.E. 2485, and Bank of Thailand's circulars and guidelines, as amended.

[12] The Parties are of the understanding that a Party may apply restrictions in accordance with the Articles of Agreement of the IMF.

[13] For greater certainty, this covers situations where, in exceptional circumstances, payments or transfers cause or threaten to cause serious difficulties for macroeconomic management.

a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

2. The restrictions referred to in paragraph 1:

(a) shall not discriminate among Parties and non-Parties;

(b) shall be consistent with the Articles of Agreement of the IMF;

(c) shall avoid unnecessary damage to the commercial, economic and financial interests of any other WTO Member;

(d) shall not exceed those necessary to deal with the circumstances described in paragraph 1;

(e) shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

3. In determining the incidence of such restrictions, the Parties may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4. A Party adopting or maintaining such restrictions shall promptly notify the other Parties thereof.

ARTICLE 5.15

Subsidies

1. Notwithstanding Article 5.1 (Scope and Coverage), a Party which considers that it is adversely affected by a subsidy of another Party may request ad hoc consultations with that Party on such matters. The requested Party shall enter into such consultations.

2. The Parties shall review any disciplines agreed under Article XV of the GATS with a view to incorporating them into this Agreement for the purposes of this Chapter.

ARTICLE 5.16

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures:

(a) necessary to protect public morals or to maintain public order;[14]

[14] The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(b) necessary to protect human, animal or plant life or health;[15]

(c) necessary to secure compliance with domestic laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or

(iii) safety;

(d) inconsistent with Article 5.5 (National Treatment), provided that the difference in treatment is aimed at ensuring the equitable or effective[16] imposition or collection of direct taxes in respect of services or service suppliers of other Parties;

(e) inconsistent with Article 5.3 (Most-Favoured-Nation Treatment), provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Party is bound.

ARTICLE 5.17

Security Exceptions

Nothing in this Chapter shall be construed:

(a) to require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;

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[15] For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with the provisions of this Chapter, the measures referred to in this subparagraph include environmental measures which are necessary to protect human, animal, or plant life or health.

[16] Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which: (i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; (iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; (iv) apply to consumers of services supplied in or from the territory of another Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; (v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base. Tax terms or concepts in subparagraph (d) of this Article and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic laws and regulations of the Party taking the measure.

(b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived; or

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE 5.18

Schedules of Specific Commitments

1. Each Party shall set out in a Schedule the specific commitments it undertakes under Articles 5.4 (Market Access), 5.5 (National Treatment) and 5.6 (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 5.6 (Additional Commitments); and

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

2. Measures inconsistent with both Articles 5.4 (Market Access) and 5.5 (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 VIII (Schedules of Specific Commitments).

ARTICLE 5.19

Modification of Schedules

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. Modifications of Schedules are subject to the procedures set out in Article 13.1 (Joint Committee).

ARTICLE 5.20

Review

With the objective of further liberalising trade in services between them, the Parties shall review at least every five years, or more frequently if so agreed, their Schedules of Specific Commitments and their Lists of MFN Exemptions, taking into account in particular any autonomous liberalisation and ongoing work in the WTO. The first such review shall take place no later than seven years from the entry into force of this Agreement.

ARTICLE 5.21

Annexes

The following Annexes form an integral part of this Chapter:

(a) Annex X (Telecommunications Services);

(b) Annex XI (Movement of Natural Persons Supplying Services);

(c) Annex XII (Maritime Transport and Related Services);

(d) Annex XIII (Financial Services);

(e) Annex XIV (Domestic Regulation); and

(f) Annex XV (Tourism and Travel Services).

CHAPTER 6

INVESTMENT

ARTICLE 6.1

Scope and Coverage

1. This Chapter applies to commercial presence in all sectors, with the exception of services sectors as set out in Article 5.1 (Scope and Coverage).[17]

2. This Chapter does not include investment protection and shall be without prejudice to the interpretation or application of other international agreements relating to investment or taxation to which one or several EFTA States and Thailand are parties.

3. This Chapter shall not apply to:

(a) government procurement; and

(b) subsidies or grants provided by a Party.

ARTICLE 6.2

Definitions

For the purposes of this Chapter:

(a) "juridical person" means any legal entity duly constituted or otherwise organised under a Party's domestic laws and regulations, whether for profit or otherwise, and whether privately owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(b) "juridical person of a Party" means a juridical person constituted or otherwise organised under the domestic laws and regulations of a Party and engaged in substantive business operations in that Party;

(c) "natural person" means a person who has the nationality, or is a permanent resident, of a Party in accordance with its domestic laws and regulations;

(d) "commercial presence" means any type of business establishment, including through:

(i) the constitution, acquisition or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office,

[17] It is understood that portfolio investment and services specifically exempted from the scope of Chapter 5 (Trade in Services) shall not fall within the scope of this Chapter.

within the territory of another Party for the purpose of performing an economic activity.

ARTICLE 6.3

National Treatment

Each Party shall, subject to Article 6.4 (Reservations) and the reservations set out in Annex XVI (Investment Reservations), accord to juridical and natural persons of another Party, in respect of all measures affecting the commercial presence of such persons, treatment no less favourable than that it accords, in like situations,[18] to its own juridical and natural persons, in respect of the commercial presence of such persons.

ARTICLE 6.4

Reservations

1. Article 6.3 (National Treatment) shall not apply to:

(a) any reservation in Annex XVI (Investment Reservations); and

(b) an amendment to a reservation referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the reservation with Article 6.3 (National Treatment);

to the extent that such reservations are inconsistent with Article 6.3 (National Treatment).

2. A Party may, either upon request of another Party or unilaterally, remove in whole or in part its reservations set out in Annex XVI (Investment Reservations).

3. A Party may propose to incorporate a new reservation into Annex XVI (Investment Reservations) which does not affect the general level of mutually advantageous commitments provided for in Annex XVI (Investment Reservations) or the overall level of commitments of that Party under this Agreement by written notification to the other Parties. Upon receipt of such written notification, a Party may request consultations regarding the reservation within 60 days. Upon receipt of the request for consultations, the Party intending to incorporate the new reservation shall enter into consultations with the requesting Party within three months from the date of the request.

4. Modifications of the Annex XVI (Investment Reservations) pursuant to paragraphs 2 and 3 are subject to the procedures set out in Article 13.1 (Joint Committee).

[18] For greater certainty, whether the treatment is accorded in "like situations" under this Article depends on the totality of the circumstances.

ARTICLE 6.5

Key Personnel

1. Each Party shall, subject to its domestic laws and regulations, grant natural persons of another Party, and key personnel who are employed by natural or juridical persons of another Party, entry and temporary stay in its territory in order to engage in activities connected with commercial presence, including the provision of advice or key technical services.

2. Each Party shall, subject to its domestic laws and regulations, permit natural or juridical persons of another Party, and their commercial presence, to employ, in connection with commercial presence, any key personnel of the natural or juridical person's choice regardless of nationality and citizenship provided that such key personnel has been permitted to enter, stay and work in its territory and that the employment concerned conforms to the terms, conditions and time limits of the permission granted to such key personnel.

