EUROPEAN
COMMISSION

Brussels, 3.9.2025
COM(2025) 338 final

ANNEX 1

ANNEX

to the

Proposal for a Council Decision

on the signing, on behalf of the European Union, of the Interim Agreement on Trade between the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part

INTERIM AGREEMENT ON TRADE BETWEEN THE EUROPEAN UNION, OF THE ONE PART, AND THE COMMON MARKET OF THE SOUTH, THE ARGENTINE REPUBLIC, THE FEDERATIVE REPUBLIC OF BRAZIL, THE REPUBLIC OF PARAGUAY AND THE ORIENTAL REPUBLIC OF URUGUAY, OF THE OTHER PART

THE EUROPEAN UNION, hereinafter referred to as "the Union" or the "EU",

of the one part, and

THE ARGENTINE REPUBLIC,

THE FEDERATIVE REPUBLIC OF BRAZIL,

THE REPUBLIC OF PARAGUAY,

THE ORIENTAL REPUBLIC OF URUGUAY,

State Parties to the Common Market of the South signatories of this Agreement, hereinafter referred to as "Signatory MERCOSUR States", and

THE COMMON MARKET OF THE SOUTH, hereinafter referred to as "MERCOSUR",

of the other part,

hereinafter jointly referred to as "the Parties",

for the purposes of this Agreement MERCOSUR refers to the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay,

CONSIDERING the important and longstanding trade and investment relations between the Parties;

REAFFIRMING their commitment to further strengthen, liberalise and diversify their trade and investment relations;

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

BUILDING UPON the rights and obligations of the Parties in the World Trade Organisation;

REAFFIRMING their commitment to strengthen and develop the multilateral trading system through the application of transparent, equitable and non-discriminatory rules, with a view to the promotion of increasingly dynamic and open international trade which ensures a larger participation of developing countries in international trade, investment and technology flows;

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

RECOGNISING the interim character of this Agreement, which will strengthen bilateral economic and trade relations between the Parties, which will be subsumed under the EU–MERCOSUR Partnership Agreement and which will hence cease to apply upon the entry into force of the EU–MERCOSUR Partnership Agreement;

REAFFIRMING the Parties' right to exploit their natural resources in accordance with their own environmental policies, and sustainable development goals;

DESIRING to improve the competitiveness of their enterprises, by providing them with a predictable legal framework for their trade and investment relations, with special attention to micro, small and medium enterprises;

REAFFIRMING the need to promote the respect of internationally recognised guidelines and principles of corporate social responsibility and responsible business conduct, including the Organisation of Economic Cooperation and Development (hereinafter referred to as "OECD") Guidelines for Multinational Enterprises, amongst enterprises operating in their territories;

REAFFIRMING their commitment to promote comprehensive economic and social development with the objective of raising living standards, eradicating poverty, and enhancing the levels of labour and environmental protection in their respective territories;

CONSIDERING the importance of their respective regional integration processes for the promotion of economic and social development at the regional and global levels, for the strengthening of ties between their peoples and for international stability;

RECOGNISING the differences in economic and social development between and within the Parties;

RECOGNISING the specific challenges and difficulties faced by Paraguay as a landlocked developing country;

HAVE AGREED AS FOLLOWS:

CHAPTER 1

INITIAL PROVISIONS

ARTICLE 1.1

Establishment of a free trade area and relation to the WTO Agreement

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

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

3. Nothing in this Agreement shall be construed as requiring a Party to act in a manner inconsistent with its obligations under the WTO Agreement.

ARTICLE 1.2

Objectives

The provisions of this Agreement aim at:

(a) a modern and mutually advantageous trade agreement which creates a predictable framework to boost trade and economic activity, while promoting and protecting our shared values and perspectives on the role of government in society, and retaining the right of the Parties to regulate at all levels of government to achieve public policy objectives;

(b) the development of international trade and of trade between the Parties in a way as to contribute to sustainable development in its economic, social and environmental dimensions, consistent with, and supportive of, their respective international obligations, in these fields;

(c) the promotion of a more sustainable, equitable and inclusive economy so as to raise standards of living, reduce poverty and create new employment opportunities;

(d) the consolidation, increase and diversification of trade in agricultural and non-agricultural goods between the Parties, through the reduction or the elimination of tariff and non-tariff barriers to trade and the further integration in the global value chains;

(e) the facilitation of trade in goods through, in particular, the application of the agreed provisions regarding customs and trade facilitation, standards, technical regulations and conformity assessment procedures as well as sanitary and phytosanitary measures;

(f) the liberalisation and facilitation of trade in services, and the development of an environment conducive to an increase in investment flows, competitiveness, and economic growth and, in particular, to the improvement of conditions of establishment of businesses between the Parties;

(g) the free movement of capital relating to direct investment and of current payments in accordance with Chapter 10;

(h) the effective, transparent and competitive opening of government procurement markets of the Parties;

(i) the promotion of innovation and creativity by ensuring an adequate and effective level of protection and of enforcement of intellectual property rights, in accordance with international rules in force between the Parties, so as to ensure the balance between the rights of the right-holders and the public interest;

(j) the conduct of economic activities, in particular those regarding the relations between the Parties, in conformity with the principle of free and undistorted competition;

(k) the establishment of a framework for the participation of civil society, including employers, unions, labour and business organisations and environmental groups to support the effective implementation of this Agreement;

(l) the establishment of an expeditious and effective dispute settlement mechanism; and

(m) a transparent and predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises (hereinafter referred to as "SMEs"), while preserving the ability of the Parties to adopt and apply their own laws and regulations that regulate economic activity in the public interest, and to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment, public morals, social or consumer protection, privacy and data protection and the promotion and protection of cultural diversity.

ARTICLE 1.3

General definitions

Unless otherwise specified, for the purposes of this Agreement:

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

(b) "customs duty" means any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation[1], but does not include any:

(i) internal taxes or other internal charges imposed consistently with Article III of GATT 1994;

(ii) antidumping or countervailing duties applied in accordance with Articles VI and XVI of GATT 1994 and the WTO Agreement on the Implementation of Article VI of GATT 1994 and the SCM Agreement in conformity with Chapter 8;

(iii) measures applied in accordance with Article XIX of GATT 1994 and with the Safeguards Agreement, or other safeguard measures applied pursuant to Chapter 8;

(iv) measures authorised by the WTO Dispute Settlement Body or under Chapter 21;

(v) fee or other charge, imposed consistently with Article VIII of GATT 1994; or

[1] Among other measures of equivalent effect, this includes *ad valorem* import duties, agricultural components, additional duties on sugar content, additional duties on flour content, specific duties, mixed duties, seasonal duties and additional duties from entry price systems.

(vi) measures adopted to safeguard a Party's external financial position and its balance of payments, in conformity with Article XII of GATT 1994 and the Understanding on Balance of Payments Provisions of GATT 1994.

(c) "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

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

(e) "EU–MERCOSUR Partnership Agreement" means the Partnership Agreement between the European Union and its Member States, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the oriental Republic of Uruguay, of the other part, to be concluded;

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

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

(h) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, and Chapter Notes, done at Brussels on 14 June 1983;

(i) "heading" means the first four digits in the tariff classification number under the Harmonized System;

(j) "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;

(k) "measure" includes any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement or practice[1];

(l) "natural person of a Party" means, for the European Union, a national of a Member State of the European Union, and for MERCOSUR, a national of a Signatory MERCOSUR State, in accordance with their respective applicable legislation;

(m) "person" means a natural person or a juridical person;

(n) "sanitary or phytosanitary measure" means any measure as defined in Annex A to the SPS Agreement;

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

(p) "UNCLOS" means the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982; and

(r) "WTO" means the World Trade Organization.

---

[1] For greater certainty, the term "measure" includes omissions and legislation that has not been fully implemented at the conclusions of the negotiations of this Agreement as well as its implementing acts.

ARTICLE 1.4

WTO Agreements

(a) "ADA" means the Agreement on Implementation of Article VI of GATT 1994;

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

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

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

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

(f) "Safeguards Agreement" means the Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;

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

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

(i) "TBT Agreement" means the Agreement on Technical Barriers to Trade, contained in Annex 1 to the WTO Agreement;

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

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

ARTICLE 1.5

Parties

1. The European Union shall be responsible for the fulfilment of the commitments in this Agreement.

2. Save where otherwise provided, each of the Signatory MERCOSUR States of this Agreement shall be responsible for the fulfilment of the commitments in this Agreement.

ARTICLE 1.6

Regional integration

1. While recognising the differences in their respective regional integration processes, and without prejudice to the commitments undertaken under this Agreement, the Parties shall foster conditions which facilitate the movement of goods and services between and within the two regions.

2. With respect to movement of goods, pursuant to paragraph 1:

(a) goods originating in a Signatory MERCOSUR State that are released for free circulation in the European Union shall benefit from free movement of goods within the territory of the European Union under the conditions established by the Treaty on the Functioning of the European Union;

(b) the Signatory MERCOSUR States shall apply to goods originating in the European Union that are imported in its territory from another Signatory MERCOSUR State, customs procedures that are no less favourable than those applicable to goods originating in that Signatory MERCOSUR State.

The treatment referred to under points (a) and (b) of this paragraph does not include tariff treatment for goods, which is governed by Chapter 2;

(c) the Signatory MERCOSUR States shall periodically review their customs procedures with a view to facilitating the movement of goods of the European Union between their territories and to avoiding duplication of procedures and controls when practicable and in accordance with the evolution of their integration process; and

(d) the benefits of MERCOSUR's harmonisation of technical regulations and conformity assessment procedures, SPS requirements and approval procedures, including import certificates and controls, shall be extended under non-discriminatory conditions to goods originating in the European Union if they have been imported in compliance with the laws and regulations of the importing Signatory MERCOSUR State.

3. With respect to movement of services, pursuant to paragraph 1:

(a) Member States of the European Union shall endeavour to facilitate, as appropriate, the freedom to provide services within the territory of the European Union to enterprises owned or controlled by natural or juridical persons of a Signatory MERCOSUR State and established in a Member State of the European Union; and

(b) the Signatory MERCOSUR States shall endeavour to facilitate, as appropriate, the freedom to provide services between their territories to enterprises owned or controlled by natural or juridical persons of a Member State of the European Union and established in a Signatory MERCOSUR State.

ARTICLE 1.7

References to laws and other agreements

1. Unless otherwise specified, where reference is made to laws and regulations of a Party, those laws and regulations shall be understood to include amendments thereto.

2. Unless otherwise specified, any reference, or incorporation by means of a reference in this Agreement to other agreements or legal instruments in whole or in part shall be construed as including related annexes, protocols, footnotes, interpretative notes and explanatory notes.

3. Unless otherwise specified, where international agreements are referred to or incorporated into this Agreement, in whole or in part, they shall be understood to include amendments thereto or their successor agreements entering into force for both Parties on or after the date of signature of this Agreement. If any matter arises regarding the implementation or application of the provisions of this Agreement as a result of such amendments or successor agreements, the Parties may, on request of either Party, consult with each other via the Trade Council with a view to finding a mutually satisfactory solution to this matter as necessary. As a result of such consultation, the Parties may, by decision in the Trade Council, amend this Agreement accordingly.

4. Paragraph 3 applies *mutatis mutandis*, if the amendment or successor agreement of an international agreement referred to or incorporated into this Agreement in whole or in part, has entered into force for the European Union and one or more Signatory MERCOSUR States.

CHAPTER 2

TRADE IN GOODS

ARTICLE 2.1

Objective and scope

1. The Parties shall establish a free trade area for goods over a transitional period starting on the date of entry into force of this Agreement.

2. Except as otherwise provided in this Agreement, the provisions of this Chapter apply to trade in goods of a Party.

SECTION A

CUSTOM DUTIES

ARTICLE 2.2

National treatment

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

ARTICLE 2.3

Definitions

For the purposes of this Chapter, "originating good" means a good qualifying as originating in a Party under the rules of origin set out in Chapter 3.

ARTICLE 2.4

Reduction and elimination of customs duties

1. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods in accordance with Annex 2-A.

2. The classification of goods in trade between the Parties shall be in accordance with each Party's respective tariff nomenclature in conformity with the Harmonized System. Each Party shall specify in its respective Appendix to Annex 2-A the version of the Harmonized System used to this end.

3. A Party may create a new tariff line. In that event and in so far as trade between the Parties is concerned, the customs duty applicable to the corresponding goods under the new tariff line shall be equal to or lower than the customs duty applicable to the corresponding goods under the original tariff line specified in Annex 2-A and the agreed tariff concession shall remain unchanged.

4. For each good originating in the other Party, the base rate of customs duties on imports to which the successive reductions apply under paragraph 1 is specified in Annex 2-A.

5. Without prejudice to paragraphs 1 and 3, for a period of 2 (two) years from the date of entry into force of this Agreement, the European Union shall not increase the customs duties applied on 31 December 2017 on goods originating in Paraguay that are classified under the following tariff lines set out in Appendix 2-A-1 as "PY" goods: 20019030, 21012098, 21069098 and, 33021029. For the purposes of this paragraph, "goods originating in Paraguay" means goods that conform to the origin requirements under Subsections 2 and 3 of Section 2 of Chapter 1 of Title II of Commission Delegated Regulation (EU) 2015/2446 of 28 July of 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code[1] and Subsections 3 to 9 of Section 2 of Chapter 2 of Title II of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code[2].

[1] OJ EU L 343, 29.12.2015, p. 1.
[2] OJ EU L 343, 29.12.2015, p. 558.

6. Except as otherwise provided for in this Agreement, a Party shall not introduce new customs duties or increase customs duties which are already applied in accordance with the base rates set out in Annex 2-A on trade in originating goods between the Parties as from the date of entry into force of this Agreement. For greater certainty, a Party may increase a customs duty applicable to trade between the Parties as set out in Annex 2-A that has been unilaterally reduced to the level set out in that Annex for the respective year following that unilateral reduction.

7. If a Party reduces its most-favoured-nation applied rate of customs duty to a level below the base rate for a particular tariff line specified in Annex 2-A, that duty rate shall be deemed to replace the base rate in Annex 2-A, if, and for as long as it is lower than the base rate, for the purposes of the calculation of the preferential rate for that tariff line. In this regard, the Party shall apply the tariff reduction to the most-favoured-nation applied rate to calculate the applicable rate of customs duty, maintaining at all times the relative margin of preference for any tariff line. Such relative margin of preference for a tariff line shall correspond to the difference between the base rate set out in Annex 2-A and the applied duty rate for that tariff line in accordance with Annex 2-A divided by that base rate and shall be expressed as a percentage.

8. Each Party may accelerate the elimination of customs duties on originating goods of the other Party, or otherwise improve the conditions of market access for originating goods of the other Party, if its general economic situation and the situation of the economic sector concerned so permit.

9. As from 3 (three) years after the date of entry into force of this Agreement, on request of either Party, the Subcommittee on trade in goods, referred to in Article 2.14, shall consider measures providing for improved market access. The Trade Council shall have the power to adopt decisions to amend Annex 2-A. Such decisions shall supersede any duty rate or staging category determined in Annex 2-A for such originating goods.

ARTICLE 2.5

Goods re-entered after repair

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

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

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

(c) is used to improve the technical performance of a good.

2. A Party shall not apply customs duties to a good, regardless of its origin, that re-enters that Party's customs territory after hat good has been temporarily exported from its customs territory to the customs territory of the other Party for repair, regardless of whether such repair could have been performed in the customs territory of the Party from which the goods were exported for repair as defined in paragraph 1.

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

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

SECTION B

NON-TARIFF MEASURES

ARTICLE 2.6

Fees and other charges on imports and exports

1. Each Party shall ensure, in accordance with Article VIII of GATT 1994, including its Notes and Supplementary Provisions, that all fees and other charges of whatever character[1], other than import and export duties imposed on or in connection with importation or exportation, are limited in amount to the approximate cost of services rendered, shall not be calculated on an *ad valorem* basis and shall not represent an indirect protection for domestic goods or a taxation of imports or exports for fiscal purposes.

2. Each Party may impose charges or recover costs only if specific services are rendered, in particular for the following:

(a) attendance, if requested, by customs staff outside official office hours or at premises other than customs premises;

[1] For greater certainty, "tasa consular" of the Oriental Republic of Uruguay and "tasa estadística" of the Argentine Republic are governed by paragraph 3.

(b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions relating to binding information or the provision of information concerning the application of customs laws and regulations;

(c) the examination or sampling of goods for verification purposes, or the destruction of goods, if costs other than the cost of using customs staff are involved; or

(d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.

3. A Party shall not require consular transactions, including related fees and charges, in connection with the importation of goods from the other Party. The Parties shall have a transitional period of 3 (three) years from the date of entry into force of this Agreement to fulfil the requirements of this paragraph[1].

4. Each Party shall publish a list of the fees and charges it imposes in connection with the importation or exportation of goods.

[1] Notwithstanding this paragraph, for the Republic of Paraguay the transitional period will be 10 (ten) years after the date of entry into force of this Agreement.

ARTICLE 2.7

Import and export licensing procedures

1. The Parties shall ensure that all import and export licensing procedures applicable to trade in goods between the Parties are neutral in application and administered in a fair, equitable, non-discriminatory and transparent manner.

2. Each Party shall only adopt or maintain licensing procedures as a condition for importation into its territory from that of the other Party or exportation from its territory to that of the other Party if other appropriate procedures to achieve an administrative purpose are not reasonably available.

3. The Parties shall not adopt or maintain non-automatic import or export licensing procedures[1] unless it is necessary to implement a measure that is consistent with this Agreement. A Party adopting non-automatic import or export licensing procedures shall indicate clearly the measure being implemented through such licensing procedure.

4. The Parties shall introduce and administer any licensing procedures in accordance with Articles 1 to 3 of the WTO Import Licensing Agreement (hereinafter referred to as "Import Licensing Agreement"). To that end, Articles 1 to 3 of the Import Licensing Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*, and shall apply to any export licensing procedures.

[1] For the purposes of this Article, "non-automatic import or export licensing procedures" is defined as licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in the importation or exportation of goods subject to licensing procedures.

5. Any Party introducing or modifying any import and export licensing procedures shall make the relevant information available on an official website. This information shall be made available, whenever practicable, 21 (twenty-one) days prior to the date of the application of the introduction of, or modification to, licensing procedures but in any event no later than such date. The information available on the Internet shall contain the data required under Article 5 of the Import Licensing Agreement. Each Party shall notify the other Party of any introduction or modification of export licensing procedures and such notification shall contain the same information as referred to in Article 5 of the Import Licensing Agreement.

6. On request of a Party, the other Party shall promptly provide any relevant information regarding any import and or export licensing procedures that the Party to which the request is addressed intends to adopt or has adopted or maintained, including the information referred to in Articles 1 to 3 of the Import Licensing Agreement, *mutatis mutandis*.

ARTICLE 2.8

Export competition

1. The Parties affirm their commitments expressed in the Export Competition Ministerial Decision of 19 December 2015 (WT/MIN(15)/45, WT/L/980) of the WTO (hereinafter referred to as the "Export Competition Ministerial Decision").

2. For the purposes of this Article, "export subsidies" means subsidies within the meaning of Articles 1 and 3 of the SCM Agreement that are contingent upon export performance, including the subsidies listed in Annex I to the SCM Agreement and the subsidies listed in Article 9 of the Agreement on Agriculture.

3. A Party shall not maintain, introduce or reintroduce export subsidies on an agricultural good that is exported or incorporated in a product that is exported.

4. A Party shall not maintain, introduce or reintroduce export credits, export credit guarantees, insurance programmes, state trading enterprises or international food aid, or other measures that have an effect equivalent to an export subsidy, on an agricultural good that is exported or incorporated in a good that is exported to the territory of the other Party, unless those measures comply with the obligations of the exporting Party under the WTO Agreements and Decisions of the Ministerial Conference and the General Council of the WTO, including in particular the Export Competition Ministerial Decision.

5. The Parties affirm their commitment in the Bali Ministerial Declaration adopted on 7 December 2013 (WT/MIN(13)/DEC) of the WTO, strengthened by the Export Competition Ministerial Decision, to enhance transparency and to improve monitoring in relation to all forms of export subsidies and export credits, export credit guarantees, insurance programmes, state trading enterprises and international food aid, as well as other measures that have an effect equivalent to an export subsidy.

6. The Parties affirm the commitments taken under the Export Competition Ministerial Decision with regard to international food aid and shall work together to encourage the best practice in the delivery of food aid in the relevant international fora by seeking to limit the monetisation of food aid and the delivery of in-kind food aid only to emergency situations.

ARTICLE 2.9

Duties, taxes and other fees and charges on exports

A Party shall not introduce or maintain any duties or charges of any kind on or in connection with the exportation of a good to the other Party, other than in accordance with Annex 2-B, 3 (three) years from the date of entry into force of this Agreement.

ARTICLE 2.10

State trading enterprises

1. Nothing in this Agreement shall prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of GATT 1994, including its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII of GATT 1994, which are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. If a Party requests information from the other Party on individual cases of state trading enterprises, their operation or the effect of their operations on bilateral trade, the requested Party shall ensure full transparency in accordance with Article XVII of GATT 1994.

3. Notwithstanding paragraph 1, a Party shall not designate or maintain a designated import or export monopoly, except for those already established by a Party or prescribed by in its Constitution as listed in Annex 2-C. For the purposes of this paragraph, an import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import a good from, or to export a good to, the other Party.

ARTICLE 2.11

Prohibition of quantitative restrictions

1. A Party may not adopt or maintain any prohibition or restriction on the importation of any good from the other Party or on the exportation or sale for export of any good destined for the other Party, whether applied by quotas, licences or other measures, except in accordance with Article XI of GATT 1994, including its Notes and Supplementary Provisions. To that end, Article XI of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. A Party may not adopt or maintain export or import price requirements, except as permitted in the enforcement of antidumping and countervailing duty orders or price undertakings.

ARTICLE 2.12

Preference utilisation

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics for a period starting 1 (one) year after the date of entry into force of this Agreement and ending 10 (ten) years after the tariff elimination is completed for all goods in accordance with Annex 2-A. Unless the Trade Committee decides otherwise, this period shall be automatically extended for 5 (five) years, and the Trade Committee may decide to further extend it.

2. The exchange of import statistics referred to in paragraph 1 shall cover data pertaining to the most recent year available, including value and, if applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment.

3. Without prejudice to paragraph 2 and subject to confidentiality requirements under each Party's laws and regulations a Party shall not be obliged to exchange import statistics.

ARTICLE 2.13

Specific measures concerning the management of preferential treatment

1. The Parties shall cooperate in preventing, detecting and combating breaches of their laws and regulations, irregularities and fraud related to the preferential treatment granted under this Chapter, in accordance with Chapter 3 and Annex 4-A.

2. A Party may, in accordance with the procedure laid down in paragraph 4, decide to temporarily suspend the relevant preferential treatment of the products concerned, if that Party makes a finding, based on objective, compelling and verifiable information, that:

(a) large-scale systematic breaches in the relevant laws and regulations, irregularities or fraud have been committed in order to obtain preferential tariff treatment granted under this Chapter; and

(b) the other Party systematically refuses or otherwise fails to comply with its obligations referred to in paragraph 1, in accordance with Chapter 3 and Annex 4-A.

3. For the purposes of this Article, a failure to comply with the obligations referred to in paragraph 1 means, among others, a clearly demonstrated and systematic:

(a) failure to fulfil the obligation to verify the originating status of the products concerned, in accordance with the procedures established in Articles 3.24 and 3.25 and;

(b) refusal or unjustifiable delay in communicating the result of a verification of origin carried out in accordance with Articles 3.25 and 3.26; or

(c) lack of administrative cooperation pursuant to Annex 4-A.

4. The Party which has made a finding referred to in paragraph 2 shall, without undue delay, notify the Trade Committee thereof and provide it with the information that constitutes the basis for its finding.

5. When the requirements of paragraph 4 are fulfilled, the Party which has made a finding shall enter into consultations with the other Party, in the Trade Committee, with a view to reaching a solution that is acceptable to both Parties. If the Parties fail to agree on a mutually acceptable solution within 3 (three) months after the date of notification, the Party which has made the finding may decide to suspend temporarily the relevant preferential treatment of the products concerned. In such cases, the Party which has made the finding shall notify the temporary suspension to the Trade Committee without undue delay.

6. A decision to suspend temporarily the relevant preferential treatment of the product concerned pursuant to paragraph 4 shall apply only for a period commensurate with the impact on the financial interests of the Party concerned and not for longer than 3 (three) months. If it can be objectively and verifiably ascertained that the conditions that gave rise to that decision to suspend persist at the expiry of the suspension period, the Party concerned may decide to renew that decision to suspend for an equal period of time. Any suspension shall be subject to periodic consultations in the Trade Committee. In case of renewal, consultations shall take place in the Trade Committee at least 15 (fifteen) days prior to the expiry of the suspension period.

7. Each Party shall publish, in accordance with its internal procedures, notices to importers about any notification of a finding pursuant to paragraph 4 and decision to suspend temporarily referred to in paragraphs 5 and 6.

SECTION C

INSTITUTIONAL PROVISIONS

ARTICLE 2.14

Subcommittee on trade in goods

1. The Subcommittee on trade in goods, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 22.3 and Article 5.14:

(a) promote trade in goods between the Parties;

(b) evaluate annually the use and the administration of quotas and of preferences granted by this Agreement; and

(c) discuss, clarify and address any technical issues that may arise between the Parties on matters related to the application of each Party's tariff nomenclature as defined in paragraphs 3 and 4 of Annex 2-A.

ARTICLE 2.15

Subcommittee on trade in wine products and spirits

1. The Subcommittee on trade in wine products and spirits, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 22.3:

(a) ensure the timely notification of amendments to laws and regulations on matters covered by Annex 2-D that have an impact on wine products and spirits traded between the Parties; and

(b) adopt decisions to determine the details of the rules set out in paragraph 2 of Appendix 2-D-3, in particular the forms to be used and the details of the information to be provided in the analysis report.

ARTICLE 2.16

Cooperation on trade in wine products and spirits and focal points

1. The Parties shall cooperate on and address issues related to trade in wine products and spirits, in particular:

(a) product definitions, certification and labelling of wine products;

(b) the use of vine varieties in winemaking and the labelling thereof; and

(c) product definitions, certification and labelling of spirits.

2. The Parties shall closely cooperate and seek ways to improve assistance to each other in the application of Annex 2-D, in particular in order to combat fraudulent practices.

3. To facilitate mutual assistance between the enforcement bodies and authorities of the Parties as regards matters covered by this Annex, each Party shall designate the bodies and authorities responsible for the application and enforcement of Annex 2-D. If a Party designates more than one competent body or authority, it shall ensure that the work of those bodies and authorities is coordinated. In such cases, a Party shall also designate a single liaison body or authority that serves as the single focal point for the body or authority of the other Party.

4 The Parties shall, via the Subcommittee on trade in wine products and spirits, inform each other of the contact details of the bodies, authorities and focal points referred to in in paragraph 3 no later than 6 (six) months after the date of entry into force of this Agreement. The Parties shall inform each other of any changes of the contact details to such bodies, authorities and focal points.

CHAPTER 3

RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A

RULES OF ORIGIN

ARTICLE 3.1

Definitions

For the purposes of this Chapter:

(a) "classified" refers to the classification of a product or material under a particular section, Chapter, heading or subheading of the Harmonized System;

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

(c) "customs authority or competent governmental authority" refers to:

(i) in the European Union, the services of the European Commission responsible for customs matters, and the customs administrations and any other authorities of the Member States of the European Union responsible for the application and enforcement of customs legislation; and

(ii) in MERCOSUR, the competent authorities of the Signatory MERCOSUR States or their successors, as listed below:

(A) Argentina: Secretaría de Industria y Gestión Comercio of the Ministerio de Economía;

(B) Brazil: Secretaria de Comércio Exterior do Ministério do Desenvolvimento, Indústria, Comércio e Serviços and Secretaria Especial da Receita Federal do Brasil of the Ministério da Fazenda;

(C) Paraguay: Subsecretaría de Estado de Comercio y Servicios of the Ministerio de Industria y Comercio; and

(D) Uruguay: Asesoría de Política Comercial of the Ministerio de Economía y Finanzas;

(d) "exporter" means a person located in a Party who exports the originating product and makes out a statement on origin;

(e) "fungible materials" means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the product;

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

(g) "importer" means a person who imports the originating product and claims preferential tariff treatment for it;

(h) "manufacture" means any kind of working or processing, including assembly or specific operations;

(i) "material" means any ingredient, raw material, component or part used in the manufacture of a product; and

(j) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation.

ARTICLE 3.2

General requirements

1. For the purposes of applying the preferential tariff treatment by a Party to the originating goods of the other Party in accordance with this Agreement, the following products shall be considered as originating in the European Union, provided that they satisfy all other applicable requirements in this Chapter:

(a) products wholly obtained in the European Union pursuant to Article 3.4;

(b) products obtained in the European Union exclusively from originating materials; or

(c) products obtained in the European Union incorporating non-originating materials, provided that they have fulfilled the conditions set out in Annex 3-B.

2. For the purposes of applying the preferential tariff treatment by a Party to the originating goods of the other Party in accordance with this Agreement, the following products shall be considered as originating in MERCOSUR, provided that they satisfy all other applicable requirements in this Chapter:

(a) products wholly obtained in MERCOSUR pursuant to Article 3.4;

(b) products obtained in MERCOSUR exclusively from originating materials; or

(c) products obtained in MERCOSUR incorporating non-originating materials, provided that they have fulfilled the conditions set out in Annex 3-B.

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

ARTICLE 3.3

Bilateral cumulation of origin

1. Products originating in the European Union shall be considered as materials originating in MERCOSUR when incorporated into a product obtained there, provided that they have undergone working or processing going beyond the operations referred to in Article 3.6.

2. Products originating in MERCOSUR shall be considered as materials originating in the European Union when incorporated into a product obtained there, provided that they have undergone working or processing going beyond the operations referred to in Article 3.6.

ARTICLE 3.4

Wholly obtained products

1. The following shall be considered as wholly obtained products in the European Union or in MERCOSUR:

(a) mineral products and other natural substances extracted from their soil or from their seabed;

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

(c) live animals born and raised there;

(d) products from live animals raised there;

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

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

(g) products of aquaculture where the fish, crustaceans, molluscs and other aquatic invertebrates are born and raised there;

(h) products of fishing and other products taken from the sea by their vessels[1];

(i) products made aboard their factory ships exclusively from products referred to in point (h);

[1] This point is without prejudice to the sovereign rights and obligations of the Parties under UNCLOS in particular within the exclusive economic zone and continental shelf.

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

(i) the exclusive economic zone of Signatory MERCOSUR States or of Member States of the European Union, as determined by their laws and regulations and in accordance with Part V of UNCLOS;

(ii) the continental shelf of Signatory MERCOSUR States or of Member States of the European Union, as determined by their laws and regulations and in accordance with Part VI of UNCLOS; or

(iii) the Area, as defined in Article 1(1) of UNCLOS, where a Party or a person of a Party has exclusive exploitation rights, in accordance with Part XI of UNCLOS and the Agreement relating to the implementation of Part XI of UNCLOS;

(k) used articles collected there fit only for the recovery of raw materials;

(l) waste and scrap resulting from manufacturing operations conducted there[1]; or

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

[1] Points (k) and (l) are without prejudice to each Party's laws and regulations regarding the import of the goods mentioned therein.

2. The terms "their vessels" and "their factory ships" in points (h) and (i) of paragraph 1 apply only to vessels and factory ships which:

(a) are registered in a Member State of the European Union or in a Signatory MERCOSUR State and, where appropriate, have fishing licences issued by a Signatory MERCOSUR State or the European Union in the name of fishing companies duly registered to operate in that Member State of the European Union or that Signatory MERCOSUR State;

(b) sail under the flag of the same registering Member State of the European Union or Signatory MERCOSUR State[1]; and

(c) meet one of the following conditions:

(i) they are at least 50 % (fifty per cent) owned by one or more natural persons[2] of the Parties;

(ii) they are owned by juridical persons[3]:

(A) which have their head office and their main place of business in a Party; and

---

1 Products of fishing or other products taken from the sea by chartered vessels sailing under the flag of a Member State of the European Union or a Signatory MERCOSUR State are considered to originate in the Member State of the European Union or the Signatory MERCOSUR State in which the vessel is chartered and the license is issued, provided that they fulfil all criteria in this paragraph.

2 For the purposes of this Article, the definition of point (m) of Article 10.2 applies.

3 For the purposes of this Article, the definition of point (h) of Article 10.2 applies.

(B) in which at least 50 % (fifty per cent) of the ownership belongs to natural persons or juridical persons of the Parties; or

(iii) at least a minimum of two thirds of the crew are natural persons of the Parties.

ARTICLE 3.5

Tolerances

1. If a non-originating material used in the manufacture of a product does not satisfy the requirements set out in Annex 3-B, such product shall nonetheless be considered as originating in a Party if:

(a) the total value of non-originating materials does not exceed 10 % (ten per cent) of the ex-works price of the product; and

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

2. Paragraph 1 does not apply to products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances set out in Notes 6 and 7 of Annex 3-A apply.

ARTICLE 3.6

Insufficient working or processing operations

1. Notwithstanding point (c) of Article 3.2(1) and point (c) of Article 3.2(2), a product shall not be considered as originating in a Party if the manufacture of that product consists only of the following operations conducted on non-originating materials in that Party:

(a) preserving operations to ensure that the products remain in good condition during transport and storage;

(b) changes of packaging and breaking-up and assembly of packages;

(c) washing, cleaning or removing dust, oxide, oil, paint or other coverings;

(d) ironing or pressing of textiles;

(e) simple painting and polishing operations;

(f) husking, partial or total bleaching, polishing and glazing of cereals and rice;

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

(h) peeling, stoning and shelling of fruits, nuts and vegetables;

(i) sharpening, simple grinding, separating or simple cutting;

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

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

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

(m) simple mixing of products, whether or not of different kinds, and simple mixing of sugar with any material;

(n) simple assembly of non-originating parts to constitute a complete product, or disassembly of products into parts;

(o) simple addition of water, dilution, dehydration or denaturation of products;

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

(q) slaughter of animals.

2. For the purposes of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or tools specially produced or installed for those operations are required for their performance.

ARTICLE 3.7

Unit of qualification

1. The unit of qualification for the application of this Chapter shall be the particular product as classified in accordance with the Harmonized System.

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

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

ARTICLE 3.8

Packaging materials, packing materials and containers

1. If, under General Rule 5 for the Interpretation of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

2. Packing materials and containers for shipment that are used to protect products during transportation shall be disregarded in determining the origin of such products.

ARTICLE 3.9

Accessories, spare parts and tools

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

ARTICLE 3.10

Accounting segregation

1. If originating and non-originating fungible materials are used in the manufacture of a product, those materials shall be physically segregated, according to their origin, during storage in order for the originating materials to maintain their originating status.

2. Notwithstanding paragraph 1, physical segregation of originating and non-originating fungible materials is not needed in the manufacture of a product if the origin of such product is determined pursuant to the accounting segregation method for managing stocks.

3. The accounting segregation shall be recorded and applied in accordance with the generally accepted accounting principles applicable in the Party in which the product is manufactured.

4. The accounting segregation method may be used only if it can be ensured that, at any time, no more products receive originating status than would be the case if the materials had been physically segregated.

5. A Party may require that the application of the accounting segregation method be subject to prior authorisation by the relevant competent authorities. The competent authorities may grant authorisation subject to any conditions deemed appropriate and, in such cases, they shall monitor the use of the authorisation. Those authorities may withdraw the authorisation at any time if the beneficiary of the authorisation makes improper use of the accounting segregation method in any manner or fails to fulfil any of the other conditions laid down in this Chapter.

ARTICLE 3.11

Sets

Sets, as defined in General Rule 3 for the Interpretation of the Harmonized System, shall be regarded as originating if all their component products are originating. Nevertheless, if a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % (fifteen per cent) of the ex-works price of the set.

ARTICLE 3.12

Neutral elements

In order to determine whether a product is originating, it is not necessary to determine the origin of the following elements used in its manufacture:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools; or

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

ARTICLE 3.13

Principle of territoriality

1. The conditions set out in this Chapter relating to the acquisition of originating status shall be fulfilled without interruption in the European Union or MERCOSUR.

2. If originating goods exported from the European Union or MERCOSUR to a third country are returned, they shall be considered to be non-originating unless it can be demonstrated to the satisfaction of the customs authorities that the goods returned:

(a) are the same as those exported; and

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

ARTICLE 3.14

Transport conditions

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

2. Storage of products or consignments and splitting of consignments may take place if carried out under the responsibility of the exporter or of a subsequent holder of the goods, and if the products remain under customs supervision in the country or countries of transit.

3. In case of doubt as to whether the requirements provided for in paragraphs 1 and 2 are complied with, the customs authorities of the importing Party may request the importer to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading, factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

ARTICLE 3.15

Exhibitions

1. Originating products sent for exhibition in a third country and sold after the exhibition for importation into the European Union or MERCOSUR shall benefit on importation from the provisions of this Agreement if it is shown to the satisfaction of the customs authorities of the importing Party that:

(a) an exporter has consigned the products from the European Union or MERCOSUR to the third country in which the exhibition is held and has exhibited them there;

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

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

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

2. A statement on origin shall be made out pursuant to Section B and submitted to the customs authorities of the importing Party. The name and address of the exhibition shall be indicated thereon.

3. Paragraph 1 applies to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is organised for purposes other than private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

SECTION B

ORIGIN PROCEDURES

ARTICLE 3.16

General requirements

Products originating in the European Union on importation into MERCOSUR, and products originating in MERCOSUR on importation into the European Union, shall benefit from preferential tariff treatment under this Agreement upon submission of a statement on origin in accordance with Article 3.17 and each Party's laws and regulations[1].

[1] A certificate of origin will be valid in accordance with the transitional measures contained in Annex 3-D, for the time period specified therein.

ARTICLE 3.17

Conditions for making out a statement on origin

1. A statement on origin as referred to in Article 3.16 may be made out by:

(a) an exporter in accordance with the relevant laws and regulations of the Party of export; or

(b) any exporter for any small consignment consisting of one or more packages containing originating products whose total value does not exceed the threshold stipulated in the relevant laws and regulations of the Party of export.

2. The Parties shall exchange information on the relevant laws and regulations as referred to in paragraph 1:

(a) on the date of entry into force of this Agreement;

(b) if there are any modifications to such laws and regulations, prior to the entry into force of such modifications; and

(c) on request of either Party, at any time after the entry into force of this Agreement.

3. A statement on origin may be made out if the products concerned are products originating in the European Union or MERCOSUR and fulfil the other requirements of this Chapter.

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

5. The exporter shall make out a statement on origin on the invoice, the delivery note, or any other commercial document that describes the originating product in sufficient detail to enable its identification using one of the language versions set out in Annex 3-C and in accordance with the laws and regulations of the Party of export.

6. A statement on origin shall bear the original, handwritten signature of the exporter unless otherwise provided in the relevant laws and regulations of the Party of export.

7. A statement on origin may be made out by the exporter when the products to which it relates are exported, or after exportation provided that it is presented in the Party of import no later than 2 (two) years after the importation of the products to which it relates.

ARTICLE 3.18

Validity of a statement on origin

1. A statement on origin shall be valid for 12 (twelve) months from the date on which it was made out by the exporter, and shall be submitted within that time period to the customs authorities of the Party of import.

2. Statements on origin submitted after the time period specified in paragraph 1 may be accepted for the purposes of applying preferential treatment only if the failure to submit them within that time period was due to exceptional circumstances.

3. In other cases of belated submission, the customs authorities of the Party of import may accept the statement on origin if the products have been submitted before the final date.

ARTICLE 3.19

Importation by instalments

If, at the request of the importer and subject to the conditions set by the customs authorities of the Party of import, dismantled or non-assembled products within the meaning of General Rule 2(a) for the Interpretation of the Harmonized System that are classified within Sections XV to XXI of the Harmonized System are imported by instalments, a single statement on origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

ARTICLE 3.20

Exemptions from a statement on origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a statement on origin if such products are not imported by way of trade and have been declared as meeting the requirements of this Chapter, and if there is no doubt as to the veracity of the declaration. In the case of products sent by post, the declaration can be made on the customs declaration CN22/CN23 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered to be imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is intended.

3. The total value of the products referred to in paragraph 1 shall not exceed the values stipulated in the laws and regulations of the Party of import. The Parties shall exchange information on those values.

ARTICLE 3.21

Supporting documents

The documents referred to in Article 3.17(4) may include:

(a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained, for example, in their accounts or internal book-keeping;

(b) documents proving the originating status of materials used, issued or made out in the European Union or MERCOSUR, if those documents are used, issued or made out in accordance with that Party's laws and regulations;

(c) documents proving the working or processing of materials in the European Union or MERCOSUR, issued or made out in the European Union or MERCOSUR, if those documents are used, issued or made out in accordance with that Party's laws and regulations; and

(d) a statement on origin proving the originating status of materials used made out in the European Union or MERCOSUR in accordance with this Chapter.

ARTICLE 3.22

Record-keeping requirements

The exporter making out a statement on origin shall keep, for at least 3 (three) years as of the date of making out the statement on origin, a copy of that statement on origin and of the documents referred to in Article 3.17(4). The importer shall keep that statement of origin, or a copy thereof if the original is held by the customs authority or competent governmental authority, for at least 3 (three) years as of the date of importation of the products to which that statement on origin refers.

ARTICLE 3.23

Discrepancies and formal errors

1. Slight discrepancies between the statements on origin and the documents submitted to the customs office for the purposes of carrying out the formalities for importing the products shall not render the statement on origin null and void if it is duly established that the statement on origin corresponds to the products submitted.

2. Obvious formal errors on a statement on origin shall not cause the statement on origin to be rejected if such errors do not create doubts concerning the correctness of the information contained in the statement on origin.

ARTICLE 3.24

Cooperation between customs authorities and competent governmental authorities

1. The customs authorities or competent governmental authorities of the Member States of the European Union and of the Signatory MERCOSUR State shall provide each other, by means of communication between the European Commission and the Secretariat of MERCOSUR, with the addresses of the customs authorities or competent governmental authorities responsible for verifying statements on origin.

2. In order to ensure the proper application of this Chapter, the European Union and MERCOSUR shall assist each other, through their customs authorities or competent governmental authorities, in checking the authenticity of statements on origin and the correctness of the information given in these statements.

3. To prevent, investigate and combat breaches of customs legislation, Annex 4-A provides for cooperation between customs authorities or competent governmental authorities, including the presence of duly authorised officials of one Party in the territory of the other, subject to the agreement of and the conditions set by the Party in whose territory the assistance is being given.

ARTICLE 3.25

Verification of statements on origin

1. Verifications of statements on origin shall be carried out at random or whenever the customs authorities or competent governmental authorities of the Party of import have reasonable doubts as to the authenticity of such statements, the originating status of the products concerned or the fulfilment of the other requirements of this Chapter.

2. For the purposes of implementing paragraph 1, the customs authorities or competent governmental authorities of the Party of import shall return the statement on origin, or a copy thereof, to the customs authorities or competent governmental authorities of the Party of export, providing the reasons for the request of verification. Any documents or information obtained suggesting that the information provided on the statement on origin is incorrect shall be included in support of the request for verification.

3. The request for verification and the subsequent reply shall be submitted in an official language of the customs authority or competent governmental authority of the Party of import requesting the verification, in a language acceptable to that Party or in accordance with Article 5(3) of Annex 4-A.

4. The verification shall be carried out by the customs authorities or competent governmental authorities of the Party of export. For this purpose, they have the authority to call for any evidence and to carry out any inspections of the exporter's accounts or any other check that they consider appropriate.

5. If the customs authorities or competent governmental authorities of the Party of import decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, they shall offer to release the products to the importer subject to any precautionary measures that the customs authorities or competent governmental authorities deem necessary. Any suspension of preferential treatment shall be terminated as soon as possible after the Party of import has determined the origin of the products.

6. The customs authorities or competent governmental authorities of the Party of export shall inform the authorities of the Party of import requesting the verification of the results thereof as soon as possible. The Party of export shall provide to the customs authorities or competent governmental authorities of the Party of import the following information:

(a) the results of the verification;

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

(c) a description and explanation of the manufacture sufficient to support the rationale concerning the originating status of the product;

(d) information on the manner in which the verification was conducted; and

(e) if appropriate, supporting documentation.

7. If there is no reply within 10 (ten) months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the statement in question or the origin of the products, the requesting customs authorities or competent governmental authorities shall, except in exceptional circumstances, refuse preferential tariff treatment to the products covered by the statement on origin. The period of 10 (ten) months may be extended by mutual agreement between the Parties, taking into account the number of verification requests and the complexity of the verifications.

8. The customs authorities or competent governmental authorities of the Party of import requesting the verification shall, at the request of the customs authorities or competent governmental authorities of the Party of export, notify those authorities of their decision on the verification process.

ARTICLE 3.26

Consultations

1. If, in relation to the verification procedures set out in Article 3.25, the customs authorities or competent governmental authorities of the Party of import intend to make a determination of origin that is not consistent with the reply provided by the customs authorities or competent governmental authorities of the Party of export in accordance with Article 3.25(6), the Party of import shall notify this intention to the Party of export within 60 (sixty) days of receiving the reply in accordance with Article 3.25(6).

2. At the request of either Party, the Parties shall hold consultations within 90 (ninety) days of the date of the notification referred to in paragraph 1 or within an agreed period of time, with a view to resolving differences in relation to the verification procedures. The period for consultation may be extended on a case-by-case basis by mutual written agreement between the Parties.

3. If there are differences in relation to the verification procedures which cannot be settled between the customs authorities or competent governmental authorities of the Party of import requesting a verification and the customs authorities or competent governmental authorities of the Party of export responsible for carrying out this verification, or if such differences raise questions as to the interpretation of this Chapter, such differences or questions shall be submitted to the Subcommittee on customs, trade facilitation and rules of origin, referred to in Article 3.32.