3. Each Party shall, subject to its domestic laws and regulations, grant entry and temporary stay and provide any necessary confirming documentation to the spouse and minor children of a natural person who has been granted entry, temporary stay and authorisation to work in accordance with paragraphs 1 and 2. The spouse and minor children shall be admitted for the period of the stay of that person.

ARTICLE 6.6

Right to Regulate

1. The Parties reaffirm their right to regulate within their jurisdictions to achieve legitimate policy objectives, such as the protection of public health, safety, or the environment.

2. No Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, measures to meet health, safety or environmental concerns as an encouragement for the establishment, acquisition, expansion or retention in its territory of a commercial presence of persons of another Party or a non-Party.

ARTICLE 6.7

Payments and Transfers

1. Except under the circumstances envisaged in Article 6.8 (Restrictions to Safeguard the Balance of Payments), no Party shall apply restrictions[19] on current

[19] Thailand may adopt or maintain any measure relating to Thai Baht for the purpose of preventing speculation on Thai Baht, in accordance with the Exchange Control Act B.E. 2485, the Bank of Thailand Act B.E. 2485, and Bank of Thailand's circulars and guidelines, as amended.

payments and capital movements[20] relating to commercial presence activities in non-services sectors.[21]

2. Current payments and capital movements referred to in paragraph 1 shall be made in any freely convertible currency at the market rate of exchange prevailing at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its domestic laws and regulations relating to, inter alia:

(a) bankruptcy, insolvency, or the protection of the rights of creditors including employees;

(b) issuing, trading, or dealing in securities, futures, options, or derivatives;

(c) criminal or penal offences and the recovery of the proceeds of crime;

(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

4. Nothing in this Chapter shall affect the rights and obligations of the Parties under the Articles of Agreement of the IMF, including the use of exchange actions which are in conformity with the Articles of Agreement of the IMF, provided that no Party shall impose restrictions on capital transactions inconsistently with its obligations under this Chapter regarding such transactions, except under Article 6.8 (Restrictions to Safeguard the Balance of Payments) or at the request of the IMF.

ARTICLE 6.8

Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof[22], a Party may adopt or maintain restrictions on payments or transfers relating to commercial presence activities in non-services sectors. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

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[20] For greater certainty, this provision only covers capital movements related to the conduct of real economic activity of the commercial presence in non-services sectors.

[21] The Parties are of the understanding that a Party may apply restrictions in accordance with the Articles of Agreement of the IMF.

[22] For greater certainty, this covers situations where, in exceptional circumstances, payments or transfers cause or threaten to cause serious difficulties for macroeconomic management.

2. For the purposes of this Chapter, paragraphs 2 and 3 of Article XII of the GATS apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

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

ARTICLE 6.9

Consultations on Subsidies

Notwithstanding Article 6.1 (Scope and Coverage), a Party which considers that it is adversely affected by a subsidy of another Party may request ad hoc consultations with that Party on such matters. The requested Party shall enter into such consultations.

ARTICLE 6.10

General Exceptions

For the purposes of this Chapter, Article XX of the GATT 1994 and Article XIV of the GATS apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.[23]

ARTICLE 6.11

Security Exceptions

For the purposes of this Chapter, Article XXI of the GATT 1994 and paragraph 1 of Article XIV *bis* of the GATS apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 6.12

Review

1. This Chapter shall be subject to periodic review by the Joint Committee regarding the possibility to further develop the Parties' commitments.

2. Pursuant to Article 13.1 (Joint Committee), the Parties undertake to review the reservations set out in Annex XVI (Investment Reservations) with a view to reducing or removing such reservations.

[23] The Parties understand that the measures referred to in subparagraph (b) of Article XX of the GATT 1994, and subparagraph (b) of Article XIV of GATS, include environmental measures necessary to protect human, animal or plant life or health, and that subparagraph (g) of Article XX of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

3. If a Party accords more favourable treatment to natural and juridical persons of a non-Party with regard to measures within the scope of Article 6.3 (National Treatment) in an agreement concluded after the signing of this Agreement, it shall, upon request of another Party, enter into negotiations with that other Party without undue delay with a view to reviewing Annex XVI (Investment Reservations) pursuant to Article 13.1 (Joint Committee) to ensure a no less favourable treatment.

ARTICLE 6.13

Promotion of Investment

The Parties recognise the importance of promoting cross-border investment and technology flows as a means for achieving economic growth and sustainable development. Co-operation between the Parties on matters of mutual interest in this respect may include:

(a) identifying investment opportunities through appropriate means, such as organising investment promotion activities; and

(b) conducting information exchanges on measures and other issues relating to investment promotion.

ARTICLE 6.14

Facilitation of Investment

Subject to its domestic laws and regulations, each Party shall endeavour to facilitate investments among the Parties, including through:

(a) creating an environment conducive to increased investment flows;

(b) simplifying its procedures for investment applications and approvals;

(c) promoting the dissemination of investment information, including investment rules, laws, regulations, policies, and procedures; and

(d) establishing or maintaining contact points, one-stop investment centres, focal points, or other entities in the respective Party to provide assistance and advisory services to investors, including the facilitation of operating licences and permits.

CHAPTER 7

INTELLECTUAL PROPERTY

ARTICLE 7.1

Protection of Intellectual Property

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 this Chapter and Annex XVII (Protection of Intellectual Property), and the international agreements in the field of intellectual property to which Parties are parties.

2. The Parties shall accord to each Party's nationals treatment no less favourable than that they accord to their own nationals in respect of rights provided under this Chapter, subject to the exceptions provided in the TRIPS Agreement and in the multilateral agreements administered by the World Intellectual Property Organization (WIPO) not referred to in the TRIPS Agreement.

3. The Parties shall accord to each Party's nationals treatment no less favourable than that accorded to nationals of a non-Party, subject to the exceptions provided in the TRIPS Agreement.

4. The Parties agree to discuss and aim to resolve, within the mandate of the Joint Committee set out in Article 13.1 (Joint Committee), issues relating to the implementation or application of this Chapter and Annex XVII (Protection of Intellectual Property), with a view to avoiding or remedying trade distortions.

CHAPTER 8

GOVERNMENT PROCUREMENT

ARTICLE 8.1

Objectives

The Parties recognise the importance of enhancing the mutual understanding of each other's government procurement laws, regulations, and procedures with a view to developing cooperation among the Parties and facilitating participation in their respective procurement markets by promoting non-discrimination, transparency and reciprocity.

ARTICLE 8.2

Scope

This Chapter shall apply to the domestic laws, regulations and procedures of a Party regarding government procurement.

ARTICLE 8.3

Principles

Each Party shall promote and apply the principles of transparency, value for money, accountability, and due process regarding government procurement procedures, in accordance with the Party's domestic laws, regulations and procedures.

ARTICLE 8.4

Transparency

1. Each Party shall publish or make publicly available its domestic laws, regulations, procedures and judicial decisions regarding government procurement, including information on where tender opportunities are published.

2. To the extent possible and as appropriate, each Party shall endeavour to make available and update the information referred to in paragraph 1 through electronic means.

3. Each Party shall specify in Annex XVIII (Means of Publication for Government Procurement) the means utilised by that Party to publish the information referred to in paragraph 1.