4. The customs authorities or competent governmental authorities of the Party of import requesting a verification may make the determination on origin after consultations in the Subcommittee on customs, trade facilitation and rules of origin and only on the basis of sufficient justification, after having granted the importer the right to be heard. The determination shall be notified to the Party of export.

5. Nothing in this Article shall affect the procedures or the rights of the Parties under Chapter 21.

6. In all cases, disputes between the importer and the customs authorities or competent governmental authorities of the Party of import shall be settled under the law of that Party.

ARTICLE 3.27

Confidentiality

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

2. Information obtained by the authorities of the importing Party may only be used by those authorities for the purposes of this Chapter. Each Party shall ensure that the confidential information collected pursuant to this Chapter is not used for purposes other than the administration and enforcement of determination of origin and of customs matters, except with the permission of the person or Party that provided such confidential information.

3. Notwithstanding paragraph 2, the importing Party may allow information collected pursuant to this Chapter to be used or disclosed in any administrative, judicial or jurisdictional proceedings instituted for failure to comply with customs related laws implementing this Chapter. In such a case the importing Party shall notify the exporting Party of the use or disclosure of the information.

ARTICLE 3.28

Administrative measures and sanctions

A Party shall impose, in accordance with its laws and regulations, administrative measures and sanctions on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purposes of obtaining a preferential treatment for products.

SECTION C

FINAL PROVISIONS

ARTICLE 3.29

Ceuta and Melilla

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

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

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

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

5. The exporter shall indicate "MERCOSUR" or "Ceuta and Melilla" in field 2 of the text of the statement on origin, depending on the origin of the product.

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

ARTICLE 3.30

Tariff rate quotas

Products exported under tariff rate quotas granted by the European Union shall be accompanied by an official document issued by the Signatory MERCOSUR States, the model of which should be communicated to the European Union by MERCOSUR no later than the date of entry into force of this Agreement[1].

ARTICLE 3.31

Goods in transit or storage

This Agreement may be applied to goods which comply with this Chapter and which, on the date of entry into force of this Agreement, are either in transit or in temporary storage in bonded warehouses or in free zones in the European Union or in MERCOSUR, subject to the submission to the customs authorities of the importing Party, within 6 (six) months of said date, of a statement on origin and, if appropriate, the documents showing that the goods comply with Article 3.14.

[1] This provision applies without prejudice to the other provisions in this Chapter.

ARTICLE 3.32

Subcommittee on customs, trade facilitation and rules of origin

1. The Subcommittee on customs, trade facilitation and rules of origin established pursuant to Article 22.3(4) shall have the following functions, in addition to those listed in Article 22.3 and Articles 4.6(10) and 4.21:

(a) conduct the preparatory internal work necessary for the Trade Committee on:

(i) the implementation and operation of this Chapter; and

(ii) any amendments to this Chapter proposed by a Party;

(b) adopt explanatory notes to facilitate the implementation of this Chapter; and

(c) conduct, where necessary, the consultations provided for in Article 3.26.

ARTICLE 3.33

Explanatory notes

The Subcommittee on customs, trade facilitation and rules of origin shall adopt, as appropriate, explanatory notes regarding the interpretation, application and administration of this Chapter.

ARTICLE 3.34

Amendments to this Chapter

The Trade Council may amend this Chapter pursuant to point (f) of Article 22.1(6).

CHAPTER 4

CUSTOMS AND TRADE FACILITATION

ARTICLE 4.1

Objectives and scope

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

2. The Parties recognise that international trade and customs instruments and standards are the basis for import, export and transit requirements and procedures.

3. The Parties recognise that their legislation should be non-discriminatory and that customs and other trade-related procedures should be based upon the use of modern methods and effective controls to combat fraud, protect consumer health and safety and promote legitimate trade. Each Party should periodically review its legislation and customs procedures. The Parties also recognise that their customs and other trade-related procedures should not be more administratively burdensome or trade-restrictive than necessary to achieve legitimate objectives and that they should be applied in a predictable, consistent and transparent manner.

4. The Parties shall reinforce their cooperation with a view to ensuring that the relevant laws and regulations, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade-facilitation while ensuring effective control of import, export and transit of goods at the border.

5. The Parties shall cooperate with a view to support the development of regional integration within both the European Union and MERCOSUR.

ARTICLE 4.2

Customs cooperation

1. The Parties, through their respective authorities, shall cooperate on customs and other trade-related matters in order to ensure that the objectives set out in Article 4.1 are attained.

2. Cooperation may include:

(a) exchanging information concerning customs and other trade-related legislation, the implementation of such legislation and customs procedures, particularly in the following areas:

(i) simplification and modernisation of customs procedures;

(ii) enforcement of intellectual property rights by the customs authorities;

(iii) free circulation of goods and regional integration;

(iv) facilitation of transit movements and transhipment;

(v) interagency coordination at the border;

(vi) relations with the business community;

(vii) supply chain security and risk management; and

(viii) use of information technology, data and documentation requirements and single window systems, including work towards their future interoperability;

(b) exchanging information concerning international trade and customs instruments and standards;

(c) collaborating on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as the "SAFE Framework" of the World Customs Organization (hereinafter referred to as the "WCO");

(d) developing joint initiatives related to import and export procedures, including technical assistance, capacity building and measures aimed at providing an effective service to the business community;

(e) strengthening cooperation between the Parties in the fields of customs and trade-facilitation in international organisations such as the WTO, the WCO and the United Nations Conference on Trade and Development (hereinafter referred to as "UNCTAD");

(f) establishing, if relevant and appropriate, mutual recognition of trade partnership programmes and customs controls, including equivalent trade-facilitation measures;

(g) fostering cooperation between customs and other government authorities or agencies in relation to authorized economic operator programmes for example by aligning requirements, facilitating access to benefits and minimising unnecessary duplication;

(h) working together with a view to reaching a common approach to issues relating to customs valuation; and

(i) working together to further reduce release times and to release goods without undue delay, in particular perishable goods.

3. The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Annex 4-A.

ARTICLE 4.3

Customs and other trade-related laws and regulations

1. Each Party's customs and trade-related laws and regulations[1] shall be based upon:

(a) international instruments and standards applicable in the area of customs and trade, including: the WTO Trade Facilitation Agreement done at Bali on 7 December 2013 (hereinafter referred to as "WTO Trade Facilitation Agreement"); the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on 14 June 1983; the Safe Framework and the WCO data model, adopted in June 2005, and, to the extent possible, the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, done at Kyoto on the 18 May 1973;

(b) the common objective of facilitating legitimate trade through effective enforcement of and compliance with legislative requirements; and

(c) legislation that is proportionate and non-discriminatory, avoids unnecessary burdens on economic operators, provides for further facilitation for operators with high levels of compliance, including favourable treatment with respect to customs controls prior to the release of goods, and ensures safeguards against fraud and illicit or damaging activities.

[1] For greater certainty, reference to laws and regulations covers procedures enshrined therein.

2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, each Party shall:

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

(b) work towards the further simplification and standardisation of data and documentation required by customs authorities and other agencies; and

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

ARTICLE 4.4

Release of goods

1. Each Party shall adopt or maintain requirements and procedures that:

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

(b) provide for advance electronic submission and processing of documentation and any other required information prior to the arrival of the goods, to enable the release of goods on arrival[1]; and

(c) allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, upon, or as rapidly as possible after arrival, and if all other regulatory requirements have been met.

2. For the purposes of point (c) of paragraph 1, as a condition for such release, each Party may require a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations. Such guarantee shall not be greater than the amount the Party requires to ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee. The guarantee shall be discharged when it is no longer required[2].

3. Each Party shall strive to further reduce release-times and release the goods without undue delay.

---

[1] Signatory MERCOSUR States shall comply with the commitments in this paragraph in accordance with Article 16 (Notification of definitive dates for implementation of Category B and Category C) of the WTO Trade Facilitation Agreement.

[2] Signatory MERCOSUR States shall comply with the commitments in this paragraph in accordance with Article 16 (Notification of definitive dates for implementation of Category B and Category C) of the WTO Trade Facilitation Agreement.

ARTICLE 4.5

Perishable goods

1. For the purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

2. Each Party shall give appropriate priority to perishable goods when scheduling and performing any examinations that may be required.

3. On request of an economic operator, each Party shall, if practicable and consistent with its laws and regulations:

(a) provide for the clearance of a consignment of perishable goods outside the business hours of customs and other relevant authorities; and

(b) allow consignments of perishable goods to be cleared at the premises of the economic operator.

ARTICLE 4.6

Advance rulings

1. For the purposes of this Article, "advance ruling" means a written decision provided to an applicant prior to the importation of a good covered by the application that sets forth the treatment that the Party shall provide to the good at the time of importation with regard to:

(a) the good's tariff classification; and

(b) the origin of the good.

2. Each Party shall issue, through its customs authorities, an advance ruling that sets forth the treatment to be provided to the goods concerned. If an applicant submits a written request, including in electronic format, containing all necessary information in accordance with the laws and regulations of the issuing Party, that ruling shall be issued in a reasonable, time-bound manner.

3. The advance ruling shall be valid for a period of at least 3 (three) years after its issuance unless the law, facts or circumstances supporting the original advance ruling change.

4. A Party may decline to issue an advance ruling if the question raised is the subject of administrative or judicial review or if the application does not relate to any intended use of the advance ruling. If a Party declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

5. Each Party shall publish, at least:

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

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

(c) the length of time for which the advance ruling is valid.

6. If a Party revokes, modifies or invalidates an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. A Party may revoke, modify or invalidate an advance ruling with retroactive effect, only if the ruling was based on incomplete, incorrect, false or misleading information.

7. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it. The Party may provide that the advance ruling be binding on the applicant.

8. Each Party shall provide, upon written request of an applicant, a review of the advance ruling or of the decision to revoke, modify or invalidate it[1].

9. Subject to any confidentiality requirements, substantive elements of these rulings shall be published, online or in other appropriate formats.

[1] Under this paragraph, a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority.

10. To facilitate trade, the Subcommittee on customs, trade facilitation and rules of origin, referred to in Article 4.21, shall regularly discuss updates on changes in the respective laws and regulations of the Parties on the matters listed in this Article.

11. The Parties may agree upon advance rulings on any other matter.

ARTICLE 4.7

Transit and transhipment

1. Each Party shall ensure freedom of transit through its territory via the route most convenient for transit.

2. Without prejudice to legitimate control, each Party shall accord to traffic in transit to or from the territory of the other Party, treatment no less favourable than that accorded to its own like goods and their movement, including imports and exports, when such goods are transported on the same route under like conditions.

3. Each Party shall, to the extent possible, apply to transhipped goods customs procedures that are less burdensome than those applied to traffic in transit.

4. Each Party shall operate bonded transport regimes that allow the transit of goods without payment of customs duties or other charges subject to the provision of an appropriate guarantee.

5. Each Party shall promote and implement regional transit arrangements with a view to facilitating traffic in transit and reducing trade barriers.

6. Each Party shall draw upon and use international standards and instruments relevant to transit.

7. Customs transit procedures may be used also if the transit of goods begins or ends in the territory of a Party (inland transit).

8. The Parties shall ensure that all concerned authorities and agencies in their respective territories cooperate and coordinate on customs matters with a view to facilitating traffic in transit.

ARTICLE 4.8

Authorized economic operator

1. Each Party shall establish or maintain a trade-facilitation partnership programme for operators who meet specified criteria, hereinafter referred to as authorized economic operators (hereinafter referred to as "AEO").

2. The specified criteria that operators need to meet in order to qualify as authorized economic operators, hereinafter referred to as "the specified criteria", shall be related to compliance, or the risk of non-compliance, with requirements specified in each Party's laws and regulations. The specified criteria, which shall be published, may include:

(a) the absence of any serious infringement or repeated infringements of customs and taxation laws and regulations, including no record of serious criminal offences relating to the economic activity of the applicant;

(b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records which allows appropriate customs controls;

(c) financial solvency, which shall be deemed to be proven if the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned;

(d) proven competences or professional qualifications directly related to the activity carried out; and

(e) appropriate security and safety standards.

3. The specified criteria shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail and shall allow the participation of SMEs.

4. The trade-facilitation partnership programme shall include at least four of the following benefits:

(a) fewer documentary and data requirements, as appropriate;

(b) low rate of physical inspections and examinations, as appropriate;

(c) rapid release time, as appropriate;

(d) deferred payment of duties, taxes, fees and charges;

(e) use of comprehensive guarantees or reduced guarantees;

(f) a single customs declaration for all imports or exports in a given period; and

(g) clearance of goods at the premises of the authorized economic operator or another place authorised by the customs authorities.

5. The Parties should ensure coordination between customs authorities and other border agencies in the development of their respective authorized economic operator programmes through means such as the alignment of requirements, the minimisation of unnecessary duplication and the access to benefits related to controls and requirements administered by agencies other than customs authorities.

ARTICLE 4.9

Single window

Each Party shall endeavour to establish single window systems, enabling traders to submit through a single entry point documentation and data requirements for importation, exportation or transit of goods to the participating authorities or agencies.

ARTICLE 4.10

Transparency

1. The Parties recognise the importance of timely consultations with trade representatives on a Party's proposed laws and procedures related to customs and trade facilitation matters.

2. Each Party shall ensure that its respective customs and other trade-related requirements and procedures continue to meet the needs of the trading community, follow best practices and remain as less trade-restrictive as possible.

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

4. Each Party shall promptly publish, in a non-discriminatory and easily accessible manner, and as far as possible through electronic means, new laws, regulations and general procedures related to customs and trade-facilitation matters prior to the application of any such laws, regulations or general procedures, as well as changes to and interpretations of such laws, regulations and general procedures. This shall include:

(a) importation, exportation and transit procedures, including port, airport, and other entry-point procedures and hours of operation, and required forms and documents;

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

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

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

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

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

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

(h) appeal procedures;

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

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

(k) points of contact for information enquiries; and

(l) other relevant notices of an administrative nature in relation to the above.

5. Each Party shall ensure there is a reasonable time period between the publication of new or amended laws, regulations and general procedures and fees or charges and their entry into force.

6. Each Party shall make available online and update, as appropriate, the following:

(a) a description of its importation, exportation and transit procedures, including appeal procedures, informing of the practical steps needed to import and export and for transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Party; and

(c) contact information on enquiry points.

7. Each Party shall establish or maintain one or more enquiry points to answer within a reasonable time enquiries from governments, traders and other interested parties on customs and other trade-related matters. The Parties shall not require the payment of a fee for answering enquiries or providing required forms and documents. The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Party, which may vary depending on the nature or complexity of the enquiry.

ARTICLE 4.11

Customs valuation

The Agreement on the Implementation of Article VII of GATT (1994) shall govern customs valuation rules applied to reciprocal trade between the Parties. Its provisions are hereby incorporated into and made an integral part of this Agreement.

ARTICLE 4.12

Risk management

1. Each Party shall adopt or maintain a risk management system for customs control.

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

3. Each Party shall concentrate customs control and other relevant border controls on high-risk consignments and expedite the release of low-risk consignments. Each Party may also select, on a random basis, consignments for such controls as part of its risk management.

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

5. The provisions of this Article are, whenever possible, applicable to procedures administered by other border agencies.

ARTICLE 4.13

Post-clearance audit

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

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

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

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

5. The Parties shall, wherever practicable, use the results of a post-clearance audit in applying risk management.

ARTICLE 4.14

Customs brokers

Each Party shall publish its measures on the use of customs brokers. Each Party shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers. A Party shall not adopt new measures introducing the mandatory use of customs brokers.

ARTICLE 4.15

Pre-shipment Inspections

A Party shall not require the mandatory use of pre-shipment inspections as defined in the WTO Agreement on Pre-shipment Inspection or any other inspection activity performed at destination, before customs clearance, by private companies.

ARTICLE 4.16

Appeals

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against the administrative actions, rulings and decisions of customs or other competent authorities affecting import or export of goods or goods in transit.

2. Appeal procedures may include administrative review by the supervising authority and judicial review of decisions taken at the administrative level according to each Party's laws and regulations.

3. Any person who has applied to the customs authorities for a decision and has not obtained a decision on that application within the applicable time-limits shall also be entitled to exercise the right of appeal.

4. Each Party shall provide a person to whom it issues an administrative decision with the reasons for that decision, so as to enable that person to have recourse to appeal procedures if necessary.

ARTICLE 4.17

Import, export and transit formalities and data and documentation requirements

1. Each Party shall ensure that import, export and transit formalities and data and documentation requirements are:

a) adopted or applied with a view to a rapid release of goods, in particular perishable goods, provided the conditions for the release are fulfilled;

b) adopted or applied in a manner that aims to reduce the time and cost of compliance for traders and operators;

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

d) not maintained, including parts thereof, if they, or parts of them are no longer required.

2. MERCOSUR shall work towards applying common customs procedures and uniform customs data requirements for the release of goods.

ARTICLE 4.18

Use of information technology

1. Each Party shall use information technologies that expedite procedures for the release of goods in order to facilitate trade between the Parties.

2. Each Party shall:

(a) make available by electronic means customs declarations and, whenever possible, other documents required for the import, transit or export of goods;

(b) allow a customs declaration and, whenever possible, any other data requirements for the import and export of goods to be submitted in electronic format;

(c) establish means of providing for the electronic exchange of customs information with its trading community;

(d) promote the electronic exchange of data between its respective traders, customs administrations and other trade-related agencies; and

(e) use electronic risk management systems for assessment and targeting that enable its customs authorities and, whenever possible, other border agencies to focus their inspections on high-risk goods and that facilitate the release and movement of low-risk goods.

3. Each Party shall adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees and charges incurred upon importation and exportation collected by customs authorities and, whenever possible and applicable, by other border agencies.

ARTICLE 4.19

Penalties

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

2. Penalties for a breach of a Party's customs law, regulation or procedural requirement are imposed only on the person responsible under that Party's law for such breach.

3. Penalties imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach. Each Party shall avoid incentives for the assessment or collection of a penalty or conflicts of interest in the assessment and collection of penalties.

4. In the event of voluntary prior disclosure to a customs administration of the circumstances of a breach of a customs law, regulation or procedural requirement, each Party is encouraged to consider this as a potential mitigating factor when establishing a penalty.

5. When a penalty is imposed for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

ARTICLE 4.20

Temporary admission

1. For the purposes of this Article, the term "temporary admission" means the customs procedure under which certain goods, including their means of transport, that are brought into a customs territory for a specific purpose are conditionally relieved from payment of import duties and taxes, without application of import prohibitions or restrictions of economic character. Such goods must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

2. Nothing in this Article should be construed as to relieve imported goods from meeting trade-related requirements of non-economic character, in particular sanitary and phytosanitary measures.

3. Each Party shall, in accordance with its law, grant temporary admission, with total conditional relief from import duties and taxes and without application of import restrictions or prohibitions of economic character to the following goods:

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

(b) professional equipment for the press or for sound or television broadcasting; cinematographic equipment; any other equipment necessary for the exercise of the calling, trade or profession of a person visiting the territory of another country to perform a specified task;

(c) goods imported in connection with a commercial operation but whose importation does not in itself constitute a commercial operation;

(d) goods imported in connection with a manufacturing operation (such as plates, drawings, moulds, plans and models, for use during a manufacturing process); replacement means of production;

(e) goods imported exclusively for educational, scientific or cultural purposes;

(f) personal effects of passengers and goods imported for sports purposes;

(g) tourist publicity material;

(h) goods imported for humanitarian purposes; and

(i) animals imported for specific purposes.

3. Each Party shall, for the temporary admission of the goods referred to in paragraph 2 and regardless of their origin, accept A.T.A. carnets issued and endorsed by the other Party in accordance with the Customs Convention on the A.T.A. Carnet for the temporary admission of goods done at Brussels on 6 December 1961, and guaranteed by an association forming part of the international guarantee chain, certified by the competent authorities and valid in the territory of the importing Party[1].

[1] This provision shall apply only in respect of the European Union and of those Signatory MERCOSUR States that are Contracting parties to the Convention on Temporary Admission done at Istanbul on 26 June 1990 and according to the commitments undertaken in that Convention.

ARTICLE 4.21

Subcommittee on customs, trade facilitation and rules of origin

The Subcommittee on customs, trade facilitation and rules of origin, established pursuant to Article 22.3(4) shall, in addition to the functions listed in Articles 3.32, 4.6(10) and 22.3, have the function to enhance cooperation on the development, application and enforcement of customs and trade-related procedures, mutual administrative assistance in customs matters, rules of origin and administrative cooperation.

ARTICLE 4.22

Trade Council

With a view to implementing the relevant provisions in this Chapter, the Trade Council shall have the power to adopt decisions relating to AEO programmes and their mutual recognition as well as to joint initiatives relating to customs procedures and trade-facilitation.

CHAPTER 5

TECHNICAL BARRIERS TO TRADE

ARTICLE 5.1

Objective

The objective of this Chapter is to facilitate trade in goods between the Parties by identifying, preventing and eliminating unnecessary technical barriers to trade (hereinafter referred to as "TBT") and to enhance cooperation between the Parties in matters covered by this Chapter.

ARTICLE 5.2

Relation to the TBT Agreement

1. The Parties reaffirm their rights and obligations under the TBT Agreement, which is hereby incorporated into and made part of this Agreement.

2. References to "this Agreement" in the TBT Agreement are to be read, as appropriate, as references to the Interim Agreement on Trade between the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part.

3. The term "Members" in the TBT Agreement means the Parties to this Agreement.

ARTICLE 5.3

Scope

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

2. This Chapter does not apply to:

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

(b) sanitary and phytosanitary measures as defined in Annex A to the SPS Agreement.

ARTICLE 5.4

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) the definitions set out in Annex 1 to the TBT Agreement;

(b) "supplier's declaration of conformity" means a first-party attestation issued by the manufacturer on his sole responsibility based on the results of an appropriate type of conformity assessment activity and excluding mandatory third-party assessment;

(c) "ISO" means the International Organization for Standardization;

(d) "IEC" means the International Electrotechnical Commission;

(e) "ITU" means the International Telecommunication Union;

(f) "Codex Alimentarius" means the Codex Alimentarius Commission (hereinafter referred to as "Codex Alimentarius");

(g) "ILAC" means the International Laboratory Accreditation Cooperation;

(h) "IAF" means the International Accreditation Forum; and

(i) "IECEE CB Scheme" means the Scheme of the IEC System of Conformity Assessment Schemes for Electrotechnical Equipment and Components for Mutual Recognition of Test Certificates for Electrical Equipment.

ARTICLE 5.5

Joint cooperation on trade-facilitating initiatives

1. The Parties recognise the importance of intensifying their cooperation with a view to increasing mutual understanding of their respective systems and helping to eliminate or avoid the creation of TBT. In this regard, the Parties shall work towards the identification, promotion, development and implementation, as appropriate, of trade-facilitating initiatives, on a case-by-case basis.

2. A Party may propose to the other Party sector-specific initiatives in matters covered by this Chapter. Those proposals shall be transmitted to the TBT Chapter coordinator, nominated pursuant to Article 5.13, and may include:

(a) information exchange on regulatory approaches and practices;

(b) joint analysis of a sector or group of products;

(c) initiatives to further align technical regulations and conformity assessment procedures with relevant international standards;

(d) the promotion of the use of accreditation to assess the competence of conformity assessment bodies; and

(e) the consideration of mutual or unilateral recognition of conformity assessment results.

3. Whenever one of the Parties proposes a specific trade-facilitating initiative, the other Party shall duly consider such proposal and reply within a reasonable period of time. If the other Party rejects the proposed initiative, it shall explain the reasons for its decision to the proposing Party.

4. The terms of the work envisaged in this Article shall be defined by, of the one hand, the European Union and, of the other hand, MERCOSUR or the Signatory MERCOSUR States engaged in each trade-facilitating activity, if needed, and may include establishing ad hoc working groups. In order to benefit from non-governmental perspectives on matters related to this Article, each Party may, as appropriate and in accordance with its rules and procedures, consult with stakeholders and other interested parties.

5. The Subcommittee on trade in goods, established pursuant to Article 22.3(4), shall discuss the results of the work carried out pursuant to this Article and may consider appropriate actions.

6. Nothing in this Article shall be construed as obliging a Party to:

(a) deviate from domestic procedures for preparing and adopting regulatory measures;

(b) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(c) adopt any particular regulatory outcome.

7. If initiatives referred to in this Article are agreed and if that is necessary for their implementation, each Party shall facilitate the interaction of technical teams to demonstrate their conformity assessment schemes and systems in order to increase mutual understanding.

8. For the purposes of this Article, the European Union shall act through the European Commission.

ARTICLE 5.6

Technical regulations

1. Each Party shall make best use of good regulatory practices with regard to the preparation, adoption and application of technical regulations, as provided for in the TBT Agreement, including, for example, preference for performance-based technical regulations, use of impact assessments or stakeholder consultation.

2. In particular, the Parties shall:

(a) use relevant international standards as a basis for their technical regulations, including any conformity assessment elements therein, except if such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued; if international standards are not used as a basis for a technical regulation which may have a significant effect on trade, a Party shall, upon request of the other Party, explain the reasons why such standards are considered inappropriate or ineffective for the fulfilment of the legitimate objective pursued;

(b) when reviewing their respective technical regulations, in addition to Article 2.3 of the TBT Agreement and without prejudice to Articles 2.4 and 12.4 of the TBT Agreement, increase the alignment of those regulations with relevant international standards; a Party shall consider among others any new development in the relevant international standards and whether the circumstances that have given rise to any divergence from any relevant international standards continue to exist;

(c) promote the development of regional technical regulations and encourage that these are adopted at national level and replace existing ones, in order to facilitate trade between the Parties;

(d) allow a reasonable interval between the publication of technical regulations and their entry into force for economic operators of the other Party to adapt[1];

[1] "Reasonable interval" shall be understood to mean normally a period of not less than 6 (six) months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

(e) carry out the impact analysis of planned technical regulations in accordance with their respective rules and procedures; and

(f) when preparing technical regulations, take due account of the characteristics and special needs of micro, small and medium-sized enterprises.

ARTICLE 5.7

Standards

1. The Parties reaffirm their obligations under Article 4.1 of the TBT Agreement, particularly in respect of taking all reasonable measures to ensure that all standardising bodies within their territories accept and comply with the Code of Good Practice for the Preparation Adoption and Application of Standards in Annex 3 to the TBT Agreement.

2. International standards developed by ISO, IEC, ITU or the Codex Alimentarius shall be considered as the relevant international standards within the meaning of Articles 2 and 5 and Annex 3 to the TBT Agreement.

3. A standard developed by other international organisations may also be considered a relevant international standard within the meaning of Articles 2 and 5 and Annex 3 to the TBT Agreement, if:

(a) it has been developed by a standardising body which seeks to establish consensus either:

(i) among national delegations of the participating WTO Members representing all the national standardising bodies in their territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardisation activity relates; or

(ii) among governmental bodies of participating WTO Members; and

(b) it has been developed in accordance with the WTO TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2 and 5 and Annex 3 to the TBT Agreement.

4. With a view to harmonising standards on a basis as wide as possible each Party shall encourage, within the limits of its competence and resources, the standardising bodies within its territory, as well as the regional standardising bodies of which that Party or the standardising bodies within its territory are members, to:

(a) participate, within the limits of their resources, in the preparation of international standards by relevant international standardising bodies;

(b) cooperate with the relevant national and regional standardising bodies of the other Party in international standardisation activities;

(c) use relevant international standards as a basis for the standards they develop, except where such international standards would be ineffective or inappropriate, for instance because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems;

(d) avoid duplication of, or overlap with, the work of international standardising bodies;

(e) promote the development of standards at regional level and the adoption of such standards by national standardising bodies, thereby replacing existing national standards;

(f) review national and regional standards not based on relevant international standards at regular intervals, with a view to increasing their alignment with relevant international standards; and

(g) foster bilateral cooperation with the standardising bodies of the other Party.

5. The Parties should exchange information through the TBT Chapter coordinators, nominated pursuant to Article 5.13, on:

(a) their use of standards as a basis for, or in support of, technical regulations;

(b) cooperation agreements implemented by either Party on standardisation, for example on standardisation issues in free trade agreements with third countries; and

(c) their respective standardisation processes, and the use of international, regional or sub-regional standards as a basis for their national standards.

ARTICLE 5.8

Conformity assessment procedures and accreditation

1. The provisions set out in Article 5.6 with respect to the preparation, adoption and application of technical regulations also apply to conformity assessment procedures.

2. If a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation, it shall:

(a) select conformity assessment procedures proportionate to the risks involved;

(b) consider, in the regulatory process, the use of the supplier's declaration of conformity as assurance of conformity, among other options, for showing compliance with technical regulations; and

(c) if requested, provide information to the other Party on the reasons for selecting a particular conformity assessment procedure for specific products.

3. If a Party requires third-party conformity assessment as a positive assurance that a product conforms with a technical regulation, and it has not reserved this task to a governmental body as specified in paragraph 4, it shall:

(a) preferentially use accreditation to qualify conformity assessment bodies;

(b) make best use of international standards for accreditation and conformity assessment, as well as international agreements involving the Parties' accreditation bodies, for example, through the mechanisms of ILAC and IAF;

(c) consider to join or, as applicable, encourage its testing, inspection and certification bodies to join any functioning international agreements or arrangements for harmonisation or facilitation of acceptance of conformity assessment results;

(d) within its territory, promote competition between conformity assessment bodies designated by the authorities for a particular product or set of products with a view to enabling economic operators to choose amongst them;

(e) ensure that conformity assessment bodies are independent of manufacturers, importers and distributors, in the sense that they carry out their activities with objectivity and independence of judgment;

(f) ensure that there are no conflicts of interest between accreditation bodies and conformity assessment bodies, or between activities of market surveillance authorities and activities of conformity assessment bodies;

(g) allow, to the extent possible, conformity assessment bodies to use subcontractors to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of the other Party; and

(h) publish online a list of the bodies that it has designated to perform such conformity assessment and relevant information on the scope of each such body's designation.

4. Nothing in point (g) of paragraph 3 shall be construed as prohibiting a Party from requiring subcontractors to meet the requirements that the conformity assessment body to which it is contracted would be required to meet in order to perform the contracted tests or inspection itself.

5. Nothing in this Article shall preclude a Party from requesting that conformity assessment in relation to specific products is performed by specified government authorities of that Party. In such cases, that Party shall:

(a) establish the conformity assessment fees in accordance with the approximate cost of the services rendered and, upon request of an applicant for conformity assessment, provide the different elements included in those fees; and

(b) in principle, make the conformity assessment fees publicly available or, publicly available or, when such information is not publicly available, provide it upon request.

6. Notwithstanding paragraphs 3 to 5 of this Article, in the fields which are listed in Annex 5-A, in which the European Union accepts supplier's declaration of conformity as assurance that a product conforms to a technical regulation, and in which a Signatory MERCOSUR State requires mandatory third-party testing or certification for these fields, the Signatory MERCOSUR State shall, as an assurance that a product conforms with the requirements of a Signatory MERCOSUR State's technical regulations, accept certificates or, in cases where such acceptance is not provided for under its relevant laws and regulations, accept test reports issued by conformity assessment bodies that are located in the territory of the European Union and which have been accredited for the relevant scopes by an accreditation body member of the international arrangements for mutual recognition of the ILAC and the IAF; or accept certificates that have been issued under the IECEE CB Scheme. In order to accept such certificates or test reports, a Signatory MERCOSUR State may require in its relevant laws and regulations that bilateral arrangements, including memoranda of understanding, exist between the conformity assessment body located in the territory of the European Union and the conformity assessment body located in the territory of the Signatory MERCOSUR State.

7. If supplier's declarations of conformity are considered a valid conformity assessment procedure in the European Union, test reports issued by conformity assessment bodies that are located in the territory of the Signatory MERCOSUR State, shall be accepted as a valid document in the process of demonstrating that a product conforms with the European Union's technical regulation requirements. The manufacturer shall remain responsible in all cases for the conformity of the product.

8. Paragraph 6 also applies where a Signatory MERCOSUR State introduces new mandatory third-party testing or certification requirements for the fields specified in Annex 5-A, in accordance with paragraph 10 of this Article. If the European Union introduces mandatory third-party testing or certification requirements for the fields specified in Annex 5-A, in accordance with paragraph 10 of this Article, the Parties shall discuss in the Subcommittee on trade in goods, referred to in Article 5.14, whether any steps need to be taken to ensure reciprocity as regards the acceptance of tests reports or certificates issued by conformity assessment bodies that are located in the territory of the Signatory MERCOSUR State.

9. The Trade Council may adopt a decision to amend Section A of Annex 5-A.

10. Notwithstanding paragraph 6 of this Article, either Party may introduce requirements for mandatory third-party testing or certification for the fields specified in Annex 5-A, for products falling within the scope of that Annex under the following conditions:

(a) the introduction of such requirements or procedures are justified under the legitimate objectives referred to in Article 2.2 of the TBT Agreement;

(b) the reasons for the introduction of any such requirements or procedures are supported by substantiated technical or scientific information regarding the performance of the products in question;

(c) any such requirements or procedures are not more trade-restrictive than necessary to fulfil the Party's legitimate objective, taking account of the risks that non-fulfilment would create; and

(d) the Party could not have reasonably foreseen the need for introducing any such requirements or procedures at the date of entry into force of this Agreement.

11. Paragraph 6 is without prejudice to the exercise, on a non-discriminatory basis, of market surveillance competences by the authorities of a Party, including additional testing on samples at the point of entry.

ARTICLE 5.9

Transparency

1. With regard to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures, each Party shall:

(a) take the other Party's views into account if the process of developing a technical regulation is open to public consultation, wholly or partially;

(b) when developing major technical regulations and conformity assessment procedures which may have a significant effect on trade ensure in accordance with its respective laws and regulations that transparency procedures are in place that allow persons of the Parties to provide input through a formal public consultation process, except when urgent problems of safety, health, environmental protection or national security arise or threaten to arise;

(c) allow persons of the other Party to participate in the consultation process referred to in point (b) on terms no less favourable than those accorded to its own persons and, whenever possible, make the results of that consultation process public;

(d) allow, in principle, a period of at least 60 (sixty) days for the other Party to provide written comments on the proposed technical regulations and conformity assessment procedures, and consider a reasonable request to extend the comment period;

(e) provide, in cases where the notified text is not in one of the official WTO languages, a clear and comprehensive description of the content of the measure in the WTO notification format;

(f) if it receives written comments on its proposed technical regulation or conformity assessment procedure from the other Party:

(i) discuss, upon request by the other Party, the written comments, whenever possible with the participation of its competent regulatory authority and at a time when they can be taken into account; and

(ii) reply in writing to the comments, whenever possible no later than the date of publication of the technical regulation or conformity assessment procedure;

(g) provide, if requested by the other Party, information regarding the objectives of, legal basis and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt;

(h) provide information on the adoption and the entry into force of the technical regulation or conformity assessment procedure and the adopted final text through an addendum to the original notification to the WTO;

(i) consider a reasonable request from the other Party, received prior to the end of the comment time period following the transmission of a proposed technical regulation, to extend the time period between the adoption of the technical regulation and its entry into force, except when the delay would be ineffective in fulfilling the legitimate objectives pursued; and

(j) provide free of charge access to the electronic version of the notified text with the notification.

2. For the purposes of point (d) of paragraph 1, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, Articles 2.10 and 5.7 of the TBT Agreement shall apply.

3. If standards are made mandatory through incorporation or referencing in a draft technical regulation or conformity assessment procedure, the transparency obligations related to TBT notification set out in this Article and in Article 2 or 5 of the TBT Agreement shall be fulfilled.

4. Each Party shall ensure that all technical regulations and mandatory conformity assessment procedures adopted and in force are publicly available on an official website free of charge. Each Party shall always provide unrestricted access to all information relevant to the achievement of conformity with a technical regulation. If standards provide a presumption of conformity with technical regulations and these standards are not referred to in those technical regulations, each Party shall ensure access to the information on corresponding standards.

5. Each Party shall, upon a reasonable request of the other Party or its economic operators, provide information on technical regulations in force and, as appropriate and available, written guidance on compliance with the technical regulations, without undue delay.

ARTICLE 5.10

Marking and labelling

1. The Parties' technical regulations including or dealing exclusively with mandatory marking or labelling shall observe the principles of Article 2 of the TBT Agreement.

2. In particular, if a Party requires mandatory marking or labelling of products:

(a) it shall only require information which is relevant for consumers or users of the product or authorities to indicate the product's conformity with the mandatory technical requirements;

(b) and if a Party requires any prior approval, registration or certification of the labels or markings of the products, as a precondition for placing on the market products that otherwise comply with its mandatory technical requirements, it shall ensure that the requests submitted by the economic operators of the other Party are decided without undue delay and on a non-discriminatory basis;

(c) and if a Party requires the use of a unique identification number, the Party shall issue such number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;

(d) and provided that it is not misleading, contradictory or confusing in relation to the importing Party's regulatory requirements and the legitimate objectives under the TBT Agreement are not compromised thereby, the Party shall permit:

(i) information in other languages in addition to the language required in the importing Party of the products; and

(ii) nomenclatures, pictograms, symbols or graphics adopted in international standards;

(e) it shall accept, whenever possible, that supplementary labelling and corrections to labelling take place in customs warehouses or other designated areas at the point of import as an alternative to labelling in the country of origin;

(f) if it considers that the protection of public health and the environment, the protection against deceptive practices and any other legitimate objectives under the TBT Agreement are not compromised thereby, it shall endeavour to accept non-permanent or detachable labels, rather than labels physically attached to the product, or inclusion of relevant information in the accompanying documentation.

3. Paragraph 2 shall not apply to marking or labelling of medicinal products.

4. If a Party considers that marking or labelling requirements for a product or a sector in the other Party could be improved, it may propose a trade-facilitating initiative to address its concerns in conformity with Article 5.5.

ARTICLE 5.11

Cooperation and technical assistance

1. To contribute to the fulfilment of the objectives of this Chapter, each Party shall, inter alia:

(a) promote cooperation and joint activities and projects between their respective organisations, public or private, national or regional, in the fields of technical regulations, standardisation, conformity assessment, metrology and accreditation;

(b) promote good regulatory practices through the exchange of information, experiences and best practices about, inter alia, regulatory impact assessment, regulatory stock management and risk assessment and public consultation;

(c) exchange views on market surveillance;

(d) strengthen the technical and institutional capacity of the national regulatory, metrology, standardisation, conformity assessment and accreditation bodies, supporting the development of their technical infrastructure, including laboratories and testing equipment, and sustaining the continuous training of human resources;

(e) promote, facilitate and, whenever possible, coordinate their participation in international organisations and other fora related to technical regulations, conformity assessment, standards, accreditation and metrology;

(f) support technical assistance activities by national, regional and international organisations in the areas of technical regulations, standardisation, conformity assessment, metrology and accreditation; and

(g) endeavour to share available scientific evidence and technical information among regulatory authorities of the Parties, to the extent necessary to cooperate or pursue technical discussions under this Chapter, with the exception of confidential or other sensitive information.

2. A Party shall give appropriate consideration to proposals of the other Party for cooperation under this Chapter.

ARTICLE 5.12

Technical discussions

1. Each Party may request to discuss any concern that arises under this Chapter, including any draft or proposed technical regulation or conformity assessment procedure of the other Party that the Party considers might significantly adversely affect trade between the Parties. The requesting Party shall deliver its request to the TBT Chapter coordinator of the other Party nominated pursuant to Article 5.13 and shall identify:

(a) the issue;

(b) the provisions of this Chapter to which the concerns relate; and

(c) the reasons for the request, including a description of the requesting Party's concerns.

2. Any information or explanation requested in accordance with paragraph 1 shall be provided no later than 60 (sixty) days after the date of the request of a Party in accordance with paragraph 1. The deadline may be extended with prior justification by the requested Party.

3. If an issue has been previously addressed between the Parties in any forum, a Party may request directly a discussion, in person or via video or teleconference, no later than 60 (sixty) days after the date of such request. In such cases, the requested Party shall make every effort to be available for such discussion.

4. If the Parties have not had a discussion under this Article in the previous 12-month period, the request may not be refused by the other Party. If the requesting Party believes that the matter is urgent, it may request that a meeting take place within a shorter timeframe. In such cases, the responding Party shall give positive consideration to such a request. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

5. For greater certainty, a Party may request technical discussions with the other Party pursuant to paragraph 2 also with regard to technical regulations or conformity assessment procedures of national, regional or local governments, as the case may be, on the level directly below that of the central government that may have a significant effect on trade.

6. Following the technical discussion, the Parties may conclude that the issue could be better addressed through a trade-facilitating initiative, in accordance with Article 5.5.

7. This Article is without prejudice to a Party's rights and obligations under Chapter 21.

ARTICLE 5.13

TBT Chapter coordinator

1. Each Party shall nominate a TBT Chapter coordinator and notify the other Party in the event of any changes. The TBT Chapter coordinators shall work jointly to facilitate the implementation of this Chapter and cooperation between the Parties in all TBT matters.

2. The functions of the TBT Chapter coordinators include:

(a) supporting the Subcommittee on trade in goods, referred to in Article 5.14, in the exercise of the functions;

(b) supporting trade-facilitating initiatives and technical discussions, as appropriate, in accordance with Articles 5.5 and 5.12 respectively;

(c) exchanging information on work undertaken in non-governmental, regional and multilateral fora related to standards, technical regulations and conformity assessment procedures; and

(d) reporting any relevant development related to the implementation of this Chapter to the Subcommittee on trade in goods, referred to in Article 5.14, whenever appropriate.

3. The TBT Chapter coordinators shall communicate with one another by any agreed method that is appropriate to carry out their functions, which may include email, teleconferences, video conferences and meetings.

ARTICLE 5.14

Subcommittee on trade in goods

The Subcommittee on trade in goods, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 22.3, and Article 2.14:

(a) discuss the results of the work carried out pursuant to Article 5.5 and consider appropriate actions;

(b) provide a forum for the Parties to discuss the need to take steps to ensure reciprocity in accordance with Article 5.8(8);

(c) foster cooperation in accordance with Article 5.11 and support technical discussions, as appropriate, in accordance with Article 5.12;

(d) endeavour to discuss at least annually the issues covered under paragraph 2 of Section C of Annex 5-B; and

(e) provide a forum for the Parties to cooperate and exchange information on any issues relevant for the implementation of Annex 5-B.

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1

Objectives

The objectives of this Chapter are to:

(a) protect human, animal or plant life or health in the territory of the Parties while facilitating trade between the Parties in so far as sanitary and phytosanitary (hereinafter referred to as "SPS") measures are concerned;

(b) establish cooperation on the implementation of SPS Agreement;

(c) ensure that SPS measures do not create unjustified barriers to trade between the Parties;

(d) enhance cooperation on technical and scientific issues related to the adoption and application of SPS measures;

(e) improve the exchange of information and consultations between the Parties on SPS matters; and

(f) establish cooperation concerning multilateral fora dealing with SPS matters.

ARTICLE 6.2

Scope

1. This Chapter applies to all SPS measures[1] that may, directly or indirectly, affect trade between the Parties.

2. This Chapter applies to cooperation concerning multilateral fora dealing with SPS matters.

[1] In case of conflict, this Chapter prevails over other Chapters of this Agreement when applied to SPS measures, including when such measures are part of a measure.

ARTICLE 6.3

Definitions

1. For the purposes of this Chapter, the following definitions apply:

(a) the definitions set out in Annex A of the SPS Agreement;

(b) the definitions adopted by the Codex Alimentarius;

(c) the definitions adopted by the World Organisation for Animal Health (hereinafter referred to as the "OIE");

(d) the definitions adopted by the International Plant Protection Convention (hereinafter referred to as the "IPPC"); and

(e) "protected zone" means an officially defined geographical part of the territory of the European Union in which a specific regulated pest is known not to be established in spite of favourable conditions and its presence in other parts of the territory of the European Union.

Protected zones are pest-free areas under European Union control in the European Union territory. They are recognised by Regulation (EU) No 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC[1]. This concept is not applied outside the European Union territory. For trade purposes, the European Union shall not require the other Party to establish protected zones in its territory. In such cases, the conditions of pest-free areas shall apply. For the purposes of Chapter 6 and for the recognition of protected zones, the same conditions as for pest-free areas shall apply.

2. In the event of any inconsistency between the definitions in Annex A to the SPS Agreement and the definitions agreed by the Parties or the definitions adopted by the Codex Alimentarius, OIE and IPPC, the definitions set out in Annex A of the SPS Agreement shall prevail.

ARTICLE 6.4

Rights and obligations

The Parties affirm their rights and obligations under the SPS Agreement. Nothing in this Chapter shall affect the rights and obligations of each Party under the SPS Agreement.

[1] OJ EU L 317, 23.11.2016, p. 4.

ARTICLE 6.5

Competent authorities

1. For the purposes of this Chapter, the official competent authority of a Party is the authority that, in accordance with a Party's law, is empowered to enforce its laws and regulations falling within the scope of this Chapter to ensure compliance with its requirements, or any other authority to which those authorities have delegated that power (hereinafter referred to as "competent authorities").

2. Upon the date of entry into force of this Agreement, each Party shall provide in writing to the other Party the name of the competent authorities referred to in paragraph 1, specifying where this information is made publicly available and a description of the distribution of competences between the respective competent authorities.

3. The Parties shall, in accordance with paragraph 4 of Article 6.11, inform each other of any change to these competent authorities.

ARTICLE 6.6

General obligations

1. Products exported from a Party shall meet the applicable SPS requirements of the importing Party.

2. The SPS requirements of the importing Party shall be the same for the entire territory of the exporting Party, as long as the same sanitary and phytosanitary conditions prevail throughout that territory, without prejudice to decisions and measures adopted in accordance with Article 6.10. Each Party shall ensure that their SPS measures are applied in a proportionate manner and do not arbitrarily or unjustifiably discriminate between Member States of the European Union or Signatory MERCOSUR States where identical or similar conditions prevail, including between its own territory and that of the other Party. SPS measures shall not be applied in a manner which would constitute a disguised restriction on trade between the Parties.

3. The procedures referred to in this Chapter shall be applied without undue delay and in a transparent manner, and information requested shall be limited to what is necessary for appropriate approval, control, inspection and verification purposes.