ARTICLE 8.5

Use of Electronics Means

In respect of procurement conducted by entities within the scope of this Chapter, the Parties shall endeavour to use electronic means for the publication of notices, tender documentation, information exchange and communication, and the submission of tenders.

ARTICLE 8.6

Environmentally Sustainable Procurement

The Parties recognise that government procurement can contribute to environmental sustainability. Accordingly, each Party shall endeavour to incorporate environmentally sustainable procurement policies and practices in accordance with the Party's domestic laws, regulations and procedures.

ARTICLE 8.7

Facilitation of Participation by SMEs

The Parties recognise the important contribution that small and medium-sized enterprises, including micro-sized enterprises (SMEs), can make to economic growth and employment and the importance of facilitating the participation of SMEs in government procurement.

ARTICLE 8.8

Cooperation

The Parties endeavour to cooperate on matters relating to government procurement with a view to achieving a better understanding of each Party's respective government procurement system. Such cooperation may include:

(a) exchanging information, to the extent possible, on Parties' domestic laws, regulations, and procedures, and any modifications thereof;

(b) providing training, technical assistance, or capacity building to Parties, and sharing information on these initiatives;

(c) sharing information, where possible, on best practices, including those in relation to SMEs; and

(d) sharing information, where possible, on electronic procurement systems.

ARTICLE 8.9

Further Negotiations

1. If a Party concludes an agreement granting market access for government procurement to a non-Party, it shall promptly notify the other Parties.

2. 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 enter into negotiations with the other Parties with a view to offering similarly favourable treatment and agreeing on the market access commitments.

3. For the purpose of paragraph 2, the Parties shall amend this Agreement to consolidate the treatment referred to in paragraph 2 on a reciprocal basis within one year from entry into force of the relevant agreement referred to in paragraph 1. This amendment shall be subject to ratification or acceptance by the Parties.

ARTICLE 8.10

Review

Notwithstanding Article 8.9 (Further Negotiations), the Joint Committee shall conduct regular reviews of this Chapter, with a view to examining the possibilities of developing and deepening the cooperation between the Parties in the area of government procurement.

ARTICLE 8.11

Contact Points

1. Each Party shall, within 30 days of entry into force of this Agreement for that Party, designate one or more contact points to facilitate cooperation and information sharing under this Chapter and of the relevant details of that contact point or those contact points.

2. Each Party shall promptly notify the other Parties of any change regarding the relevant details of its contact point or contact points.

CHAPTER 9

COMPETITION

ARTICLE 9.1

Rules of Competition

1. The Parties recognise that anticompetitive practices have the potential to undermine the benefits arising from this Agreement. The following practices of enterprises are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:

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

(b) abuse by one or more enterprises of a dominant position in the territory of a Party as a whole or in a substantial part thereof.

2. Paragraph 1 shall also apply to the activities of public enterprises, and enterprises to which the Parties grant 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.

3. This Chapter shall be without prejudice to the autonomy of each Party to develop, maintain and enforce its competition laws and regulations.

4. This Article shall not be construed to create any direct obligations for enterprises.

ARTICLE 9.2

Cooperation

1. The Parties shall cooperate and consult with regard to anticompetitive practices referred to in paragraph 1 of Article 9.1 (Rules of Competition), with the aim of putting an end to such practices or their adverse effects on trade.

2. Cooperation may include the 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 and regulations.

ARTICLE 9.3

Consultations

1. If a Party considers that a given practice continues to affect trade in the sense of paragraph 1 of Article 9.1 (Rules of Competition), after cooperation or consultations in

accordance with Article 9.2 (Cooperation), it may request consultations in the Joint Committee.

2. The Parties concerned shall provide the Joint Committee with all the support and available information in order to examine the matter and, where appropriate, eliminate the practice objected to.

3. The Joint Committee shall, within 60 days from the receipt of the request, examine the information provided in order to facilitate a mutually acceptable solution of the matter.

ARTICLE 9.4

Dispute Settlement

No Party shall have recourse to Chapter 14 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 10

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 10.1

Context, Objectives and Scope

1. The Parties recall the Stockholm Declaration 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 ILO Declaration on Fundamental Principles and Rights at Work of 1998, as amended in 2022, the Ministerial Declaration of the UN Economic and Social Council on Generating Full and Productive Employment and Decent Work for All of 2006, the ILO Declaration on Social Justice for a Fair Globalization of 2008, as amended in 2022, the ILO Centenary Declaration for the Future of Work of 2019, the Rio+20 Outcome Document "The Future We Want" of 2012 and the UN 2030 Agenda for Sustainable Development of 2015.

2. The Parties shall promote sustainable development which encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing. They underline the benefit of cooperation on trade and investment related aspects of labour and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties affirm their commitment to promote the development of international trade and investment as well as their preferential economic relationship in a manner that is beneficial to all and that contributes to sustainable development.

4. The Parties agree that this Chapter embodies a cooperative approach based on common values and interests, taking into account the differences in their levels of development, as appropriate.

5. Except as otherwise provided for in this Chapter, this Chapter applies to measures adopted or maintained by a Party affecting trade-related and investment-related aspects of labour and environmental issues.

ARTICLE 10.2

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 level of environmental and labour protection, and to adopt or modify accordingly its relevant laws, policies and practices, each Party shall seek to ensure that its laws, policies and practices provide for and encourage high levels of environmental and labour protection, consistent with the standards, principles and agreements referred to in this Chapter as applicable to each Party. Each Party will strive to further improve the level of protection provided for in those laws, policies and practices.

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

3. The Parties agree that the provisions of this Chapter shall not be applied in a manner which would constitute a disguised restriction on trade or investment.

ARTICLE 10.3

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

1. No Party shall fail to effectively enforce its environmental and labour laws, regulations or standards in a manner affecting trade or investment between the Parties.

2. No Party shall weaken or reduce the level of environmental or labour protection provided by its laws, regulations or standards with the sole intention to seek a competitive trade advantage of producers or service providers operating in that Party or to otherwise encourage trade or investment.

3. No Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, regulations or standards in order to encourage investment from another Party or to seek a competitive trade advantage of producers or service providers operating in that Party.

ARTICLE 10.4

International Labour Standards and Agreements

1. The Parties reaffirm their commitment to promote the development of international trade and investment in a way that is conducive to full and productive employment and decent work for all.

2. The Parties recall the obligations deriving from membership of the ILO, including the obligations in respect of the fundamental principles and rights at work as reflected in the ILO Declaration on Fundamental Principles and Rights at Work of 1998, as amended in 2022. They commit to respect, 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) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour;

(d) the elimination of discrimination in respect of employment and occupation; and

(e) a safe and healthy working environment.

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 fundamental ILO Conventions and related protocols, the governance Conventions as well as the other Conventions that are classified as "up-to-date" by the ILO.

4. The Parties recognise the importance of the strategic objectives of the ILO Decent Work Agenda, as reflected in the ILO Declaration on Social Justice for a Fair Globalization of 2008, as amended in 2022.

5. The Parties commit to:

(a) develop and enhance measures for social protection and decent working conditions for all, including with regard to social security, occupational safety and health, wages and earnings, working time and other conditions of work;

(b) promote social dialogue and tripartism; and

(c) build and maintain a well-functioning labour inspection system.

6. Each Party shall ensure that administrative and judicial proceedings are accessible and available in order to permit effective action to be taken against infringements of labour rights referred to in this Chapter.

7. The Parties reaffirm, as set out in the ILO Declaration on Social Justice for a Fair Globalization of 2008, as amended in 2022, that the violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage and that labour standards shall not be used for protectionist trade purposes.

ARTICLE 10.5

Inclusive Economic Development and Equal Opportunities for All

1. The Parties acknowledge the importance of incorporating a gender perspective in the promotion of inclusive economic development and that gender-responsive policies are key elements to enhance the participation of all in the economy and international trade in order to achieve sustainable economic growth.

2. The Parties reaffirm their commitment to implement in their laws, policies and practices the international agreements pertaining to gender equality or non-discrimination to which they are a party.

ARTICLE 10.6

Multilateral Environmental Agreements and International Environmental Governance

1. The Parties recognise the importance of multilateral environmental agreements and international environmental governance as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies.

2. The Parties reaffirm their commitment to the effective implementation in their laws, policies 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 10.1 (Context, Objectives and Scope).

ARTICLE 10.7

Sustainable Forest Management and Associated Trade

1. The Parties recognise the importance of ensuring conservation and sustainable management of forests and related ecosystems such as mangroves and peatlands and thereby contributing to the reduction of greenhouse gas emissions and biodiversity loss resulting from deforestation and forest degradation, including from land use and land-use change for economic activities.

2. Pursuant to paragraph 1, the Parties commit to:

(a) ensure effective forest law enforcement and governance;

(b) promote trade in products that derive from sustainably managed forests and related ecosystems;

(c) implement measures to combat illegal logging and promote the development and use of timber legality assurance instruments to ensure that only legally sourced timber is traded between the Parties;

(d) promote the effective use of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with particular regard to timber species; and

(e) cooperate on issues pertaining to conservation and sustainable management of forests, mangroves and peatlands where relevant through existing bilateral arrangements if applicable and in the relevant multilateral fora in which they participate, in particular through the United Nations collaborative initiative on Reducing Emissions from Deforestation and Forest Degradation (REDD+) as encouraged by the Paris Agreement of 2015 (Paris Agreement).

ARTICLE 10.8

Trade and Climate Change

1. The Parties recognise the importance of pursuing the objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement and the principles and provisions contained therein, in order to address the urgent threat of climate change and the role of trade and investment in pursuing these objectives.

2. Pursuant to paragraph 1, the Parties commit to:

(a) effectively implement their respective obligations and commitments under the UNFCCC and the Paris Agreement;

(b) promote the contribution of trade and investment to the transition to a low-carbon-economy and to climate-resilient development; and

(c) cooperate bilaterally, regionally and in international fora, as appropriate, on trade-related climate change issues.

ARTICLE 10.9

Trade and Biological Diversity

1. The Parties recognise the importance of the conservation and sustainable use of biological diversity, and the role of trade in pursuing these objectives.

2. Pursuant to paragraph 1, the Parties commit to:

(a) promote, where applicable, the inclusion of animal and plant species in the appendices to CITES where a species is threatened, or may become threatened, with extinction;

(b) implement effective measures to combat illegal wildlife trade, including, as appropriate, with respect to non-Parties;

(c) enhance efforts to prevent or control the introduction and spread of invasive alien species, in connection with trade activities; and

(d) cooperate, where applicable, on issues concerning trade and the conservation and sustainable use of biological diversity, including initiatives to reduce demand for illegal wildlife products.

ARTICLE 10.10

Trade and Sustainable Management of Fisheries and Aquaculture

1. The Parties recognise the importance of ensuring the conservation and sustainable management of living marine resources and marine ecosystems and the role of trade in pursuing these objectives.

2. Pursuant to paragraph 1, the Parties commit to:

(a) implement comprehensive, effective and transparent policies and measures to combat illegal, unreported and unregulated (IUU) fishing and aim to prevent IUU products from trade flows;

(b) effectively implement in their laws, policies and practices the international agreements to which they are a party;

(c) promote the use of relevant international guidelines including the FAO Voluntary Guidelines for Catch Documentation Schemes;

(d) cooperate bilaterally and in relevant international fora in the fight against IUU fishing by, *inter alia*, facilitating the exchange of information on IUU fishing activities;

(e) fulfil the objectives set out in the 2030 Agenda for Sustainable Development regarding fisheries subsidies, including by implementing the WTO Agreement on Fisheries Subsidies and by contributing to finalising an agreement in the WTO that covers the entire mandate set out in Sustainable Development Goal 14.6; and

(f) promote the development of sustainable and responsible aquaculture and capture fisheries.

ARTICLE 10.11

Trade and Sustainable Agriculture and Food Systems

1. The Parties recognise the importance of sustainable agriculture and food systems and the role of trade in achieving this objective. The Parties reiterate their shared commitment to achieve the 2030 Agenda for Sustainable Development and its Sustainable Development Goals.

2. Pursuant to paragraph 1, the Parties commit to:

(a) promote sustainable agriculture and associated trade;

(b) promote sustainable food systems; and

(c) cooperate, as appropriate, on issues concerning trade and sustainable agriculture and food systems, including through exchanging information, experience and good practices, conducting a dialogue on their respective priorities, and reporting on progress made in achieving sustainable agriculture and food systems.

ARTICLE 10.12

Promotion of Trade and Investment Favouring Sustainable Development

1. The Parties recognise the important role of trade and investment in promoting sustainable development in all its dimensions.

2. Pursuant to paragraph 1, the Parties undertake to:

(a) promote and facilitate foreign investment, trade in and dissemination of goods and services that contribute to sustainable development, including those subject to ecological, fair or ethical trade schemes;

(b) promote the development and use of sustainability certification schemes that enhance transparency and traceability throughout the supply chain;

(c) address non-tariff barriers to trade in goods and services that contribute to sustainable development;

(d) promote the contribution of trade and investment towards a resource efficient and circular economy; and

(e) encourage cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development.

ARTICLE 10.13

Responsible Business Conduct

The Parties commit to promote responsible business conduct, including by encouraging relevant practices such as responsible management of supply chains by businesses. In this regard, the Parties acknowledge the importance of internationally recognised principles and guidelines, such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.

ARTICLE 10.14

Cooperation

1. The Parties shall strive to strengthen their cooperation on trade and investment related labour and environmental issues of mutual interest referred to in this Chapter bilaterally as well as in the international fora in which they participate.

2. Each Party may, as appropriate, invite the participation of social partners or other relevant stakeholders in identifying possible areas of cooperation.

ARTICLE 10.15

Implementation and Consultations

1. The Parties shall designate the contact points for the purposes of this Chapter.

2. A Party may, through the contact points referred to in paragraph 1, request consultations with another Party regarding any matter arising under this Chapter. The consultations shall take place in the Joint Committee, unless the Parties concerned agree otherwise. The Parties concerned shall make every attempt to reach a mutually satisfactory resolution of the matter and may seek advice from relevant organisations, bodies or experts.