4. Each Party shall ensure that any fees imposed for import procedures to check and ensure the fulfilment of SPS requirements are equitable in relation to any fees charged on like domestic products or products originating in any other WTO Member and shall not be higher than the actual cost of the service.

5. Except as provided for in Article 6.14, when modifying SPS import requirements, each Party, and where appropriate MERCOSUR, shall allow for a transitional period, taking into account the nature of the modification, in order to avoid the unnecessary interruption or disruption of trade flows of products and to allow the exporting Party to adjust its export procedures accordingly to such modification.

6. The implementation of this Chapter shall not jeopardise the SPS requirements for trade between the Parties existing at the date of entry into force of this Agreement.

7. Without prejudice to similar provisions in other Chapters of this Agreement, nothing in this Chapter shall affect the rights and obligations of each Party to protect confidential information, in accordance with each Party's relevant laws and regulations. Each Party shall ensure that procedures are in place to prevent the disclosure of confidential information that is acquired during procedures referred to in this Chapter.

8. Each Party shall ensure that the necessary resources are available for the effective implementation of this Chapter.

ARTICLE 6.7

Trade-facilitation measures

Approval of establishments for the import of animals, animal products, products of animal origin and animal by-products

1. The importing Party may require the approval of establishments situated in the territory of the exporting Party for the import of animals, animal products, products of animal origin and animal by-products from such establishments.

2. Such approval shall be granted without prior inspection of individual establishments by the importing Party if:

(a) the importing Party has recognised the official control system of the competent authority of the exporting Party;

(b) the importing Party has authorised the import of the concerned products; and

(c) the competent authority of the exporting Party has provided sufficient guarantees that such establishments comply with the sanitary requirements of the importing Party.

3. The exporting Party shall only authorise exports from approved establishments as referred to in paragraph 1. The exporting Party shall suspend or withdraw its approval of establishments that do not comply with the sanitary requirements of the importing Party and shall notify such suspension or withdrawal to the importing Party.

4. The exporting Party shall propose to the importing Party a list of establishments to be approved. This list shall be accompanied by guarantees of the competent authority of the exporting Party that the establishments comply with the guarantees referred in to point (c) of paragraph 2.

5. The importing Party shall authorise imports from approved establishments no later than 40 (forty) working days after the receipt of the list and guarantees referred to in in paragraph 4 of the exporting Party. If additional information is requested and as a result an authorisation cannot be granted within the deadline of 40 (forty) working days, the importing Party shall inform the exporting Party and establish a new deadline for such authorisation. That deadline shall not exceed 40 (forty) working days after the receipt of the additional information.

6. The importing Party shall draw up lists of approved establishments and shall make those lists publicly available.

7. The importing Party may refuse the approval of establishments that are not compliant with its sanitary requirements. In such cases, the importing Party shall inform the exporting Party about such refusal, including the justification therefor.

8. The importing Party may carry out verifications of the official control system in accordance with Article 6.15. Based on the results of these verifications, the importing Party may amend the lists of approved establishments.

SPS import checks

9. Each Party shall adopt or maintain procedures relating to SPS import checks allowing for the expedited release of products for import without undue delay.

10. Each Party shall, where appropriate, simplify controls and verifications and reduce the frequency of the SPS import checks made by the importing Party on products of the exporting Party. Each Party shall base its decision on the following:

(a) the risks involved;

(b) the controls carried out by the producers or importers which are validated by the competent authorities of the Parties;

(c) the guarantees given by the competent authority of the exporting Party that the establishments comply with the sanitary requirements of the importing Party; and

(d) the international guidelines, standards and recommendations of the Codex Alimentarius, OIE or IPPC, as applicable.

11. Each Party may apply other criteria to simplify the controls and verifications pursuant to paragraph 10 if they do not undermine the commonly agreed criteria that are listed therein.

12. If import checks reveal non-compliance with SPS import requirements and products or consignments are rejected, the importing Party shall notify the exporting Party thereof in accordance with the procedure referred to in Article 6.12, as soon as possible and no later than 5 (five) working days after the date of the rejection.

13. If import checks reveal non-compliance with the relevant SPS import requirements, the action taken by the importing Party shall be justified, based on the identified non-compliance, and not more trade-restrictive than required to achieve the Party's appropriate level of sanitary or phytosanitary protection.

Simplification of the import and approval procedures of MERCOSUR

14. The Parties recognise the different levels reached by regional integration processes within the European Union, on the one hand, and MERCOSUR on the other. With a view to facilitating trade between their respective territories, MERCOSUR shall make its best efforts to gradually adopt for import and approval procedures for products and establishments of the European Union, if applicable:

(a) one single questionnaire;

(b) one single certificate; and

(c) one list of approved establishments.

15. MERCOSUR will make its best efforts to harmonise the SPS import requirements, certificates and import checks of the individual Signatory MERCOSUR States.

ARTICLE 6.8

Alternative measures

1. Upon request of the exporting Party, the importing Party shall examine whether exceptionally an alternative SPS measure to the SPS measure of the importing Party ensures the appropriate level of protection of the importing Party. The alternative measure may be based on international guidelines, standards and recommendations of the Codex Alimentarius, OIE or IPPC or on SPS measures of the exporting Party.

2. Article 6.9 shall not apply to alternative SPS measures.

ARTICLE 6.9

Equivalence

1. An exporting Party may request a determination of equivalence from the importing Party that a specific SPS measure or specific SPS measures related to a product or group of products or on a system-wide basis is equivalent to its own SPS measures.

2. In order to implement this Article, the Subcommittee, referred to in Article 6.18, shall make recommendations to establish a procedure for the recognition of equivalence based on the Decision on the implementation of Article 4 of the Agreement on Sanitary and Phytosanitary Measures of the WTO Committee on Sanitary and Phytosanitary Measures[1] and any subsequent updates thereof, and international guidelines, standards and recommendations adopted in the framework of the Codex Alimentarius, OIE and IPPC. This procedure should include a process whereby the Parties hold consultations in order to determine the equivalence of SPS measures, the information to be required from the Parties, the responsibilities of the Parties and the deadlines for the recognition of equivalence.

3. Upon receipt of a specific request, the Parties shall enter into consultations based on the procedure to be established pursuant to paragraph 2, with the aim of achieving an agreement on recognition of equivalence.

4. Upon request of the exporting Party, the importing Party shall inform the exporting Party of the stage of the procedure for the assessment of equivalence.

[1] WTO Document G/SPS/19/Rev.2, dated 13 July 2004.

ARTICLE 6.10

Recognition of animal health and plant pest status and regional conditions

1. The Parties recognise the concept of zoning and compartmentalisation, including pest free areas or disease free areas and areas of low pest or low disease prevalence and shall apply it in the trade between the Parties, in accordance with the SPS Agreement, including the Guidelines to further the practical implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary measures adopted by the WTO Committee on Sanitary and Phytosanitary Measures[1] and the relevant guidelines, recommendations and standards of the OIE or IPPC.

2. At the request of the exporting Party, the importing Party shall decide whether to recognise pest and disease free areas, areas of low pest and low disease prevalence and compartments of the exporting Party, whether for the first time or after an outbreak of an animal disease or a plant pest. The importing Party shall base this decision on the information provided by the exporting Party in accordance with the SPS Agreement and OIE and IPPC standards, and take into account the establishment of pest and disease free areas, areas of low pest and low disease prevalence and compartments by the exporting Party. The Parties shall follow the procedures set out in Annex 6-A.

3. The decision of the importing Party pursuant to paragraph 2 shall be taken without undue delay. If, without prejudice to Article 6.14, the importing Party decides to recognise pest and disease free areas, areas of low pest and low disease prevalence and compartments of the exporting Party, it shall allow trade from those areas or compartments without undue delay.

[1] WTO Document G/SPS/48, dated 16 May 2008.

4. The Subcommittee, referred to in Article 6.18, may define further details for the procedure for the recognition of pest and disease free areas, areas of low pest and low disease prevalence and compartments set out in paragraph 2, taking into account the SPS Agreement and the guidelines, standards and recommendations of the IPPC and OIE.

Animals, animal products, products of animal origin and animal by-products

5. The procedure for the recognition of the disease free zones or compartments for animals, animal products, products of animal origin and animal by-products is set out in paragraphs 7 to 9 and in Annex 6-A.

6. When establishing or maintaining the zones or compartments referred to in paragraph 2 for animals, animal products, products of animal origin and animal by-products, the Parties shall consider factors such as geographical location, ecosystems, epidemiological surveillance and the effectiveness of sanitary controls.

7. No later than 60 (sixty) working days after the receipt of the information referred to in paragraph 2 from the exporting Party, the importing Party may:

(a) explicitly object to the request for recognition of disease-free zones or compartments for animals, animal products, products of animal origin and animal by-products;

(b) request additional information from the exporting Party; or

(c) request verifications pursuant to Article 6.15.

The importing Party shall assess any additional information no later than 30 (thirty) working days after its receipt. If verifications are required by the importing Party, the deadline for assessing the additional information shall be interrupted.

8. The importing Party shall expedite the procedure established in paragraph 7 if the zones or compartments for which recognition is sought by the exporting Party are officially recognised by the OIE as having disease free status or if disease-free status has been recovered after an outbreak.

9. If after following the procedure in paragraph 7, the importing Party decides not to recognise the zones or compartments for which recognition was sought by the exporting Party, it shall notify its decision to the exporting Party and explain the reasons for not recognising the zones or compartments concerned and, upon request, hold consultations in accordance with Article 6.13.

Plants and plant products

10. Each Party shall establish a list of regulated pests and regulated plants and plant products for which phytosanitary requirements exist. The importing Party shall make available to the other Party its list of regulated pests, and regulated plants and plant products and the phytosanitary import requirements that apply thereto. The phytosanitary import requirements for regulated plants and plant products shall be limited to what is necessary to protect plant health or safeguard the intended use of the plants and plant products. The importing Party shall inform the other Party about any required additional declaration.

11. The phytosanitary requirements of the importing Party shall be established taking into account the phytosanitary status in the exporting Party and, if required by the importing Party, the result of a pest risk analysis (hereinafter referred to as "PRA"). The PRA shall be carried out in accordance with the relevant International Standards for Phytosanitary Measures (hereinafter referred to as "ISPM") of the IPPC. Such risk analysis shall take into account available scientific and technical information as well as the intended use of the plants and plant products under consideration.

12. The importing Party shall update the lists referred to in paragraph 10 when the exporting Party makes a request to export new products to the other Party. When the importing Party requires a PRA to authorise the import of a certain product, in order to expedite the process, a PRA already carried out for the same or similar products may be used as a basis, together with any additional information that the importing Party considers necessary to be analysed.

13. The importing Party, when conducting the process for the determination of the pest status of the exporting Party, shall take into account paragraphs 10 to 17 of this Article, Annex 6-A and the recommendations of the ISPM of the IPPC.

14. The Parties recognise the concepts of pest free areas, pest free places of production and pest free production sites, as well as areas of low pest prevalence as specified in the ISPM of the IPPC, and of protected zones which they shall apply in trade between them.

15. When establishing or maintaining phytosanitary measures, the importing Party shall take into account pest free areas, pest free places of production, pest free production sites and areas of low pest prevalence, as well as protected zones if they are established by the exporting Party.

16. The exporting Party shall communicate pest free areas, pest free places of production, pest free production sites or areas of low pest prevalence to the other Party and provide, upon request, an explanation and supporting information as provided for in the relevant ISPM or as otherwise deemed appropriate. Unless the importing Party:

(a) explicitly objects to the request for approval of pest free areas, pest free places of production, pest free production sites or areas of low pest prevalence to the other Party or protected zones if they are established by the exporting Party;

(b) requests additional information from the exporting Party;

(c) requests verifications pursuant to Article 6.15; or

(d) initiates consultations pursuant to Article 6.13 no later than 150 (one hundred and fifty) working days after receiving such information, the status of the exporting Party shall be recognised by the importing Party.

17. The importing Party shall assess any additional information requested pursuant to paragraph 16 no later than 90 (ninety) days after its receipt. Any verifications requested by the importing Party pursuant to paragraph 16 shall be carried out in accordance with Article 6.15 taking into account the biology of the pest and the plant concerned. If the importing Party requests such verifications, the deadline for assessing additional information shall be interrupted.

18. If, after following the procedure in paragraph 16, the importing Party decides not to approve pest free areas, pest free places of production, pest free production sites or areas of low pest prevalence or protected zones if they are established by the exporting Party for which recognition was sought by the exporting Party, it shall notify its decision to the exporting Party and explain the reasons for not approving them and, upon request, hold consultations in accordance with Article 6.13.

ARTICLE 6.11

Transparency and exchange of information

1. Upon request of a Party and no later than 15 (fifteen) working days after the date of such request, the Parties shall exchange information on:

(a) procedures for the authorisation to import a product, including, if possible, the expected timeframe;

(b) requirements for the import of specific products, including the model for a certificate, as appropriate;

(c) their pest status, including surveillance, eradication and containment programmes and the results thereof in order to support such pest status and import phytosanitary measures;

(d) the stage of progress of the procedure for import approval of specific products; and

(e) the relationship between a SPS measure and the international guidelines, standards and recommendations and, if an SPS measure is not based on international guidelines, standards and recommendations, the scientific information as to how the SPS measure is not in conformity with international guidelines, standards and recommendations and an explanation of the reasons for such measure.

2. In cases where the relevant scientific evidence is insufficient, a Party adopting a provisional SPS measure shall provide the available pertinent information on which the measure is based and, if available, additional information for a more objective assessment of the risk, and shall review the SPS measure within a reasonable period of time.

3. The Parties shall make publicly available, by any means, updated information about their:

(a) SPS import requirements and approval procedures; and

(b) a list of regulated pests.

4. The Parties shall inform each other of:

(a) any change in the sanitary and phytosanitary status that may affect trade between the Parties;

(b) matters related to the development and application of SPS measures that may affect trade between the Parties; and

(c) any other information relevant for the effective implementation of this Chapter.

5. Without prejudice to paragraph 1, if the information referred to in this Article has been made available by the Parties through a notification to the WTO or to the relevant international standard-setting body in accordance with its relevant rules, or on publicly accessible and free of charge websites of the Parties, the exchange of information pursuant to paragraph 1 shall not be required.

6. Each Party shall designate a contact point for communication on all matters covered by this Chapter and inform the other Party thereof no later than 1 (one) month after the date of entry into force of this Agreement. Each Party shall promptly notify the other Party of any change to its contact point.

ARTICLE 6.12

Notifications

1. Any serious or significant risk to human, animal or plant life or health, including any food or feed control emergencies, shall be notified to the contact points of the other Party designated in Article 6.11, within 2 (two) working days from the identification of that risk.

2. Risks to human, animal or plant life or health which are not serious shall also be notified to the contact points of the other Party within a reasonable period of time that is sufficient to avoid threatening human, animal or plant life or health or jeopardising existing trade between the Parties.

3. Notifications referred to in paragraphs 1 and 2 shall be done through an established system of notifications or through specific ad hoc notifications, in accordance with the legislation of the notifying Party. In both cases, the notification shall be sent to the competent authorities of the concerned Parties.

4. If the notifying Party adopts or maintains any SPS measure in relation to the notification (including the rejection of a product or consignment), that notification shall be accompanied by an explanation of the reasons justifying such measure.

5. The notifying Party shall withdraw any notification based upon information which is subsequently found to be unsubstantiated or which was transmitted erroneously. Such withdrawal shall take place as soon as possible, and be notified to the exporting Party, in order to avoid a negative impact on trade between the Parties.

6. The Parties shall identify contact points for the notifications under this Article and inform the other Party thereof, if they are not the same as the contact points identified pursuant to paragraph 6 of Article 6.11.

ARTICLE 6.13

Consultations

1. Without prejudice to Chapter 21, if the SPS measures or draft measures of the importing Party, or the implementation thereof, are considered to be inconsistent with this Chapter, the Parties shall enter into consultations no later than 60 (sixty) days after the exporting Party has introduced a reasoned request for such consultations.

2. Notwithstanding paragraph 1, if a notification has been made by a Party pursuant to Article 6.12 or if a Party has serious concerns regarding a risk to public, animal or plant health, affecting products traded between the Parties consultations shall, upon request of a Party, be held as soon as possible. Each Party shall endeavour, in such conditions, to provide the information necessary to avoid a disruption in trade, including a limitation thereof.

3. At the request of the exporting Party, the importing Party shall provide the information necessary to avoid a disruption in trade, including a limitation thereof. Such information includes the information referred to in Article 6.11(1).

4. Consultations may be held for a reasonable period of time that allows the Parties to reach a mutually satisfactory solution.

5. Consultations may be held by e-mail, video, audio conference or any other means of communication which are available to both Parties. The Party which requested consultations shall be responsible for preparing the minutes. The minutes shall be formally approved by the parties to the consultations.

6. If the parties to the consultations do not reach a mutually satisfactory solution, the matter may be submitted to the Subcommittee, referred to in Article 6.18.

ARTICLE 6.14

Emergency measures

1. If a Party adopts any measure to control any serious risks to human, animal and plant life or health, such measure shall, without prejudice to paragraph 2, also aim to prevent the introduction of any sanitary and phytosanitary risk into the territory of the other Party.

2. The importing Party may, in the event of serious risks to human, animal or plant life or health, adopt emergency measures against such risks.

3. For products in transit between the Parties, the importing Party shall consider the most suitable and proportional solution in order to avoid unnecessary disruptions to trade.

4. Measures referred to in paragraph 2 may be adopted without prior notification pursuant to Article 6.12. The Party adopting emergency measures shall notify the other Party as soon as possible of the adoption of these measures and, in any case, no later than 48 (forty-eight) hours thereafter.

5. Each Party may request any information related to the sanitary and phytosanitary situation and the emergency measures adopted. Each Party shall answer such requests as soon as the requested information is available.

6. Upon request of either Party and in accordance with Article 6.13, the Parties shall hold consultations regarding the emergency measure no later than 15 (fifteen) working days of the notification of the emergency measures. The Parties may consider options to facilitate the implementation, or the replacement, of the emergency measures.

ARTICLE 6.15

Verifications of the official control system

1. Each Party, within the scope of this Chapter, has the right to:

(a) carry out verifications, including audits, of the official control system of the other Party, including verification visits; and

(b) receive information about the official control system of the other Party and the results of the controls carried out under that system.

2. The nature and frequency of verifications, including audits, shall be determined by the importing Party, taking into account the import requirements, the inherent characteristics of the product concerned, the track record of past import checks and other available information, such as audits and inspections undertaken by the competent authority of the exporting Party.

3. The objective of the verifications shall be to evaluate the capacity of the competent authorities of the exporting Party to ensure that the products exported or to be exported meet the SPS requirements of the importing Party.

4. Verification visits shall be carried out without undue delay and be notified to the exporting Party at least 60 (sixty) working days before such verifications are carried out, except in cases of emergency or if the Parties decide otherwise. Any modification to the date of the visit shall be agreed by the Parties.

5. Verifications shall be conducted in accordance with the audit plan agreed by the Parties concerned, based on the Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems[1]. The importing Party shall provide to the other Party the reasons for any modification to the audit plan of the visit.

6. The expenses incurred by the Party carrying out the verification shall be borne by that Party.

[1] FAO, CAC/GL 26-1997.

7. The Party carrying out the verification shall send a draft report on the verification to the Party subject to the verification no later than 60 (sixty) working days after the end of the verification visit. The Party subject to the verification may comment on the draft report no later than 60 (sixty) working days after its receipt. Comments and an action plan, if required, shall be attached to the final report. The Party carrying out the verification shall send the final report to the Party subject to the verification no later than 30 (thirty) working days after the receipt of the comments on the draft report.

8. Any measure taken as a consequence of verifications shall be proportionate to shortcomings or risks identified. If requested, technical consultations regarding the matter shall be held in accordance with Article 6.13.

9. If a significant public, animal or plant health risk has been identified during the verification, the Party subject to the verification shall be informed as quickly as possible and, in any case, no later than 10 (ten) working days after the end of the verification.

ARTICLE 6.16

Cooperation on multilateral fora

1. The Parties shall promote cooperation between them on all the multilateral fora relevant for SPS issues, in particular in international standard-setting bodies recognised in the framework of the SPS Agreement and shall exchange information to that end.

2. The Subcommittee on SPS matters, referred to in Article 6.18, shall be the forum for promoting cooperation as referred to in paragraph 1.

ARTICLE 6.17

Cooperation

1. The Parties shall endeavour to cooperate in implementing this Chapter and to optimise the results thereof with a view to expanding opportunities and obtaining the greatest benefits for the Parties. Such cooperation shall be developed within the legal and institutional framework governing cooperation relations between the Parties.

2. To achieve the objectives referred to in paragraph 1, the Parties shall give consideration to the cooperation needs identified by the Subcommittee on SPS matters, referred to in Article 6.18.

ARTICLE 6.18

Subcommittee on SPS matters

1. The Subcommittee on SPS matters, established pursuant to Article 22.3(4), shall meet for the first time no later than 1 (one) year after the entry into force of this Agreement.

2. The Subcommittee shall have the following functions, in addition to those listed in Article 22.3:

(a) provide a forum to discuss problems arising from the application of the SPS measures with a view to reaching mutually acceptable solutions provided that the Parties have first attempted to address them through technical consultations pursuant to Article 6.13 and the matter has then been referred to the Subcommittee.

(b) provide a forum to discuss the information exchanged in accordance with Article 6.11;

(c) promote exchange of information and cooperation on multilateral fora pursuant to Article 6.16;

(d) exchange the lists of contact points pursuant to Article 6.11(6) to share information related to this Chapter;

(e) conduct the preparatory internal work necessary for the amendment of Annex 6-A by the Trade Council;

(f) make recommendations to establish a procedure for the recognition of equivalence in accordance with Article 6.9(2);

(g) may define further details for the procedure for the recognition of pest and disease free areas, areas of low pest and low disease prevalence and compartments in accordance with Article 6.10(4); and

(h) identify cooperation needs in implementing this Chapter, pursuant to Article 6.17(2).

ARTICLE 6.19

Special and differential treatment

In accordance with Article 10 of the SPS Agreement, if Paraguay identifies difficulties with a proposed measure notified by the European Union, Paraguay may request, in its comments submitted to the European Union, pursuant to Annex B to the SPS Agreement, an opportunity to discuss the issue. The European Union and Paraguay shall, without prejudice to Article 6.13, enter into consultations in order to agree on:

(a) alternative import conditions to be applied by the importing Party in accordance with Article 6.8 of this Chapter;

(b) the provision of technical assistance in accordance with Article 6.17 of this Chapter; or

(c) a transitional period of 6 (six) months for proposed measures to apply to products from Paraguay, which could be exceptionally extended for another period of no longer than 6 (six) months.

CHAPTER 7

DIALOGUES ON ISSUES RELATED TO THE AGRI-FOOD CHAIN

ARTICLE 7.1

Objectives

With a view to strengthen their mutual trust and respective understanding, the Parties shall establish dialogues and exchange information on the following subjects:

(a) animal welfare;

(b) application of agricultural biotechnology;

(c) combating antimicrobial resistance (hereinafter referred to as "AMR"); and

(d) scientific matters related to food safety, animal and plant health.