3. The Parties may have recourse to Articles 14.2 (Good Offices, Conciliation or Mediation) and 14.3 (Consultations) for matters arising under this Chapter.

4. No Party shall have recourse to arbitration under Chapter 14 (Dispute Settlement) for matters arising under this Chapter.

5. The Parties shall provide their stakeholders with the opportunity to share comments and make recommendations regarding the implementation of this Chapter.

ARTICLE 10.16

Panel of Experts

1. If the Parties concerned fail to reach a mutually satisfactory resolution of a matter arising under this Chapter through consultations under Article 14.3 (Consultations) in Chapter 14 (Dispute Settlement), a Party concerned may request the establishment of a panel of experts. Articles 14.4 (Establishment of Arbitration Panel), 14.7 (Procedures of the Arbitration Panel), 14.9 (Suspension or Termination of Arbitration Panel Proceedings) and 14.13 (Costs) shall apply *mutatis mutandis*, except as otherwise provided for in this Article.

2. The panellists shall have relevant expertise, including in international trade law and international labour law or environmental law. They shall be independent, serve in their individual capacities and shall not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of a Party.

3. The panel of experts should seek information or advice from relevant international organisations or bodies. Any information obtained shall be submitted to the parties concerned for their comments.

4. The panel of experts shall submit an initial report containing its findings and recommendations to the Parties concerned within 120 days from the establishment of the panel of experts. A Party concerned may submit written comments to the panel of experts on its initial report within 15 days from the receipt of the report. After considering any such written comments, the panel of experts may modify the initial report and make any further examination it considers appropriate. The panel of experts shall present to the

Parties concerned a final report within 30 days from the receipt of the initial report. The final report shall be made public.

5. The Parties concerned shall discuss appropriate measures to implement the final report of the panel of experts. Such measures shall be communicated to the other Parties within three months from the issuance of the final report and shall be monitored by the Joint Committee.

6. Any time period for the purposes of this Article may be extended:

(a) by mutual agreement of the Parties concerned; or

(b) by the panel of experts, upon request of a Party concerned.

7. When a panel of experts considers that it cannot comply with a timeframe imposed on it for the purposes of this Article, it shall inform the Parties concerned in writing and provide an estimate of the additional time required. Any additional time should not exceed 30 days.

8. Where a procedural question arises, the panel of experts may, after consultation with the Parties concerned, adopt an appropriate procedure.

ARTICLE 10.17

Review

This Chapter shall be subject to periodic review within the framework of the Joint Committee, taking into account the Parties' respective participatory processes and institutions. 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 11

SMALL AND MEDIUM-SIZED ENTERPRISES

ARTICLE 11.1

General Provisions

1. The Parties recognise that small and medium-sized enterprises, including micro-sized enterprises, contribute significantly to economic growth, employment, and innovation.

2. For the purposes of this Chapter, "SMEs" means micro, small and medium-sized enterprises according to the respective domestic laws and regulations or national policies of each Party.

3. The Parties recognise that non-tariff barriers represent a challenge to the competitiveness of SMEs.

4. The Parties recognise that, in addition to this Chapter, there are other provisions in this Agreement that contribute to encouraging and facilitating the participation of SMEs in this Agreement.

5. The Parties seek to promote dialogue, information sharing and cooperation in order to increase the ability of SMEs to benefit from the opportunities arising from this Agreement.

ARTICLE 11.2

Information Sharing

1. Each Party shall establish or maintain a freely and publicly accessible website containing information regarding this Agreement including:

   (a) the text of this Agreement, including its Annexes and Appendices;

   (b) a summary of this Agreement; and

   (c) any information on specific provisions in this Agreement the Party considers useful for SMEs.

2. Each Party shall include on the website referred to in paragraph 1, links to:

   (a) the other Parties' websites referred to in paragraph 1; and

   (b) the websites of its own government agencies and other appropriate entities that provide information the Party considers useful to any SME interested in trading, investing or doing business in the territory of the Parties.

3. The information described in subparagraph 2(b) shall include, where applicable:

(a) trade procedures informing interested parties of the practical steps for the import, export and transit of goods;

(b) technical regulations and standards;

(c) sanitary and phytosanitary measures relating to importation or exportation;

(d) regulations or procedures on intellectual property rights;

(e) rules and notices on government procurement;

(f) business registration procedures;

(g) employment regulations, including collective bargaining agreements and their registration procedures;

(h) foreign investment regulations; and

(i) trade promotion programmes.

4. Each Party shall endeavour, as far as practicable in English, to include one or several links on the website in accordance with paragraph 1 to databases which are electronically searchable and include the following information:

(a) rates of customs duties and quotas, including MFN rates, rates concerning non-MFN countries and preferential rates;

(b) excise duties;

(c) value added taxes / sales taxes; and

(d) customs or other fees, including other product specific fees.

5. Each Party may complement the information provided pursuant to paragraphs 3 and 4 with additional elements it considers useful for SMEs.

6. Each Party shall take reasonable steps to ensure that the information and links referred to in paragraphs 1 to 4 that it maintains on the website referred to in paragraph 1 are accurate and up to date.

7. Each Party shall make the information provided under paragraphs 1 and 3 of this Article available in English. A Party may provide the information in its official language or languages if accompanied by an English description thereof.

ARTICLE 11.3

SMEs Contact Points and Cooperation

1. The Parties recognise the importance of cooperating to reduce barriers to the access of SMEs to their respective markets.

2. Cooperation between the Parties shall mainly take the form of exchange of information and dialogue on issues of mutual interest and shall be channelled through SMEs contact points.

3. Each Party shall designate a SMEs contact point and notify the other Parties of the contact details as well as, thereafter, of any changes to its SMEs contact point.

4. Taking into account the specific needs of SMEs in the implementation of this Agreement, the SMEs contact points shall seek to:

(a) exchange information related to SMEs, including any matter brought to their attention by SMEs in their trade and investment activities with another Party such as non-tariff measures adversely affecting trade outcomes;

(b) exchange policy experiences for SMEs, such as in the development of digital windows that facilitate the efforts of SMEs to establish operations in another Party, as well as in other assistance programmes and tools;

(c) exchange information related to the participation of SMEs in e-commerce, with a view to assisting SMEs to take advantage of the opportunities arising from this Agreement;

(d) promote awareness, understanding, and effective use of the Parties' intellectual property systems among SMEs;

(e) recommend any additional information that the Parties may publish pursuant to Article 11.2 (Information Sharing); and

(f) consider any other matters of interest to SMEs.

5. A Party may raise matters arising under this Chapter in the Joint Committee.

6. In carrying out their activities, the SMEs contact points may cooperate with experts, external organisations and relevant stakeholders, as appropriate.

ARTICLE 11.4

Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 14 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 12

TECHNICAL COOPERATION AND CAPACITY BUILDING

ARTICLE 12.1

Objectives and Scope

1. This Chapter sets out a framework for technical cooperation and capacity building under this Agreement.

2. The Parties declare their readiness to foster trade and economic cooperation in order to facilitate the implementation of the overall objectives of this Agreement.

3. Cooperation activities undertaken under this Chapter shall in particular enhance trade and investment opportunities arising from this Agreement, foster competitiveness of goods and services and contribute to sustainable development in accordance with national strategies and policy objectives including by strengthening human and institutional capacities taking into account the different levels of social and economic development of the Parties.

ARTICLE 12.2

Methods and Means

1. The Parties shall cooperate with the objective of identifying and employing the most effective methods and means for the implementation of this Chapter, taking into account the efforts undertaken by relevant international organisations in order to ensure effectiveness and coordination. Technical cooperation and capacity building provided by the EFTA States for the implementation of this Chapter shall be carried out through programmes administered by the EFTA Secretariat, without prejudice to other technical cooperation and capacity building programmes that the Parties may develop in fields covered by this Agreement.

2. Technical cooperation and capacity building under this Chapter shall be subject to the availability of funds and resources of each Party. Costs of cooperation under this Chapter shall be borne by the Parties within the limits of their own capacities and through their own channels, in a manner to be agreed between the Parties.

3. Methods and means of technical cooperation and capacity building may include, as appropriate:

(a) exchange of information, knowledge and expertise, including through facilitating contacts between relevant institutions;

(b) implementation of joint actions such as seminars, workshops, and conferences in order to contribute to institutional capacity building;

(c) technical and administrative assistance;

(d) facilitation for the transfer of technology, on mutually agreed terms, skills and best practices; and

(e) any other methods and means of technical cooperation and capacity building as mutually agreed by the Parties.

4. The Parties may implement technical cooperation and capacity building activities with participation of national and international experts, institutions, organisations and private sector representatives, as appropriate.

ARTICLE 12.3

Fields of Technical Cooperation and Capacity Building

1. Technical cooperation and capacity building, may cover any fields jointly identified by the Parties that may serve to enhance the Parties' and their economic operators' capacities to benefit from trade and investment opportunities, including:

(a) promotion and facilitation of trade in goods and services, investment and technology flows between the Parties, including promotion of market opportunities for SMEs;

(b) customs and origin matters and trade facilitation, including vocational training in the customs field;

(c) standards, technical regulations and conformity assessment procedures;

(d) sanitary and phytosanitary measures;

(e) trade and investment related aspects of sustainable development, including:

(i) promotion of the contribution of trade and investment towards a resource efficient, circular and green economy; and

(ii) trade and investment related labour and employment issues,

(f) fisheries, aquaculture and marine products, including as set out in Annex XIX (Cooperation on fisheries and aquaculture);

(g) intellectual property rights;

(h) government procurement; and

(i) any other fields of cooperation mutually agreed by the Parties.

2. Noting that many of the chapters of this Agreement contain provisions pertaining to cooperation, the Parties underline the need for a coordinated and coherent approach in implementing cooperation activities.

ARTICLE 12.4

Contact Points

The Parties shall exchange names and addresses of designated contact points for matters pertaining to the implementation of this Chapter.

ARTICLE 12.5

Non-Application of Dispute Settlement

1. No Party shall have recourse to dispute settlement under Chapter 14 (Dispute Settlement) for any matter arising under this Chapter.

2. Any matter arising under this Chapter between the Parties concerning interpretation and implementation of this Chapter shall be settled amicably.

CHAPTER 13

INSTITUTIONAL PROVISIONS

ARTICLE 13.1

Joint Committee

1. The Parties hereby establish the EFTA-Thailand Joint Committee (Joint Committee) comprising representatives of each Party.

2. The Joint Committee shall:

(a) supervise and review 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 Parties;

(c) oversee any further elaboration of this Agreement;

(d) supervise the work of all sub-committees and working groups established under this Agreement;

(e) endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement through consultations as provided for in paragraph 2 of Article 14.3 (Consultations); and

(f) consider any other matters that may affect the operation of this Agreement.

3. The Joint Committee may decide to set up sub-committees and working groups to assist it in accomplishing its tasks. Except where otherwise provided for in this Agreement, the sub-committees and working groups shall work under a mandate established by the Joint Committee.

4. The Joint Committee may take decisions as provided for in this Agreement. On other matters the Joint Committee may make recommendations.

5. The Joint Committee may:

(a) consider and recommend to the Parties amendments to this Agreement; and

(b) decide to amend Appendix 1 (Product-Specific Rules) to Annex I (Rules of Origin). Amendments to any Annexes and other Appendices to this Agreement shall also be made through a decision of the Joint Committee, unless a Party requests that the procedures established in Article 15.2 (Amendments) be followed.

6. The Joint Committee shall take decisions and make recommendations by consensus. The Joint Committee may adopt decisions and make recommendations

regarding issues related to only one or several EFTA States on the one side and Thailand on the other side. Consensus shall only involve, and the decision or recommendation shall only apply to, those Parties.

7. 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, so required, notifies the Depositary that its internal requirements have been fulfilled, unless otherwise agreed. The Joint Committee may decide that the decision enters into force for those Parties that have notified the Depositary that their internal requirements have been fulfilled, provided that Thailand is one of those Parties.

8. 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 chaired jointly by one of the EFTA States and Thailand.

9. 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.

10. The Joint Committee shall establish its rules of procedure at its first meeting.

ARTICLE 13.2

Contact Points

Each Party shall, within 90 days of entry into force of this Agreement for that Party, designate a contact point to facilitate communications between the Parties on any matter relating to this Agreement and notify the other Parties of the contact details of that contact point. Each Party shall promptly notify the other Parties of any change to those contact details.

CHAPTER 14

DISPUTE SETTLEMENT

ARTICLE 14.1

Scope and Coverage

1. Unless otherwise provided for in this Agreement, this Chapter applies with respect to the settlement of any disputes concerning the interpretation or application of this Agreement.

2. Disputes regarding the same matter arising under both this Agreement and the WTO Agreement may be settled in either forum at the discretion of the complaining Party.[24] The forum thus selected shall be used to the exclusion of the other.

3. For the purpose of paragraph 2, the complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of an arbitration panel pursuant to paragraph 1 of Article 14.4 (Establishment of Arbitration Panel) or requested the establishment of a panel under Article 6 of the WTO Understanding on rules and Procedures Governing the Settlement of Disputes.

ARTICLE 14.2

Good Offices, Conciliation or Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may begin and, upon request of a party to the dispute, 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 and in particular, positions taken by the parties to the dispute during these proceedings, shall be confidential and without prejudice to the rights of the parties to the dispute in any further or other proceedings.

ARTICLE 14.3

Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement and shall make every attempt through cooperation and consultations to reach a mutually satisfactory solution of any matter raised in accordance with this Article.

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[24] For the purposes of this Chapter, the terms “Party”, “party to the dispute”, “complaining Party” and “Party complained against” can denote one or more Parties.

2. A Party may request in writing consultations with another Party if it considers that a measure is inconsistent with this Agreement or that another Party has otherwise failed to carry out its obligations under this Agreement. The Party requesting consultations shall give the reasons for the request, including identification of the measure at issue and an indication of the factual and legal basis for the complaint. It 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 10 days from the receipt of the request and shall at the same time provide a copy of the reply to the other Parties. Consultations shall take place in the Joint Committee, unless the Parties making and receiving the request for consultations agree otherwise.