ARTICLE 7. 2

Subcommittee on dialogues on issues related to the agri-food chain

The Subcommittee on dialogues on issues related to the agri-food chain, established pursuant to Article 22.3(4), shall in addition to functions listed in Article 22.3 and Article 7.7, meet at expert level to conduct the dialogues referred to in Article 7.1.

ARTICLE 7.3

Animal welfare

Recognising that animals are sentient beings, the Subcommittee on dialogues on issues related to the agri-food chain shall conduct a dialogue covering, inter alia, the following matters:

(a) specific topics on animal welfare that may affect mutual trade;

(b) exchange of information, expertise and experiences in the field of animal welfare to improve, to the benefit of the Parties, their respective approaches on regulatory standards related to the breeding, holding, handling, transportation and slaughter of animals;

(c) strengthening of their research collaboration; and

(d) collaboration in international fora with a view to promoting the further development of international standards on animal welfare by the OIE and best animal welfare practices and their implementation.

ARTICLE 7.4

Agricultural biotechnology

The Subcommittee on dialogues on issues related to the agri-food chain shall conduct a dialogue on agricultural biotechnology that will cover, among others, the following matters:

(a) exchange of information on policies, legislation, guidelines, good practices and projects on biotechnology products;

(b) discussions on specific topics related to biotechnology that may affect mutual trade, including cooperation on genetically modified organisms (hereinafter referred to as "GMOs") testing;

(c) exchange of information on topics related to asynchronous authorisations of GMOs in order to minimise the possible impact on trade;

(d) exchange of information on the economic and trade outlook for authorisations of GMOs; and

(e) exchange of information on cases of low-level presence of GMOs non-authorised by the importing Party but authorised by the exporting Party.

ARTICLE 7.5

Combating antimicrobial resistance

The Subcommittee on dialogues on issues related to the agri-food chain shall conduct a dialogue on combatting antimicrobial resistance that will cover, among others, the following matters:

(a) collaboration to follow up on existing and future guidelines, standards, recommendations and actions developed in relevant international organisations, initiatives and national plans aiming to promote the prudent and responsible use of antibiotics and in relation to animal production and veterinary practices;

(b) collaboration in the implementation of the recommendations of the OIE, World Health Organisation (hereinafter referred to as "WHO") and Codex Alimentarius, in particular the Code of Practice to Minimize and Contain Foodborne Antimicrobial Resistance (CAC/RCP 61-2005);

(c) exchange of information on good farming practices;

(d) the promotion of research, innovation and development; and

(e) the promotion of multidisciplinary approaches to combat AMR, including the "One Health" approach of the WHO, OIE and Codex Alimentarius.

ARTICLE 7.6

Scientific matters related to food safety, animal and plant health

1. The Parties should foster cooperation between their respective official scientific bodies responsible for food safety, animal and plant health science. Such cooperation shall aim to deepen the scientific information available to the Parties in order to support their respective approaches on regulatory standards that may affect mutual trade.

2. The Subcommittee shall conduct a dialogue on scientific matters related to food safety, animal and plant health that will cover, among others, the following matters:

(a) exchange of scientific and technical information on food and feed safety, animal and plant health areas, including risk assessment and the scientific information supporting the establishment of maximum residue levels;

(b) collection of data; and

(c) collaboration in the building of a common understanding regarding OIE, IPPC and the Codex Alimentarius standards.

ARTICLE 7.7

Additional provisions

1. The Parties shall ensure that the activities of the Subcommittee, referred to in Article 7.2, do not endanger the independence of their respective national or regional agencies. The Subcommittee on dialogues on issues related to the agri-food chain shall establish the rules on conflicts of interest for the participants of its meetings.

2. Nothing in this Chapter shall affect the rights and obligations of each Party to protect confidential information, in accordance with each Party's relevant legislation. Each Party shall ensure that procedures are in place to prevent the disclosure of confidential information that is acquired during the process established in this Chapter.

3. Fully respecting the Parties' right to regulate, nothing in this Chapter shall be construed to oblige a Party to:

(a) deviate from domestic procedures for preparing and adopting regulatory measures;

(b) take action that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(c) adopt any particular regulatory outcome.

CHAPTER 8

TRADE DEFENCE AND GLOBAL SAFEGUARDS

SECTION A

GENERAL PRINCIPLES

ARTICLE 8.1

Relationship with the WTO Agreements

1. This Chapter applies without prejudice to the rights and obligations of the Parties under the ADA, the SCM Agreement, the Safeguards Agreement and the DSU.

2. The Parties shall exempt bilateral trade subject to preferential treatment from the application of the Special Agricultural Safeguard of the Agreement on Agriculture.

3. The preferential rules of origin under this Agreement do not apply to trade defence and global safeguard investigations conducted in accordance with this Chapter.

ARTICLE 8.2

Transparency

1. Trade defence and safeguard measures should be used in full compliance with the relevant WTO requirements and be based on a fair and transparent system.

2. As soon as possible after the imposition of a provisional measure, a Party shall give to the interested parties full access to the facts that are the basis for the determinations, the injury assessment, calculations of the dumping and subsidies margins and causality. In addition, before the final determination, a Party shall fully and meaningfully disclose all essential facts and considerations which form the basis for the decision to apply a measure. This paragraph is without prejudice to Article 6.5 of the ADA, Article 12.4 of the SCM Agreement and Article 3.2 of the Safeguards Agreement.

3. A Party shall send all of the information referred to in paragraph 2 in writing, preferably in electronic format, and the interested parties should be given enough time to make comments. For Parties whose investigating authorities keep electronic case files, all the information referred to in paragraph 2 may be made available online.

SECTION B

ANTI-DUMPING AND COUNTERVAILING MEASURES

ARTICLE 8.3

Considerations concerning anti-dumping and countervailing measures

Each Party shall:

(a) analyse with special care proposals of price undertakings made by exporters of the other Party;

(b) favour the imposition of a duty that is lower than the margin of dumping or subsidy, if that level is sufficient to remove the injury to the domestic industry;

(c) analyse with special care requests for the extension of measures in force against exporters of the other Party; and

(d) take into consideration the information provided by industrial users of the product under investigation, importers and, if applicable, representative consumer organisations in the context of Article 6.12 of the ADA and Article 12.10 of the SCM Agreement.

SECTION C

GLOBAL SAFEGUARDS

ARTICLE 8.4

Transparency on global safeguards

1. Upon request of the exporting Party, and provided that it has a substantial interest in exporting the product concerned as defined in paragraph 3 of this Article, the Party initiating a safeguard investigation or intending to adopt provisional or definitive safeguard measures shall immediately provide:

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

(b) the public version of the complaint filed by the domestic industry, if relevant; and

(c) the public report setting forth the findings and reasoned conclusions on all pertinent issues of fact and law considered in the safeguard investigation.

The public report referred to in point (c) of this paragraph shall include an analysis that attributes injury to the factors causing it and shall set out the method used in defining the safeguard measures.

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

3. For the purposes of this Article, it is considered that a Party has a substantial interest if it is among the 5 (five) largest suppliers of the imported products concerned during the most recent period of 3 (three) years, measured in terms of either absolute volume or value.

ARTICLE 8.5

Application of definitive measures

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

2. The importing Party shall offer to hold informal consultations with the exporting Party in order to review the matter referred to in paragraph 1. The importing Party shall not adopt measures within 30 (thirty) days of the date on which the offer to hold informal consultations was made.

SECTION D

DISPUTE SETTLEMENT

ARTICLE 8.6

Non-application of dispute settlement

No Party shall have recourse to dispute settlement under Chapter 21 for any matter arising under this Chapter.

CHAPTER 9

BILATERAL SAFEGUARD MEASURES

SECTION A

SCOPE

ARTICLE 9.1

Scope

1. Sections B to I of this Chapter apply to any goods other than vehicles classified under HS headings 8703 and 8704.

2. The provisions applicable to vehicles classified under HS headings 8703 and 8704 are detailed in Annex 9-A.

SECTION B

DEFINITIONS

ARTICLE 9.2

Definitions

For the purposes of this Chapter the following definitions apply:

(a) "competent investigating authority" means:

(i) for the European Union, the European Commission; and

(ii) for MERCOSUR, the Ministerio de Economía or its successor in Argentina, the Secretaria de Comércio Exterior of the Ministério do Desenvolvimento, Indústria, Comércio e Serviços or its successor in Brazil, the Ministerio de Industria y Comercio or its successor in Paraguay, and the Asesoría de Política Comercial del Ministerio de Economía y Finanzas or its successor in Uruguay;

(b) "domestic industry" means the producers as a whole of the like or directly competitive products operating in the territory of a Party or, failing that, those whose collective output of the like or directly competitive products normally constitutes more than 50 % (fifty percent) and in exceptional circumstances not less than 25 % (twenty-five percent) of the total production of such products;

(c) "interested parties" includes:

(i) exporters or foreign producers or importers of a product subject to investigation, or a trade or business association a majority of whose members are producers, exporters or importers of such product;

(ii) the government of the exporting Party; and

(iii) producers of the like or directly competitive product in the importing Party or a trade and business association a majority of whose members produces the like or directly competitive product in the territory of the importing Party;

this list does not preclude the Parties from allowing domestic or foreign parties other than those mentioned above to be included as interested parties;

(d) "like or directly competitive product" means:

(i) a product which is identical, meaning alike in all aspects, to the product under consideration;

(ii) another product which, although not alike in all aspects, has characteristics closely resembling those of the product under consideration; or

(iii) a product which directly competes within the internal market of the importing Party, given its degree of substitutability, basic physical characteristics and technical specifications, final uses and channels of distribution;

this list of factors is not exhaustive nor can one or several of these factors necessarily give decisive guidance;

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

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

(g) "transition period" means:

(i) 12 (twelve) years from the date of entry into force of this Agreement; or

(ii) for goods other than vehicles classified under HS headings 8703 and 8704 for which the Tariff Elimination Schedule of the Party applying the measures provides for tariff elimination in 10 (ten) years or more, 18 (eighteen) years from the date of entry into force of this Agreement.

SECTION C

CONDITIONS FOR APPLICATION OF BILATERAL SAFEGUARD MEASURES

ARTICLE 9.3

Application of bilateral safeguard measures

1. Without prejudice to the rights and obligations referred to in Chapter 8, a Party may, in exceptional circumstances, for goods other than vehicles classified under HS headings 8703 and 8704, apply bilateral safeguard measures under the conditions established in this Section if, after the date of entry into force of this Agreement, imports from the other Party of a product under preferential terms have increased in such quantities, absolute or relative to domestic production or consumption and under such conditions as to cause or threaten to cause serious injury to its domestic industry of the like or directly competitive products.

2. For goods listed in paragraph 1, bilateral safeguard measures shall be applied only to the extent necessary to prevent or remedy serious injury or the threat of serious injury.

3. Bilateral safeguard measures shall be applied following an investigation by the competent investigating authorities of the importing Party under the procedures established in this Chapter.

ARTICLE 9.4

Timeframe for the application of bilateral safeguard measures

A Party shall not apply, extend or maintain in force a bilateral safeguard measure beyond the expiration of the transition period.

ARTICLE 9.5

Conditions and limitations

1. MERCOSUR may adopt bilateral safeguard measures to imports from the European Union:

(a) as a sole entity, provided that all requirements to determine the existence of serious injury or the threat of serious injury being caused by the imports of a product under preferential terms have been fulfilled, on the basis of conditions applied to MERCOSUR; or

(b) on behalf of one or more of the Signatory MERCOSUR States, in which case the requirements for the determination of the existence of serious injury or the threat of serious injury being caused by the imports of a product under preferential terms shall be based on the conditions prevailing in the relevant Signatory MERCOSUR State or Signatory MERCOSUR States of the customs union; and the measure shall be limited to that Signatory MERCOSUR State or those Signatory MERCOSUR States. The adoption of a bilateral safeguard measure by MERCOSUR on behalf of one or more Signatory MERCOSUR States shall not prevent another Signatory MERCOSUR State from adopting a measure regarding the same product afterwards.

2. The European Union may apply bilateral safeguard measures to imports from MERCOSUR as a sole entity or from one or more Signatory MERCOSUR States if the serious injury or threat of serious injury is being caused by imports of products under preferential terms.

3. In case the European Union determines that a measure shall apply to MERCOSUR as a sole entity, Paraguay shall be exempted from the application of the measure, unless the result of an investigation demonstrates that the existence of serious injury or the threat of serious injury is also being caused by imports of products from Paraguay under preferential terms.

SECTION D

FORM AND DURATION OF BILATERAL SAFEGUARD MEASURES

ARTICLE 9.6

Form of bilateral safeguard measures

For goods other than vehicles classified under HS headings 8703 and 8704, bilateral safeguard measures adopted pursuant to this Chapter shall consist of:

(a) a temporary suspension of Annex 2-A for the product concerned as provided for under this Agreement; or

(b) a temporary reduction of the tariff preference for the product concerned so that the rate of customs duty does not exceed the lesser of:

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

(ii) the base rate of customs duty on the product referred to in Annex 2-A.

ARTICLE 9.7

Margin of preference

Upon termination of the bilateral safeguard measure, the margin of preference shall be the one that would be applied to the product in the absence of the measure under Annex 2-A.

ARTICLE 9.8

Duration of bilateral safeguard measures

Bilateral safeguard measures shall be applied only for the period necessary to prevent or remedy the serious injury and to facilitate adjustment of the domestic industry. That period, including the period of application of any provisional measure, shall not exceed 2 (two) years.

ARTICLE 9.9

Extension of bilateral safeguard measures

1. Bilateral safeguard measures may be extended once for a maximum period equal to the initially foreseen period of application, if it has been determined, in accordance with the procedures set out in this Chapter, that the measure continues to be necessary to prevent or remedy serious injury and if the domestic industry provides evidence that it is adjusting. The extended measure shall not be more restrictive than it was at the end of the initial period.

2. No safeguard measure shall be applied again to the import of a product under Annex 2-A which has been subject to such a measure, unless a period of time equal to half of the total duration of the previous safeguard measure has elapsed.

SECTION E

INVESTIGATION AND TRANSPARENCY PROCEDURES

ARTICLE 9.10

Investigation

1. In conducting the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry as referred to in Article 9.3, the competent investigating authority shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular the rate and amount of the increase in imports of the product concerned in absolute and relative terms; the share of the domestic market taken by increased imports; and changes in the level of sales, including prices, production, productivity, capacity utilisation, profits and losses, and employment.

2. The competent investigating authority shall demonstrate, on the basis of objective evidence, the existence of a causal link between increased imports of the product concerned and serious injury or the threat of serious injury. The competent investigating authority shall also evaluate all known factors other than increased imports under preferential terms of this Agreement that might be at the same time causing injury to the domestic industry. The effects of an increase in imports of the products concerned from other countries shall not be attributed to the imports under preferential terms.

3. In conducting an injury investigation as referred to in paragraph 1, a competent investigating authority should collect data over a period of at least 36 (thirty-six) months ending as close to the date of the presentation of a request to initiate an investigation as is practicable.

ARTICLE 9.11

Initiation of an investigation

1. If there is sufficient prima facie evidence to justify such initiation, a bilateral safeguard investigation may be initiated upon request of:

(a) the domestic industry or a trade and business association acting on behalf of domestic producers of the like or directly competitive products in the importing Party; or

(b) one or more importing Member States of the European Union or Signatory MERCOSUR States.

2. The request to initiate an investigation shall contain at least the following information:

(a) the name and description of the imported product concerned, its tariff heading and the tariff treatment in force, as well as the name and description of the like or directly competitive product;

(b) the names and addresses of the producers or association that submit the request, if applicable;

(c) if reasonably available, a list of all known producers of the like or directly competitive product; and

(d) evidence that the conditions for imposing the safeguard measure set out in Article 9.3(1) are met.

For the purposes of point (d) of this paragraph, the request to initiate an investigation shall contain the following information:

(i) the production volume of producers submitting or represented in the application and an estimation of the production of other known producers of the like or directly competitive product;

(ii) the rate and amount of the increase in total and bilateral imports of the product concerned in absolute and relative terms, for at least over the 36 (thirty-six) months prior to the date of the presentation of a request to initiate an investigation, for which information is available;

(iii) the level of import prices during the same period; and

(iv) if information is available, objective and quantifiable data regarding the like or directly competitive product, on the volume of total production and of total sales in the internal market, inventories, prices for the internal market, productivity, capacity utilisation, employment, profits and losses, and market share of the requesting firms or of those represented in the request, for at least the last 36 (thirty-six) months previous to the presentation of the request, for which information is available.

ARTICLE 9.12

Confidential information

1. The competent investigating authorities shall, upon cause being shown, treat any information which is by nature confidential or which is provided on a confidential basis, as such. Such information shall not be disclosed without the permission of the interested party submitting it. An interested party providing confidential information may be requested to furnish non-confidential summaries thereof or, if such interested party indicates that such information cannot be summarised, the reasons why a summary cannot be provided.

2. Notwithstanding paragraph 1, if the competent authorities find that a request for confidentiality is not warranted and if the interested party is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

3. If information regarding production, production capacity, employment, wages, volume and value of domestic sales or average price is presented on a confidential basis, the competent investigating authorities shall ensure that meaningful non-confidential summaries disclosing at least aggregated data or, in cases in which the disclosure of aggregated data would endanger the confidentiality of the company's data, indexes for each period of 12 (twelve) months under investigation are submitted, so as to ensure the appropriate right of defence of the interested parties. In this regard, requests for confidentiality should be considered in situations in which particular market or domestic industry structures so justify it. This provision does not prevent the presentation of more detailed non-confidential summaries.

4. Requests for confidentiality shall not be warranted in respect of information regarding basic technical and quality standards or uses of the product concerned. Requests for confidentiality in respect of information regarding the identity of the applicants and other known manufacturing companies not part of the petition shall be warranted only in exceptional circumstances, which shall be duly justified by the competent investigating authorities. In this regard, mere allegations shall not suffice for justifying confidentiality requests. If the identity of the applicants cannot be disclosed, competent investigating authorities shall disclose the total number of producers included in the domestic industry and the proportion of the production that the applicants represent in relation to the total production of the domestic industry.

ARTICLE 9.13

Timeframe for the investigation

The period between the date of publication of the decision to initiate the investigation and the publication of the final decision should not exceed 1 (one) year. Under exceptional circumstances this period may be extended, but, in any case, shall not exceed 18 (eighteen) months. A Party shall not apply safeguard measures if this timeframe has not been observed by the competent investigating authorities.

ARTICLE 9.14

Transparency

Each Party shall establish or maintain transparent, effective and equitable procedures for the impartial and reasonable application of safeguard measures, in accordance with this Chapter.

SECTION F

PROVISIONAL SAFEGUARD MEASURES

ARTICLE 9.15

Provisional safeguard measures

1. In critical circumstances where delay may cause damage which would be difficult to repair, a Party, after due notification, may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that imports under preferential terms have increased and that such imports have caused or are threatening to cause serious injury. The duration of the provisional measure shall not exceed 200 (two hundred) days, during which period the requirements of this Chapter shall be met. If the final determination concludes that there was no serious injury or threat to the domestic industry caused by imports under preferential terms, the increased tariff or provisional guarantee, if collected or imposed under provisional measures, shall be promptly refunded, in accordance with the domestic regulation of the relevant Party.

2. Provisional safeguard measures shall not be taken against Paraguay, unless the result of the preliminary determination pursuant to paragraph 1 demonstrates that the existence of serious injury or the threat of serious injury is also being caused by imports of products from Paraguay under preferential terms.

SECTION G

PUBLIC NOTICE

ARTICLE 9.16

Public notice on the initiation of an investigation

The public notice of the initiation of a safeguard investigation shall include the following information:

(a) the name of the applicant;

(b) the complete description of the imported product under investigation and its classification under the Harmonized System;

(c) the deadline for the request for hearings;

(d) the deadlines to register as an interested party and for the submission of information, statements and other documents;

(e) the address where the application and other documents related to the investigation can be examined;

(f) the name, address and email address or telephone or fax number of the institution which can provide further information; and

(g) a summary of the facts on which the initiation of the investigation was based, including data on imports that have allegedly increased in absolute or relative terms to total production and an analysis of the domestic industry situation based on all the elements conveyed in the application.

ARTICLE 9.17

Public notice on the application of bilateral safeguard measures

The public notice of the decision to apply a provisional safeguard measure and to apply or not apply a definitive safeguard measure shall include the following information:

(a) the complete description of the products subject to the safeguard measure and their tariff classification under the Harmonized System;

(b) information and evidence leading to the decision, such as:

(i) the increasing or increased preferential imports, where applicable;

(ii) the situation of the domestic industry;

(iii) the existence of a causal link between the increased preferential imports of the products concerned and the serious injury or threat of serious injury to the domestic industry, where applicable; and

(iv) in the case of preliminary determination, the existence of critical circumstances;

(c) other reasoned findings and conclusions on all relevant issues of fact and law;

(d) a description of the measure to be adopted, where applicable; and

(e) the date of entry into force of the measure and its duration, where applicable.

SECTION H

NOTIFICATIONS AND CONSULTATIONS

ARTICLE 9.18

Notifications

1. The importing Party shall notify the exporting Party in writing of the decision to:

(a) initiate the investigation under this Chapter;

(b) apply a provisional safeguard measure; and

(c) apply or not apply a definitive safeguard measure.

2. The decision shall be notified by the importing Party no later than 10 (ten) days after its publication and shall be accompanied by the appropriate public notice. In the case of a decision to initiate an investigation, a copy of the request to initiate the investigation shall be included in the notification.

ARTICLE 9.19

Consultations

1. If a Party determines that the conditions to impose a definitive measure are met, it shall notify in writing and at the same time invite the other Party for consultations.

2. The notification and the invitation for consultations referred to in paragraph 1 shall be made at least 30 (thirty) days before a definitive measure is expected to enter into force. A Party shall not apply a definitive measure in the absence of such notification.

3. The notification referred to in paragraph 1 shall include:

(a) the data and objective information demonstrating the existence of serious injury or the threat of serious injury to the domestic industry caused by the increased imports under preferential terms;

(b) a complete description of the imported product subject to the measure and its classification under the Harmonized System;

(c) a description of the measure proposed;

(d) the date of entry into force of the measure and its duration; and

(e) the invitation for consultations.

4. The objective of the consultations referred to in paragraph 1 shall be to acquire a mutual understanding of the publicly known facts and to exchange opinions, with a view to reaching a mutually satisfactory solution. If no satisfactory solution is reached within 30 (thirty) days of the notification referred to in paragraph 1, the Party may apply the measure at the end of the period of 30 (thirty) days.

5. At any stage of the investigation, the notified Party may request consultations with the other Party or any additional information that it considers necessary.

SECTION I

OUTERMOST REGIONS OF THE EUROPEAN UNION[1]

ARTICLE 9.20

Outermost Regions of the European Union

1. Notwithstanding Article 9.3, if a product originating in one or more Signatory MERCOSUR States is imported under preferential terms into the territory of one or several of the European Union's outermost regions in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of the European Union's outermost region(s), the European Union may exceptionally take safeguard measures limited to the territory of the region(s) concerned, unless a mutually satisfactory solution is reached.

2. Without prejudice to paragraph 1, other rules laid down in this Chapter applicable to bilateral safeguards also apply to any safeguard adopted under this Article.