3. Consultations shall commence within 30 days from the receipt of the request for consultations. Consultations on urgent matters, including those on perishable goods, shall commence within 15 days from the receipt of the request for consultations.

4. The parties to the dispute shall provide sufficient information to enable a full examination of the matter and shall treat any confidential information exchanged in the course of consultations in the same manner as the Party providing the information.

5. The consultations shall be confidential and without prejudice to the rights of a party to the dispute in any further or other proceedings.

6. The parties to the dispute shall inform the other Parties of any mutually agreed solution.

ARTICLE 14.4

Establishment of Arbitration Panel

1. The complaining Party may request the establishment of an arbitration panel by means of a written request to the Party complained against if

(a) the Party complained against does not reply to the request for consultations in accordance with paragraph 2 of Article 14.3 (Consultations);

(b) the Party complained against does not enter into consultations within the timeframes laid down in paragraph 3 of Article 14.3 (Consultations); or

(c) the consultations fail to resolve a dispute within 60 days, or 30 days in relation to urgent matters, including those on perishable goods, after the Party complained against has received the request for consultations made pursuant to paragraph 2 of Article 14.3 (Consultations).

2. A copy of the request for the establishment of an arbitration panel shall at the same time be communicated to the other Parties so that they may determine whether to participate in the arbitration process.

3. The request for the establishment of an arbitration panel shall identify the specific measure at issue and provide details of the factual and legal basis for the complaint, including the relevant provisions of this Agreement, to be addressed by the arbitration panel, sufficient to present the problem clearly.

4. The arbitration panel shall consist of three members who shall be appointed in accordance with Articles 6 and 9 - 15 of the Permanent Court of Arbitration Rules 2012 (PCA Rules 2012), *mutatis mutandis*. The date of establishment of the arbitration panel shall be the date on which the Chairperson is appointed.

5. Each member of the arbitration panel shall:

(a) have demonstrated expertise or experience in law, international trade or other matters covered by this Agreement;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgment;

(c) be independent of, and not be affiliated with or take instructions from, a Party; and

(d) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute.

6. The Chairperson of the arbitration panel shall also have experience in dispute settlement procedures and shall not be a national of a Party, shall not be employed by a Party, or shall not have dealt with the dispute in any capacity.

7. If a member of the arbitration panel fails to participate in the arbitration or has to be replaced in the course of the arbitration proceedings, the work of the arbitration panel shall be suspended until the successor member is appointed. In such a case, any relevant period of time for the arbitration panel proceedings shall be suspended until the successor member is appointed.

8. Where more than one Party requests the establishment of an arbitration panel relating to the same matter or where the request involves more than one Party complained against, and whenever feasible, a single arbitration panel should be established to examine complaints relating to the same matter. A single arbitration panel shall organise its examination and present its findings and recommendations, if any, to the parties to the disputes in such a manner that the rights which the parties to the disputes would have enjoyed had separate arbitration panels examined the complaints are in no way impaired.

9. If more than one arbitration panel is established to examine the complaints relating to the same matter, the parties to the dispute shall endeavour to ensure that the same individuals serve as members on each of the separate arbitration panels. The members of the arbitration panels shall consult with each other and the parties to the disputes to ensure, to the greatest extent possible, that the timetables for the arbitration panels' processes are harmonised.

10. Where feasible, the arbitration panel referred to in Articles 14.10 (Implementation of the Final Panel Report) and 14.11 (Compensation and Suspension of Concessions or Other Obligations) shall comprise the same arbitrators as the original arbitration panel. Where this is not feasible, the appointment of a replacement arbitrator shall be conducted in accordance with the selection procedure for the original arbitrator.

ARTICLE 14.5

Third Parties

1. A Party which is not a party to the dispute but considers that it has a substantial interest in a matter before the arbitration panel may notify the parties to the dispute of its intent to participate as a Third Party no later than 10 days after the date of the request made pursuant to paragraph 1 of Article 14.4 (Establishment of Arbitration Panel). The notifying Party shall simultaneously provide a copy of the notification to the other Parties.

2. A Third Party shall have the right to:

(a) make written submissions to the arbitration panel;

(b) receive written submissions, including annexes, from the parties to the dispute;

(c) attend hearings of the arbitration panel with the parties to the dispute; and

(d) make oral statements to the arbitration panel and respond to questions from the arbitration panel.

3. Regarding any confidential information, a Third Party shall have the same rights and obligations as the parties to the dispute.

4. If a Third Party provides any submissions or other documents to the arbitration panel, it shall at the same time provide them to the parties to the dispute and any other Third Parties.

5. An arbitration panel may, with the agreement of the parties to the dispute, grant additional or supplemental rights to Third Parties regarding their participation in arbitration panel proceedings.

ARTICLE 14.6

Terms of Reference

Unless the parties to the dispute otherwise agree 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 14.4 (Establishment of Arbitration Panel), to make findings of law and fact, and determinations on whether the measure at issue is not in conformity with the Agreement or the Party complained against has otherwise failed to carry out its obligations under this Agreement together with the reasons therefor, and to issue a written report for the resolution of the dispute. The arbitration panel may make recommendations for the resolution of the dispute and the implementation of the ruling."

ARTICLE 14.7

Procedures of the Arbitration Panel

1. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the procedures of the arbitration panel shall be governed by Articles 5, 17, and 19 - 41 of the PCA Rules 2012, *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 the rules of interpretation of public international law.

3. The arbitration panel shall consult regularly with the parties to the dispute and provide adequate opportunities for the parties to the dispute to develop a mutually agreed solution.

4. The language of any proceedings shall be English. The venue for the hearings of the arbitration panel shall be decided by agreement between the parties to the dispute. If there is no agreement, the venue shall be decided by the arbitration panel, in consultation with the parties to the dispute. The hearings shall be open to the public to observe, unless the parties to the dispute agree otherwise at the organisational meeting referred to in paragraph 7. For discussions of any confidential information, the hearings shall be closed. The hearings shall be conducted in a manner that seeks to ensure the safety of the arbitration panel proceedings and the protection of personal data and privacy.

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

6. All documents or information submitted by a party to the dispute to the arbitration panel, shall, at the same time, be transmitted by that Party to the other party to the dispute.

7. As soon as practicable after its establishment, the arbitration panel shall convene an organisational meeting with the parties to the dispute to determine the timetable of the arbitration panel proceedings and other organisational matters, including means of submission of documents related to the arbitration panel proceedings.

8. The Parties shall treat as confidential the information submitted to the arbitration panel which has been designated as confidential by the Party submitting the information.

9. The arbitration panel shall take its decision by consensus. In the event where the arbitration panel is unable to reach a consensus, it may take its decision by a majority vote. Any member may furnish separate opinions on matters not unanimously agreed. The arbitration panel shall not disclose which members are associated with majority or minority opinions.

ARTICLE 14.8

Panel Reports

1. The arbitration panel should submit an initial report containing its findings and rulings to the parties to the dispute not later than 120 days from the date of establishment

of the arbitration panel. In cases of urgent matters, including those on perishable goods, the arbitration panel shall endeavour to submit its initial report within 60 days of the date of its establishment. A party to the dispute may submit written comments to the arbitration panel within 15 days from the receipt of the initial report. The arbitration panel should present to the parties to the dispute a final report within 30 days from the submission of the initial report.