[1] At the entry into force of this Agreement, the outermost regions of the European Union are: Guadeloupe, French Guiana, Martinique, Mayotte, Reunion, St. Martin, the Azores, Madeira and the Canary Islands. This Article shall also apply to a country or an overseas territory that changes its status to an outermost region by a decision of the European Council in accordance with the procedure set out in Article 355(6) of the Treaty on the Functioning of the European Union following the entry into force of that decision. In the event that an outermost region of the European Union changes its status by the same procedure, this Article shall cease to be applicable following the entry into force of the European Council's decision. The European Union shall notify in writing the other Party of any change in the territories considered as outermost regions of the European Union.

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

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

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

CHAPTER 10

TRADE IN SERVICES AND ESTABLISHMENT

SECTION A

GENERAL PROVISIONS

ARTICLE 10.1

Objective and scope

1. The Parties, reaffirming their respective commitments under the WTO Agreement, hereby lay down the necessary arrangements for the liberalisation of trade in services and establishment.

2. Nothing in this Chapter shall be construed as requiring the privatisation of public services or imposing any obligation with respect to government procurement.

3. The provisions of this Chapter shall not apply to subsidies granted or grants provided by a Party, including government-supported loans, guarantees and insurance.

4. Consistent with the provisions of this Chapter, each Party retains the right to regulate, to introduce new regulations or to supply services to meet its policy objectives.

5. The provisions of this Chapter shall not apply to each Party's social security systems.

6. The provisions of this Chapter do not apply to services supplied or activities carried out in the exercise of governmental authority, namely any service which is supplied or any activity which is carried out neither on a commercial basis, nor in competition with one or more service suppliers or investors.

7. This Chapter applies to measures of each Party affecting trade in services and establishment, with the exception of:

(a) national maritime cabotage[1];

[1] Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in a Signatory MERCOSUR State or a Member State of the European Union and another port or point located in the same Signatory MERCOSUR State or Member State of the European Union, including on its continental shelf, as provided in UNCLOS, as well as traffic originating and terminating in the same port or point located in the Signatory MERCOSUR State or Member State of the European Union.

(b) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services; and

(iv) ground handling services;

(c) inland navigation; and

(d) audio-visual services.

ARTICLE 10.2

Definitions

For the purposes of this Chapter:

(a) "consumption abroad" means the supply of a service in the territory of a Party to the service consumer of the other Party (mode 2);

(b) "cross-border supply of services" means the supply of a service from the territory of a Party into the territory of the other Party (mode 1);

(c) "economic activity" includes any activity of an economic nature, irrespective of whether it is related to services or non-services sectors, subject to the provisions of Article 10.1;

(d) "enterprise" means a juridical person of a Party, or a branch or a representative office of such juridical person of a Party, set up through establishment, as defined pursuant to this Article;

(e) "temporary entry and stay of natural persons" means the entry and temporary stay of key personnel, graduate trainees, business sellers, contractual service suppliers and independent professionals of a Party in the territory of the other Party, in accordance with Section B of this Chapter;

(f) "establishment" means:

(i) the constitution, acquisition or maintenance of a juridical person[1]; or

(ii) the creation or maintenance of a branch or representative office of a juridical person, within the territory of a Party for the purpose of performing an economic activity;

[1] The terms "constitution" and "acquisition" of a juridical person shall be understood as including capital participation in a juridical person with a view to establishing or maintaining lasting economic links.

(g) "investor" of a Party means any person that seeks to perform or performs an economic activity through establishment in the territory of the other Party[1];

(h) "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) a juridical person is:

(i) "owned" by natural or juridical persons of a Party if more than 50 % of the equity interest in it is beneficially owned by natural or juridical persons of that Party; and

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

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

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

[1] If the economic activity is not performed directly by a juridical person but through other forms of establishment such as a branch or a representative office, the investor (namely, the juridical person) shall, nonetheless, through such establishment, be accorded the treatment provided for investors under the Agreement. Such treatment shall be extended to the establishment through which the economic activity is performed and does not need to be extended to any other parts of the investor located outside the territory where the economic activity is performed.

(ii) in the case of establishment, owned or controlled by:

(A) natural persons of that Party; or

(B) juridical persons of that Party identified under point (j) (i);

Notwithstanding point (ii), shipping companies established outside the European Union or MERCOSUR and controlled by natural persons having the nationality of a Member State of the European Union or of a Signatory MERCOSUR State, respectively, shall also be beneficiaries of the provisions of this Chapter, if their vessels are registered in accordance with the laws and regulations in that Member State of the European Union or Signatory MERCOSUR State and fly the flag of a Member State of the European Union or of a Signatory MERCOSUR State[1];

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

(l) "measures adopted or maintained by a Party" means measures taken by:

(i) central, regional or local governments and authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

[1] Point (j) of this Article shall not, under any circumstances, be interpreted in such a way as to allow a shipping company constituted or established in, or incorporated, established or otherwise organized under the laws applicable to a territory subject to a sovereignty dispute involving the Argentine Republic to benefit from the provisions of this Chapter. This provision shall not be interpreted as implying the legitimacy of the laws applied to such territories.

(m) "measures by Parties affecting establishment, the cross-border supply of services, consumption abroad, and the entry and temporary stay of natural persons" 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 performance of an economic activity, services which are required by those Parties to be offered to the public generally; and

(iii) the access, including through establishment, of persons of a Party to the territory of the other Party to perform an economic activity in that territory;

(n) "natural person" means a person having the nationality, or a permanent resident[1], of one of the Signatory MERCOSUR States or one of the Member States of the European Union according to their respective legislation;

(o) "sector" of an economic activity means:

(i) with reference to a specific commitment, one or more, or all, subsectors of that service or non-service, as specified in the specific commitments contained in Annexes 10-A to 10-E; or

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

[1] If a Party accords substantially the same treatment to its permanent residents as it does to natural persons having the nationality of that Party, its permanent residents shall be covered by the definition of natural persons, in respect of measures affecting the cross-border trade in services, consumption abroad and establishment.

(p) "service supplier" means any person that seeks to supply or supplies a service[1]; and

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

ARTICLE 10.3

Market access

1. With respect to market access through establishment, the cross-border supply of services, consumption abroad, and the entry and temporary stay of natural persons as provided in Section B, each Party shall accord to enterprises, investors, services and services suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the specific commitments contained in Annexes 10-A to 10-E.

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 Annexes 10-A to 10-E, are defined as:

(a) limitations on the number of services suppliers or enterprises in the form of numerical quotas, monopolies, exclusive rights or the requirements of an economic needs test;

[1] If the service is not supplied directly by a juridical person, the treatment provided under this Chapter shall be extended to the branch or representative office through which the service is supplied and need not be extended to any parts of the supplier located outside the territory where the service is supplied.

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

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

(d) 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;

(e) measures which restrict or require specific types of legal entity or joint ventures through which an investor or service supplier of the other Party may perform an economic activity; or

(f) limitations on the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of the economic activity in the form of numerical quotas or the requirement of an economic needs test.

3. Economic needs tests shall be described concisely and clearly, indicating the elements that render them inconsistent with this Article and specifying the criteria on which the test is based.

ARTICLE 10.4

National treatment

1. In the sectors listed in Annexes 10-A to 10-E, and subject to any conditions and qualifications set out therein, with respect to all measures affecting establishment[1], the cross-border supply of services, consumption abroad and the entry and temporary stay of natural persons as provided in Section B, each Party shall accord to enterprises, investors, services and service suppliers of the other Party treatment no less favourable than that it accords to its own like enterprises, investors, services and service suppliers.

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

4. 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 enterprises, investors, services or services suppliers.

[1] The obligation in this paragraph applies also to measures governing the composition of boards of directors of an enterprise, such as nationality and residency requirements.

ARTICLE 10.5

List of specific commitments

1. The sectors liberalised by each Party pursuant to this Chapter and, by means of reservations, the market access and national treatment limitations applicable to services, services suppliers, enterprises and investors of the other Party in those sectors are set out in Annexes 10-A to 10-E.

2. The Parties shall not apply any market access or national treatment restrictions other than those contained in Annexes 10-A to 10-E.

SECTION B

ENTRY AND TEMPORARY STAY OF NATURAL PERSONS SUPPLYING SERVICES AND FOR BUSINESS PURPOSES

ARTICLE 10.6

Scope

1. This Section applies to measures of a Party concerning the entry and temporary stay in its territory of key personnel, graduate trainees, business sellers, contractual service suppliers and independent professionals of the other Party in accordance with paragraphs 2 and 3.

2. The provisions of this Section do not apply to measures affecting natural persons seeking access to the employment market of a Party, nor to measures of a Party regarding citizenship, residence or employment on a permanent basis.

3. The provisions of this Section do not prevent either Party from applying measures necessary to regulate the entry, temporary stay and orderly movement of natural persons in its territory or to protect the integrity of its borders, if such measures do not nullify or impair the benefits accruing to either Party under the terms of a specific commitment[1].

4. Subject to Articles 10.17 and 10.18, nothing in this Section shall prevent a Party from requiring that natural persons possess the necessary qualifications or professional experience in the territory where the service is supplied, for the sector of activity concerned.

ARTICLE 10.7

Definitions

1. For the purposes of this Section, the following definitions apply:

(a) "business sellers" means natural persons who are representatives of a juridical person of a Party seeking entry and temporary stay in the territory of the other Party for the purpose of negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier. They do not engage in making direct sales to the general public, do not receive remuneration from a source located within the host Party and are not a commission agent;

[1] The sole fact of requiring a visa for a natural person of certain countries and not for those of other countries shall not be regarded as nullifying or impairing benefits under a specific commitment.

(b) "contractual service suppliers" means natural persons employed by a juridical person of a Party which is not established in the territory of the other Party and which has concluded a contract to supply services with a final consumer in the latter Party requiring the presence on a temporary basis of its employees in that Party in order to fulfil the contract to provide services[1];

(c) "graduate trainees" means natural persons who have been employed by a juridical person of a Party for at least 1 (one) year, who possess a university degree and who are temporarily transferred to an enterprise in the territory of the other Party for career development purposes or to obtain training in business techniques or methods[2];

(d) "independent professionals" means natural persons engaged in the supply of a service and settled as self-employed in the territory of a Party who have not established in the territory of the other Party and who have concluded a contract to supply services with a final consumer in the territory of the other Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services[3];

---

1 The service contract referred to in point (b) shall be a *bona fide* contract and comply with the laws and regulations of the Party where the contract is executed.

2 The recipient enterprise may be required to submit a training programme covering the duration of stay for prior approval, demonstrating that the purpose of the stay is for training. The competent authorities may require that training be linked to the university degree which has been obtained.

3 The service contract referred to in point (d) shall be a *bona fide* contract and comply with the laws and regulations of the Party where the contract is executed.

(e) "key personnel" means natural persons employed within a juridical person of a Party, other than a non-profit organisation, and who are responsible for the establishment or the proper control, administration and operation of an enterprise, and consists of:

(i) "business visitors": natural persons working in a senior position who are responsible for establishing an enterprise; they do not engage in direct transactions with the general public and do not receive remuneration from a source located within the host Party; and

(ii) "intra-corporate transferees": natural persons who have been employed by a juridical person of a Party, or have been partners in it, for at least 1 (one) year, who are temporarily transferred to an enterprise or a head office of that juridical person in the territory of the other Party and who belong to one of the following categories:

(A) managers:

Natural persons working in a senior position within a juridical person, who primarily direct the management of the enterprise receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:

– directing the enterprise or a department or sub-division thereof;

– supervising and controlling the work of other supervisory, professional or managerial employees; or

– having the authority personally to recruit and dismiss or to recommend recruiting, dismissing or other personnel actions;

(B) specialists:

Natural persons working within a juridical person who possess specialised knowledge essential to the enterprise's economic activity, techniques or management.

ARTICLE 10.8

Key personnel and graduate trainees

For each sector for which commitments have been undertaken for establishment as listed in Annexes 10-B and 10-E, and subject to any reservations listed in Annexes 10-C and 10-E, each Party shall allow investors of the other Party to employ in their enterprise natural persons of that other Party, if such employees are key personnel or graduate trainees as defined in Article 10.7. The temporary entry and stay of key personnel and graduate trainees shall be:

(a) for the period of time necessary for the fulfilment of the contract or up to 3 (three) years for intra-corporate transferees, whichever is less;

(b) up to 60 (sixty) days in any period of 12 (twelve) months for business visitors; and

(c) up to 1 (one) year for graduate trainees.

ARTICLE 10.9

Business sellers

For each sector for which commitments have been undertaken for the cross-border supply of services and for establishment, listed in Annexes 10-A, 10-B and 10-E, and subject to any reservations listed in Annexes 10-C and 10-E, each Party shall allow the temporary entry and stay of business sellers for a period of up to 90 (ninety) days in any period of 12 (twelve) months[1].

ARTICLE 10.10

Contractual service suppliers and independent professionals

1. For the sectors specified in Annexes 10-D and 10-E and subject to any reservations listed therein, each Party shall allow the supply of services into its territory by contractual service suppliers of the other Party, through the presence of natural persons, subject to the following conditions:

(a) the juridical person employing the natural person must have obtained a service contract for a period not exceeding 12 (twelve) months;

(b) the natural persons entering the other Party must have an appropriate education or experience relevant to the service to be provided;

[1] This Article is without prejudice to the rights and obligations deriving from bilateral visa waiver agreements between individual Signatory MERCOSUR States and individual Member States of the European Union.

(c) the natural person shall not receive remuneration for the supply of a service other than the remuneration paid by the contractual service supplier during the stay of the natural person in the other Party;

(d) the temporary entry and stay of natural persons in the territory of the Party concerned shall be for a cumulative period of not more than 6 (six) months in any period of 12 (twelve) months or for the duration of the contract, whichever is less; and

(e) access accorded pursuant to the provisions of this Article relates only to the service activity which is the subject of the contract and it does not confer entitlement on to natural persons to exercise the professional title of the Party where the service is provided.

2. For the sectors specified in Annexes 10-D and 10-E, and subject to any reservations listed therein, each Party shall allow the supply of services into its territory by independent professionals of the other Party, through the presence of natural persons, subject to the following conditions:

(a) the natural persons must have obtained a service contract for a period not exceeding 12 (twelve) months;

(b) the natural persons entering the other Party must have an appropriate education and professional qualifications relevant to the service to be provided;

(c) the temporary entry and stay of natural persons within the Party concerned shall be for a cumulative period of not more than 6 (six) months in any period of 12 (twelve) months or for the duration of the contract, whichever is less; and

(d) access accorded pursuant to the provisions of this Article relates only to the service activity which is the subject of the contract and it does not confer entitlement to the natural person to exercise the professional title of the Party where the service is provided.

SECTION C

REGULATORY FRAMEWORK

SUB-SECTION 1

PROVISIONS OF GENERAL APPLICATION

ARTICLE 10.11

Mutual recognition

1. Nothing in this Chapter shall prevent a Party from requiring that natural persons possess the necessary qualifications or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

2. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of investors and services suppliers, a Party may recognise the education or experience obtained, requirements met, or licences or certifications granted in the other Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement or may be accorded autonomously.

ARTICLE 10.12

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 this Chapter.

2. The measures referred to in paragraph 1 shall include measures applying to all modes of supply, including on the process of entry and temporary stay of the categories of natural persons defined in Article 10.7. Information about these measures shall be kept up to date. Each Party shall facilitate access to relevant information by indicating to the other Party where relevant publications and websites can be found.

3. If publication of the measures referred to in paragraph 1 is not practicable, such measures shall be made otherwise publicly available.

4. Each Party shall respond promptly to all requests by the other Party for specific information on any of its relevant measures of general application referred to in paragraph 1, including measures regarding the entry and temporary stay of services suppliers as referred to in paragraph 2.

5. Each Party shall establish one or more enquiry points to provide specific information to services providers of the other Party, upon request, on any of its measures of general application referred to in paragraph 1. The Parties shall notify each other of these enquiry points no later than one year after the entry into force of this Agreement. Enquiry points need not be depositories of laws and regulations.

6. Nothing in this Chapter shall require any 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.

SUB-SECTION 2

DOMESTIC REGULATION

ARTICLE 10.13

Scope

1. This Sub-Section only applies to sectors for which a Party has undertaken specific commitments as listed in Annexes 10-A to 10 E and to the extent that these specific commitments apply.

2. This Sub-Section does not apply to measures to the extent that they constitute limitations pursuant to Articles 10.3 and 10.4.

3. In sectors where specific commitments are undertaken as listed in Annexes 10-A to 10-E, each Party shall ensure that all measures of general application affecting trade in services and establishment are administered in a reasonable, objective and impartial manner.

4. Each Party shall comply with this Sub-Section with regard to measures relating to licensing requirements and procedures and qualification requirements and procedures.

5. This Sub-Section applies to measures of each Party relating to licensing and qualification requirements and procedures that affect:

(a) the cross-border supply of services;

(b) the establishment in their territory of an enterprise defined in Article 10.2; or

(c) the temporary stay in their territory of categories of natural persons defined in Article 10.2.

ARTICLE 10.14

Definitions

For the purposes of this Sub-Section:

(a) "competent authority" means any central, regional or local government or authority, or any non-governmental body in the exercise of powers delegated by central, regional or local governments or authorities and which is entitled to take a decision concerning the authorisation to supply a service, or concerning the authorisation to establish an enterprise in order to perform an economic activity;

(b) "licensing procedures" means administrative and procedural rules that a service supplier or an investor seeking authorisation to supply a service or to establish an enterprise must adhere to in order to demonstrate compliance with licensing requirements;

(c) "licensing requirements" means substantive requirements other than qualification requirements with which a services supplier or investor is required to comply in order to obtain, from a competent authority, a decision concerning the authorisation to supply a service or concerning the authorisation to establish an enterprise in order to perform an economic activity, including a decision to amend or renew such authorisation;

(d) "qualification procedures" means administrative or procedural rules that a natural person must adhere to in order to demonstrate compliance with qualification requirements, for the purpose of obtaining authorisation to supply a service; and

(e) "qualification requirements" means substantive requirements relating to the competence of a natural person to supply a service and which are required to be demonstrated for the purpose of obtaining authorisation to supply a service.

ARTICLE 10.15

Conditions for licensing

1. Measures of each Party relating to licensing requirements shall be based on criteria which are:

(a) proportionate to a public policy objective;

(b) clear and unambiguous;

(c) objective; and

(d) made public in advance.

2. A licence should be granted by the competent authority as soon as it is established, in the light of an appropriate examination, that the conditions for obtaining a licence have been met.

3. If the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, each Party shall select candidates through an impartial and transparent selection procedure which provides, in particular, adequate publicity about the launch, conduct and completion of the procedure. Subject to the provisions specified by this Article, each Party may take into account public policy objectives when establishing the rules for the selection procedures.

ARTICLE 10.16

Licensing procedures

1. Licensing procedures shall be clear and made public in advance. Each Party shall ensure that the licensing procedures used by, and the related decisions of, their competent authorities are objective and impartial with respect to all applicants.

2. Licensing procedures shall not be dissuasive and shall not unduly complicate or delay the provision of the service.

3. Any licensing fees[1] which applicants may incur from their application shall be reasonable and shall not in themselves restrict the supply of the service. To the extent practicable, those fees should be proportionate to the cost of the licensing procedures in question.

4. The competent authorities of a Party shall, to the extent practicable, provide an indicative timeframe for processing an application. Applications shall be processed within a reasonable period of time. The period shall run only from the time when all documentation has been received by the competent authorities. If justified by the complexity of the issue, the time period may be extended, by the competent authority, for a reasonable time. The extension and its duration shall be duly motivated and shall be notified to the applicant, to the extent practicable, before the original period has expired.

5. In the case of an incomplete application, the applicant shall be informed as quickly as possible of the need to supply any additional documentation. In such a case, the period referred to in paragraph 4 may be suspended by the competent authorities until they have received all documentation.

6. If a request is rejected because it fails to comply with the required procedures or formalities, the applicant shall be informed of the rejection and of the available means of redress as quickly as possible.

---

[1] Licensing fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to the provision of universal services.

ARTICLE 10.17

Qualification requirements

1. Qualification requirements shall be based on criteria which are:

(a) proportionate to a public policy objective;

(b) clear and unambiguous;

(c) objective; and

(d) made public in advance.

2. If a Party imposes qualification requirements for the supply of a service, it shall ensure that adequate procedures exist for the verification and assessment of qualifications held by service suppliers of the other Party. If the competent authority of a Party considers that membership in a relevant professional association in the territory of another Party is indicative of the level of competence or extent of experience of the applicant, such membership shall be given due consideration.

3. For the supply of professional services, the scope of examinations and of any other qualification requirements by a competent authority shall be related to the rights to practise a profession for which authorisation is being sought, so as to avoid unduly restricting persons of the other Party from applying.

4. Provided that an applicant has presented all necessary supporting evidence of his or her qualifications, the competent authority, in verifying and assessing such qualifications, shall identify any deficiency and inform the applicant of requirements to meet this deficiency. Such requirements may include course work, examinations and training. The presentation by an applicant of a Party of evidence of qualifications obtained in the territory of a third country shall not in itself constitute an a priori reason for the competent authority of the other Party to reject the application and refrain from making an assessment of the qualifications presented.

5. If examinations are required, each Party shall ensure that they are scheduled at reasonably frequent intervals. Applicants for examinations shall be allowed a reasonable period to submit applications.

6. Once qualification requirements and any other applicable regulatory requirements have been fulfilled, each Party should ensure that a service supplier is allowed to supply the service without undue delay.

ARTICLE 10.18

Qualification procedures

1. Qualification procedures shall be based on criteria which are:

(a) clear and unambiguous;

(b) objective; and

(c) made public in advance.

2. Each Party shall ensure that the qualification procedures used by, and the related decisions of, their competent authorities are impartial with respect to all applicants.

3. An applicant shall, in principle, not be required to approach more than 1 (one) competent authority for qualification procedures.

4. If specific time periods for applications exist, an applicant shall be allowed a reasonable period for the submission of an application. The competent authority shall initiate the processing of an application without undue delay. To the extent practicable, the competent authority shall accept applications in electronic format under the same conditions of authenticity as an application submitted in paper format.

5. Authenticated copies should be accepted by the competent authority, if possible, in place of original documents.

6. If the competent authority rejects an application, it shall inform the applicant, to the extent practicable in writing, without undue delay. It shall inform the applicant, upon request, of the reasons for the rejection of the application and identify any deficiencies and ways in which those deficiencies can be addressed. It shall inform the applicant of the timeframe for an appeal against the decision, if available. It shall permit an applicant to resubmit an application within a reasonable time limit.

7. Each Party shall ensure that the processing of an application, including the verification and assessment of a qualification, is completed within a reasonable timeframe from the date of the submission of a complete application. Each Party shall endeavour to establish a normal timeframe for the processing of an application.

8. Each Party shall ensure that any fees relating to qualification procedures are commensurate with the costs incurred by the competent authorities and do not in themselves restrict the supply of the service.