2. The final report, as well as any report under Articles 14.10 (Implementation of the Final Panel Report) and 14.11 (Compensation and Suspension of Concessions or Other Obligations), shall be communicated to the Parties and at any time thereafter a party to the dispute may make the final report publicly available subject to the protection of any confidential information contained in the final report.

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

ARTICLE 14.9

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. Within this period, the suspended arbitration panel proceedings shall resume on request of a party to the dispute. In the event of such suspension, any relevant period of time for the arbitration panel shall be extended by the period of time that the work was suspended. 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 parties to the dispute may agree at any time to terminate the proceedings of an arbitration panel established under this Agreement by jointly notifying in writing the Chairperson of that arbitration panel.

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

ARTICLE 14.10

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, a party to the dispute may request the Chairperson of the arbitration panel, by way of notification to the Chairperson and the other party to the dispute, to determine the length of the reasonable period of time, in light of the particular circumstances of the case. Such a request shall be made within 120 days of the date of the issuance of the final report. The Chairperson of the arbitration panel shall present the parties to the dispute with a determination of the reasonable period of time and the reasons for such determination within 60 days from the receipt of that request by the Chairperson.

2. The Party complained against shall notify the other party to the dispute of any measure adopted to comply with the ruling in the final report. It shall include in the notification a detailed description of how the measure ensures compliance sufficient to allow the other party to the dispute to assess the measure.

3. In case of disagreement as to the existence of a measure adopted to comply 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 a party to the dispute before compensation can be sought or suspension of benefits can be applied in accordance with Article 14.11 (Compensation and Suspension of Concessions or Other Obligations). The request may only be made after the expiry of the period of time established in accordance with paragraph 1 or after a notification made pursuant to paragraph 2, whichever is earlier. The ruling of the arbitration panel should be rendered within 120 days from the receipt of that request.

ARTICLE 14.11

Compensation and Suspension of Concessions or Other Obligations

1. The Party complained against shall, if so requested by the complaining Party, enter into consultations with a view to agreeing on mutually acceptable compensation, if:

(a) the Party complained against does not comply with the ruling in the final panel report in accordance with paragraph 1 of Article 14.10 (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; or

(b) the arbitration panel to which the matter is referred pursuant to paragraph 3 of Article 14.10 (Implementation of the Final Panel Report) rules that the Party complained against has failed to comply with the ruling in the final panel report.

2. If no such agreement has been reached within 30 days from the receipt of the request or the parties to the dispute have agreed on compensation but the Party complained against has failed to observe the terms and conditions of that agreement, the complaining Party shall be entitled to suspend the application of concessions or other obligations at a level equivalent to those affected by a measure or matter that the arbitration panel has determined not to be in conformity with the obligations under this Agreement.

3. In considering what concession or other obligations to suspend, the complaining Party should first seek to suspend concession or other obligations in the same sector or sectors as that in which the arbitration panel has determined that a measure or matter is not in conformity with the obligations under this Agreement. If the complaining Party considers that it is not practicable or effective to suspend concession or other obligations in the same sector or sectors, it may suspend concession or other obligations in other sectors.

4. The complaining Party shall notify the Party complained against of the concession or other obligations which it intends to suspend, indicating the level of the intended suspension, the relevant sector or sectors in which it proposes to suspend such concessions or other obligations, the grounds for such suspension and when suspension will commence. The suspension may take effect 30 days after the date of the receipt of the notification. Within 20 days from the receipt of that notification, the Party complained against may request the original arbitration panel to rule on whether the proposed suspension is in accordance with paragraphs 2 and 3. The suspension shall not commence until the arbitration panel has issued its ruling or where a mutually agreed solution has been reached. The ruling of the arbitration panel should be given within 60 days from the receipt of that request.

5. Compensation and suspension of concessions or other obligations shall be temporary measures. The suspension shall only be applied 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 a mutually satisfactory solution is reached. Neither compensation nor suspension is preferred to full elimination of the non-conformity as determined in the report of the arbitration panel. Compensation is voluntary and, if granted, shall be consistent with this Agreement.

6. Upon 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 concessions or other obligations and, in light of such ruling, whether the suspension of concessions or other obligations should be terminated or modified. The ruling of the arbitration panel should be given within 30 days from the receipt of that request. If the arbitration panel determines that the Party complained against has complied with the ruling in the final panel report, the complaining Party shall promptly terminate the suspension of concessions or other obligations.

ARTICLE 14.12

Time Periods

1. Any time period mentioned in this Chapter may be modified by mutual agreement of the parties to the dispute or extended, upon request of a party to the dispute, by the arbitration panel.

2. If 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.

ARTICLE 14.13

Costs

Unless the parties to the dispute agree otherwise, each party to the dispute shall bear its own legal and other costs incurred in relation to the arbitration. Unless the parties to the dispute agree otherwise, the costs of the members of the arbitration panel and other

expenses associated with the arbitration panel proceedings shall be borne by the parties to the dispute in equal shares.

CHAPTER 15

FINAL PROVISIONS

ARTICLE 15.1

Annexes, Appendices and Footnotes

The Annexes, Appendices and footnotes to this Agreement constitute an integral part of this Agreement.

ARTICLE 15.2

Amendments

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

2. Any amendments to this Agreement shall be made in writing. Except as otherwise provided for in Article 13.1 (Joint Committee), amendments to this Agreement shall be subject to ratification, acceptance or approval.

3. Unless otherwise agreed, amendments shall enter into force on the first day of the third month following the date on which at least one EFTA State and Thailand 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 the date on which at least one EFTA State and Thailand have deposited their instrument of ratification, acceptance or approval with the Depositary, the amendment shall enter into force on the first day of the third month following the deposit of its instrument.

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

5. The text of the amendments and the instruments of ratification, acceptance or approval shall be deposited with the Depositary.

6. A Party may apply an amendment provisionally, subject to its domestic legal requirements. Provisional application of amendments shall be notified to the Depositary.

ARTICLE 15.3

Accession

1. Any State becoming a Member of EFTA may accede to this Agreement on terms and conditions agreed by the Parties and the acceding State.

2. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the date on which both the acceding State has deposited an instrument of accession with the Depositary indicating its acceptance of the terms and conditions and the last Party has deposited its instrument of ratification, acceptance or approval of the terms and conditions of accession with the Depositary.

ARTICLE 15.4

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 from the date on which the notification is received by the Depositary. If Thailand withdraws, this Agreement shall expire when its withdrawal becomes effective.

2. 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 15.5

Entry into Force

1. This Agreement shall be subject to ratification, acceptance or approval. 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 Thailand have deposited their instrument of ratification, acceptance or approval with the Depositary in relation to Thailand and that EFTA State.

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

4. After the entry into force of this Agreement, in accordance with paragraph 2, a Party may apply this Agreement provisionally, subject to its domestic legal requirements. Provisional application of this Agreement shall be notified to the Depositary.

ARTICLE 15.6

Depositary

The Government of Norway shall act as Depositary.

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

Done at Davos, this 23rd day of January 2025, 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 Kingdom of Thailand

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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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