ARTICLE 10.19

Review of administrative decisions

Each Party shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected investor or service supplier of the other Party, for the prompt review of, and if justified, appropriate remedies for, administrative decisions affecting establishment, cross border supply of services or the temporary stay of natural persons supplying services. If such procedures are not independent of the agency entrusted with the administrative decision concerned, each Party shall ensure that the procedures in fact provide for an objective and impartial review.

SUB-SECTION 3

POSTAL SERVICES

ARTICLE 10.20

Scope

1. This Sub-Section sets out the principles of the regulatory framework for postal services regarding which each Party has undertaken specific commitments, as listed in Annexes 10-A and 10-E, in accordance with this Sub-Section.

2. This Sub-Section does not require a Party to liberalise services reserved to 1 (one) or more designated operators as listed in Annexes 10-A and 10-E.

ARTICLE 10.21

Definitions

For the purposes of this Sub-Section:

(a) "essential requirements" means general non-economic reasons for imposing conditions on the supply of postal services and may include the confidentiality of correspondence, the security of the network as regards the transport of dangerous goods, data protection, environmental protection and regional planning;

(b) "licence" means any form of authorisation or permission[1] setting out rights and obligations specific to the postal sector, granted to an individual supplier by a regulatory authority, or any other competent body, and which is required before supplying a given service;

(c) "postal item" means an item addressed in the final form in which it is to be carried by a postal service provider, whether public or private, and may include items such as a letter, parcel, newspaper, catalogue and others;

(d) "postal service"[2] means services involving the collection, sorting, transport and delivery of postal items, irrespective of the destination (domestic or foreign), the speed of the service, (priority, non-priority, urgent, express or others), or the operator (public or private);

(e) "regulatory authority" means the independent body or bodies charged with the regulation of postal services mentioned in this Sub-Section; and

(f) "universal service" means the permanent provision of a postal service of specified quality at all points in the territory of a Party at affordable prices for all users.

---

1 For greater certainty, this includes the grant of a concession, registration, declaration, notification or individual licences.

2 "Postal services" covers the CPC, CPC 7511 and CPC 7512.

ARTICLE 10.22

Prevention of anti-competitive practices in the postal sector

Each Party shall ensure that a supplier of postal services subject to a universal service obligation or a postal monopoly does not engage in anti-competitive practices such as:

(a) using revenues derived from the supply of such service to cross-subsidise the supply of an express postal service or any non-universal postal service, and

(b) differentiating among customers such as businesses, large volume mailers or consolidators with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service obligation or a postal monopoly, if such differentiation is not based on objective or impartial criteria.

ARTICLE 10.23

Universal services

Each Party has the right to define the kind of universal service obligation it wishes to maintain and to decide on its scope and implementation. Each Party may adopt the necessary measures in order to safeguard the implementation, development and maintenance of the universal postal service. Such measures and obligations shall not be regarded as anti-competitive per se if they are applied in a transparent, non-discriminatory and proportionate way.

ARTICLE 10.24

Licences to provide postal services

1. Each Party may require licences for the supply of postal services. A licence should be granted wherever possible, by means of a simplified authorisation procedure in accordance with national laws and regulations.

2. A licence may require compliance with essential requirements, including quality standards and respect for the exclusive and special rights of designated operators of reserved services or of universal postal services.

3. If a Party requires a licence:

(a) it shall make publicly available in an easily accessible form:

(i) the rights and obligations resulting from such a licence;

(ii) the criteria, terms and conditions for licensing; and

(iii) to the extent possible, the period of time normally required to reach a decision concerning an application for a licence.

(b) the procedures for granting a licence shall be transparent, non-discriminatory, proportionate and based on objective criteria; and

(c) any licensing fees[1] which the applicants may incur from their application shall be reasonable and shall not in themselves restrict the supply of the service.

4. The status of an application for a licence and the reasons for the refusal to grant a licence shall be made known to the applicant upon request. Each Party shall, in accordance with its laws and regulations, maintain or establish a procedure for applicants to appeal against the refusal to grant a licence to a domestic independent body. Such a procedure shall be transparent, non-discriminatory and based on objective criteria.

ARTICLE 10.25

Independence of the regulatory body

Each Party may designate a regulatory body, whether specific to the postal service sector or not. The regulatory body shall be legally separate from, and not accountable to, any supplier of postal services. The decisions of, and the procedures used by, the regulatory bodies shall be impartial with respect to all market participants.

[1] Licensing fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions or mandated contributions to the provision of universal services.

SUB-SECTION 4

TELECOMMUNICATIONS SERVICES

ARTICLE 10.26

Scope

1. This Sub-Section sets out principles of the regulatory framework for telecommunications services, other than broadcasting[1], regarding which each Party has undertaken specific commitments in accordance with this Chapter.

2. Nothing in this Sub-Section shall be construed:

(a) as requiring a Party to authorise a supplier of telecommunications services of the other Party to establish, construct, acquire, lease, operate, or supply telecommunications transport networks or services, other than as provided for in Annexes 10-A, 10-B, 10-C and 10-E; or

(b) as requiring a Party to oblige service suppliers under its jurisdiction, to establish, construct, acquire, lease, operate or supply telecommunications transport networks or services not offered to the public generally.

[1] "Broadcasting" means radiocommunication in which transmissions are intended for direct reception by the general public, and may include sound transmission and television transmission. Suppliers of broadcasting services shall be considered as suppliers of public telecommunications transport services, and their networks, as public telecommunications transport networks, if and to the extent that such networks are also used for providing public telecommunications transport services.

ARTICLE 10.27

Definitions

For the purposes of this Sub-Section:

(a) "essential telecommunications facilities"[1] means facilities of a public telecommunications transport network and public telecommunications transport service that:

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(b) "interconnection" means linking with suppliers of telecommunications transport networks or telecommunications transport services in order to allow the users of one supplier of telecommunications services to communicate with users of another supplier of telecommunications services and to access telecommunications services provided by another supplier of telecommunications services;

[1] For the Republic of Paraguay and the Oriental Republic of Uruguay, "essential telecommunications facilities" means facilities of a public telecommunications transport network and a public telecommunications transport service in accordance with the definition provided in-their national law.

(c) "licence" means any form of authorisation, including registration, declaration or notification procedures or others as defined in the laws and regulations of a Party, setting out rights and obligations specific to the telecommunications sector granted to an individual service supplier of telecommunications services by a regulatory authority which is required for the provision of a telecommunications service;

(d) "major supplier" in the telecommunications sector is a supplier of telecommunications transport networks or services which has the ability to materially affect the terms of participation, having regard to price and supply, in a relevant market for telecommunications services as a result of control over essential facilities or the use of its position in that market;

(e) "public telecommunications transport network" means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points;

(f) "public telecommunications transport service" means any telecommunications transport service required, explicitly or in effect, by a Party to be offered to the public generally;

(g) "regulatory authority" means the body or bodies charged with the regulation of telecommunications mentioned in this Sub-Section;

(h) "service supplier" means a person that has been granted a licence to supply telecommunications services;

(i) "telecommunications services" means all services which consist in the transmission and reception of electro-magnetic signals and excludes services providing, or exercising editorial control over, the content transmitted; and

(j) "universal service" means the set of services of specified quality that must be made available to all users in the territory of a Party regardless of their geographical location and at an affordable price.

ARTICLE 10.28

Regulatory authority

1. Each Party shall ensure that its regulatory authority for telecommunications services is legally distinct and functionally independent from any supplier of telecommunications services.

2. The regulatory authority shall be sufficiently empowered and resourced to regulate the sector. The competences of regulatory authority shall be made public in an easily accessible and clear form, in particular if those tasks are assigned to more than one body.

3. The decisions of, and the procedures used by, the regulatory authority shall be impartial with respect to all market participants.

4. A supplier of telecommunications services affected by a decision of a regulatory authority shall have the right to appeal against that decision to a domestic appeal body that is independent of the parties involved and of the regulatory authority. If the appeal body is not judicial in character, written reasons for its decision shall be given and its decisions shall also be subject to review by an impartial and independent domestic judicial or administrative authority.

ARTICLE 10.29

Licences to provide telecommunication services

1. Each Party shall ensure that a licence is granted, by means of a simplified procedure wherever possible.

2. Each Party shall ensure that the terms and conditions for the granting of rights of use of numbers and frequencies are made publicly available.

3. If a licence is required by a Party:

(a) all the licensing criteria shall be made publicly available;

(b) the reasonable period of time normally required to reach the decision on whether to grant a licence, after the submission of the complete application, shall be public;

(c) if the grant of a licence is refused, the reasons for such a refusal shall be made known in writing to the applicant on request; and

(d) the applicant for a licence shall be able to seek recourse to a domestic appeal body to establish whether a licence has been unduly refused.

ARTICLE 10.30

Anti-competitive practices

Each Party shall adopt or maintain appropriate measures for the purpose of preventing all suppliers of telecommunications services who, alone or together, are a major[1] supplier, from engaging in or continuing anti-competitive practices. These anti-competitive practices may include an abuse of a dominant position, and all individual or concerted practices, conduct or recommendations which have the effect of restricting, limiting, hindering, distorting or preventing current or future competition in the relevant market.

ARTICLE 10.31

Access to essential telecommunications facilities

Each Party shall ensure that a major supplier[2] in its territory grants access to its essential telecommunications facilities to suppliers on reasonable and non-discriminatory[3] terms and conditions, including in relation to rates, technical standards, specifications, quality and maintenance.

---

1 For the Oriental Republic of Uruguay, the scope of this Article applies to all suppliers of telecommunications services.

2 For the Oriental Republic of Uruguay, the scope of this Article applies to all suppliers.

3 For the purposes of this Subsection, "non-discrimination" is understood to refer to national treatment as defined in Article 10.4, as well as to reflect sector-specific usage of the term to mean terms and conditions no less favourable than those accorded to any other user of like public telecommunication transport networks or public telecommunications transport services under like circumstances.

ARTICLE 10.32

Interconnection

1. Each Party shall ensure that any supplier authorised to provide telecommunications services in its territory shall have the right to negotiate interconnection with other suppliers of public telecommunications transport networks and public telecommunications transport services. Interconnection should in principle be agreed on the basis of commercial negotiation between the suppliers concerned.

2. Each Party shall ensure that suppliers of telecommunications services that acquire information from another supplier of telecommunications services during the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and respect, at all times, the confidentiality of information transmitted or stored.

3. Interconnection with a major supplier[1] shall be ensured at any technically feasible point in the network. Such interconnection shall be provided:

(a) under non-discriminatory terms, conditions, including technical standards and specifications, and rates, and of a quality no less favourable than that provided for their own like services of such a major supplier, or for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

[1] For the Oriental Republic of Uruguay, the scope of this Article applies to all suppliers of telecommunications services.

(b) in a timely fashion, on terms and conditions, including technical standards and specifications, that are transparent, reasonable having regard to economic feasibility and sufficiently detailed, so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and

(c) on request by another supplier of telecommunication services, and subject to an assessment by the regulatory authority if appropriate, at any technically feasible points in addition to the network termination points offered to the majority of users, subject to reasonable charges.

4. The rules applicable for interconnection to a major supplier shall be made publicly available.

5. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers, as appropriate.

6. Each Party shall ensure that a supplier of telecommunications services requesting interconnection with a major supplier has a right of recourse, either at any time or after a reasonable period of time which has been made publicly known, to an independent domestic body to resolve disputes regarding appropriate terms, conditions and rates for interconnection. Such an independent domestic body may be the regulatory authority referred to in Article 10.28.

ARTICLE 10.33

Scarce resources

Each Party shall conduct its procedures for granting rights of use of scarce resources including frequencies, numbers and rights of way, in an objective, timely, transparent and non-discriminatory manner. To the extent possible, each Party shall make publicly available the current state of allocated frequency bands, but detailed identification of frequencies for specific government uses is not required.

ARTICLE 10.34

Universal service

1. Each Party has the right to define the kind of universal service obligations it wishes to maintain and to decide on their scope and implementation. Each Party shall administer the universal service obligations in a transparent, objective, non-discriminatory and proportionate manner.

2. If the designation of a universal service provider is open to multiple service suppliers of telecommunications networks or services, such procedures shall be open to all service suppliers. The designation shall be made through an efficient, transparent and non-discriminatory mechanism.

ARTICLE 10.35

Confidentiality of information

Each Party shall ensure the confidentiality of telecommunications and related traffic data transmitted by means of public telecommunications transport networks and public telecommunications transport services, subject to the requirement that measures applied to that end do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

ARTICLE 10.36

Disputes between suppliers

Each Party shall ensure that, in the event of a dispute arising between suppliers, the regulatory authority[1] concerned issues, on request of either party to the dispute, a binding decision to resolve the dispute in the shortest possible timeframe.

[1] For greater certainty, in the case of MERCOSUR, this refers to the regulatory authority of each Signatory MERCOSUR State.

ARTICLE 10.37

International mobile roaming services

1. Each Party shall endeavour to cooperate on promoting transparent and reasonable rates for international roaming services with a view to promoting the growth of trade between the Parties and enhancing consumer welfare.

2. Each Party shall ensure that suppliers of telecommunications services providing international mobile roaming services for voice, text messaging and data provide those services:

(a) with a similar quality to that provided to their own retail customers in their country of establishment; and

(b) with clear and readily available information in respect of access to the services and the prices thereof.

3. The Parties shall cooperate on monitoring the achievement of paragraphs 1 and 2 as well as on other issues related to international mobile roaming services that may be identified.

4. This Article does not oblige a Party to regulate rates or conditions for international mobile roaming services.

SUB-SECTION 5

FINANCIAL SERVICES

ARTICLE 10.38

Scope

This Sub-Section applies to measures by a Party affecting the supply of financial services.

ARTICLE 10.39

Definitions

1. For the purposes of this Sub-Section, the following definitions apply:

(a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party; financial services comprise the following activities:

(i) insurance and insurance-related services;

(A) direct insurance (including co-insurance):

(1) life; and

(2) non-life;

(B) reinsurance and retrocession;

(C) insurance inter-mediation, such as brokerage and agency; and

(D) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services; and

(ii) banking and other financial services (excluding insurance):

(A) acceptance of deposits and other repayable funds from the public;

(B) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(C) financial leasing;

(D) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(E) guarantees and commitments;

(F) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(1) money market instruments (including cheques, bills, certificates of deposits);

(2) foreign exchange;

(3) derivative products including, but not limited to, futures and options;

(4) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(5) transferable securities; and

(6) other negotiable instruments and financial assets, including bullion;

(G) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and the provision of services related to such issues;

(H) money broking;

(I) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(J) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(K) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(L) advisory, intermediation and other auxiliary financial services on all the activities listed in points (A) to (K), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) "financial service supplier" means any natural or juridical person of a Party, except public entities, wishing to supply or supplying financial services;

(c) "new financial service" means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party;

(d) "self-regulatory organisation" means a non-governmental body, including any organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by delegation from a Party;

(e) "public entity" means:

(i) a government, a central bank or a monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

2. For the purposes of this Sub-Section and only in relation to services covered by this Sub-Section "services supplied in the exercise of governmental authority" means:

(a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system of social security or public retirement plans; and

(c) other activities conducted by a public entity for the account of, with the guarantee of, or using the financial resources of, the government.

If a Party allows any of the activities referred to in points (b) or (c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "financial services" shall include such activities, which will then fall within the scope of this Chapter.

3. The general definition of "services supplied in the exercise of governmental authority" included in Article 10.1(6) of this Chapter shall not apply to services covered by this Sub-Section.

ARTICLE 10.40

Prudential carve-out

1. Nothing in this Agreement shall be construed as preventing a Party from taking measures for prudential reasons, including:

(a) the protection of investors, depositors, financial market participants, policyholders or persons to whom a fiduciary duty is owed by a financial service supplier; or

(b) ensuring the integrity and stability of a Party's financial system.

2. If such measures do not conform with the provisions of this Sub-Section, they shall not be used as a means of avoiding the Party's commitments or obligations under this Sub-Section.

3. Nothing in this Agreement shall be construed as requiring a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

ARTICLE 10.41

Effective and transparent regulation in the financial services sector

1. Each Party shall make its best endeavours to provide in advance to all interested persons any measure of general application that the Party proposes to adopt. Such a measure shall be provided:

(a) by means of an official publication; or

(b) in other written or electronic form.

2. Each Party's appropriate financial authority shall make available to interested persons its requirements for completing applications relating to the supply of financial services.

3. On the request of an applicant, the appropriate financial authority shall inform the applicant of the status of its application. If such authority requires additional information from the applicant, it shall notify the applicant without undue delay.

4. Each Party shall make its best endeavours to ensure that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance are implemented and applied in its territory. Such internationally agreed standards include those adopted by the G20, the Financial Stability Board, the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Organisation of Securities Commissions, the Financial Action Task Force on Money Laundering the Global Forum on Transparency and Exchange of Information for Tax Purposes of the OECD and the International Financial Reporting Standards. To this end, the Parties shall cooperate and exchange information and experience on these matters.

ARTICLE 10.42

New financial services

1. Each Party shall permit a financial services supplier of the other Party, established in its territory, to provide in its territory any new financial services within the scope of the sub-sectors of financial services committed in Annexes 10-A, 10-B, 10-C and 10-E and subject to the terms, limitations, conditions and qualifications established therein.

2. A new financial service shall be provided in accordance with the laws and regulations of the Party in whose territory it is intended to be supplied and is subject to the approval, regulation and supervision of the competent authorities of that Party.

ARTICLE 10.43

Recognition of prudential measures

1. A Party may recognise prudential measures of the other Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement or may be accorded autonomously.

2. A Party that is party to an agreement or arrangement with a third country such as those referred to in paragraph 1, whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the Parties to the agreement or arrangement. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

ARTICLE 10.44

Self-regulatory organisations

1. If a Party requires membership or participation in, or access to, any self-regulatory organisation, in order for financial service suppliers of the other Party to supply financial services on an equal basis with financial service suppliers of the Party, or if a Party provides directly or indirectly to a self-regulatory organisation privileges or advantages in supplying financial services, that Party shall ensure that such self-regulatory organisations observe the application of Article 10.4 to financial service suppliers established in the territory of that Party.

2. For greater certainty, nothing in this Article prevents a self-regulatory organisation referred to in paragraph 1 from adopting its own non-discriminatory requirements or procedures. Insofar as such measures are taken by non-governmental bodies and are not taken in relation to the exercise of powers delegated by central, regional, or local governments or authorities, they are not considered to be measures of a Party and do not fall within the scope of this Chapter.

ARTICLE 10.45

Payment and clearing systems

On the basis of regulatory requirements and in accordance with Article 10.4, each Party shall grant to financial services suppliers of the other Party established in its territory access to payment and clearing facilities operated by public entities and to official funding and refinancing available in the normal course of ordinary business. This Article is not intended to confer access to a Party's lender-of-last-resort facilities (the national central bank or any other monetary authority).

SUB-SECTION 6

E-COMMERCE

ARTICLE 10.46

Objective and scope

1. The Parties, recognising that electronic commerce increases trade opportunities in many economic activities, agree to promote the development of electronic commerce between them, including by co-operating on the issues raised by electronic commerce under the provisions of this Sub-Section.

2. This Sub-Section applies to measures that affect trade by electronic means.

3. The Parties recognise the principle of technological neutrality in electronic commerce.

4. The provisions of this Sub-Section shall not apply to gambling services, broadcasting services, audio-visual services, services of notaries or equivalent professions and legal representation services.

ARTICLE 10.47

Definitions

For the purposes of this Sub-Section:

(a) "consumer " means any natural person, or juridical person if provided for in national laws and regulations of each Party, using or requesting a public telecommunications transport service, defined in point (e) of Article 10.27, for purposes outside their trade, business or profession;

(b) "direct marketing communication" means any form of advertising by which a person communicates marketing messages directly to end-users via a public telecommunications network and, for the purposes of this Agreement, covers at least electronic mail, text and multimedia messages (SMS and MMS);

(c) "electronic authentication service" means a service that enables the confirmation of:

(i) the electronic identification of a person; or

(ii) the origin and integrity of data in electronic form;

(d) "electronic signature" means data in electronic form which is attached to or logically associated with other electronic data and fulfils the following requirements:

(i) it is used by a natural person to agree on the electronic data to which it relates;

(ii) it is linked to the electronic data to which it relates in such a way that any subsequent alteration in the data is detectable; and

(iii) it is used by a juridical person to ensure the origin and integrity of the electronic data to which it relates; and

(e) "end-user" means any person using or requesting a publicly available telecommunications service, either as a consumer or for trade, business or professional purposes.

ARTICLE 10.48

Customs duties on electronic transmissions

1. A Party shall not impose custom duties on electronic transmissions between a person of one Party and a person of the other Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees, or other charges on electronic transmissions, provided that such taxes, fees, or charges are imposed in a manner consistent with this Agreement.

ARTICLE 10.49

Principle of no prior authorisation

1. The Parties shall endeavour not to require prior authorisation of the supply of a service by electronic means solely on the ground that the service is provided by electronic means or to adopt or maintain any other requirement having equivalent effect.

2. Paragraph 1 does not apply to telecommunications services as defined in point (i) of Article 10.27 and financial services as defined in point (a) of Article 10.39(1).

3. For greater certainty, nothing shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 1 to achieve a legitimate public policy objective in accordance with:

(a) Article 10.1(4);

(b) Article 10.40;

(c) Article 20.1; and

(d) Article 20.2.

ARTICLE 10.50

Conclusion of contracts by electronic means

Each Party shall ensure that their legal system allows contracts to be concluded by electronic means and that its laws and regulations regarding contractual processes neither create obstacles for the use of electronic contracts nor result in such contracts being deprived of legal effect and validity on the ground that they have been made by electronic means, unless provided for in their laws and regulations[1].

ARTICLE 10.51

Electronic signature and authentication services

1. A Party shall not deny the legal effect and admissibility as evidence in legal proceedings of an electronic signature and electronic authentication service solely on the basis that it is in electronic form.

[1] This Article shall not apply to contracts that create or transfer rights in real estate; contracts requiring by law the involvement of courts, public authorities or professions exercising public authority; contracts of suretyship granted or collateral securities furnished by persons acting for purposes outside their trade, business or profession; and contracts governed by family law or by the law of succession.

2. A Party shall not adopt or maintain measures regulating electronic signature and electronic authentication services that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic methods for their transaction; or

(b) prevent parties to an electronic transaction from having the opportunity to prove to judicial and administrative authorities that their electronic transaction complies with any legal requirements with respect to electronic signature and electronic authentication services.

ARTICLE 10.52

Unsolicited direct marketing communications

1. Each Party shall endeavour to effectively protect end-users against unsolicited direct marketing communications.

2. Each Party shall endeavour to ensure that persons do not send direct marketing communications to consumers who have not given their consent[1] to receive such communications.

3. Notwithstanding paragraph 2, each Party shall allow persons which have collected, in accordance with its laws and regulations, a consumer's contact details in the context of the sale of a product or a service, to send direct marketing communications to that consumer for their own similar products or services.

[1] Consent shall be defined in accordance with each Party's own laws and regulations.

4. Each Party shall endeavour to ensure that direct marketing communications are clearly identifiable as such, clearly disclose on whose behalf they are made and contain the necessary information to enable end-users to request cessation free of charge and at any moment.

ARTICLE 10.53

Consumer protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective measures to protect consumers, including from fraudulent and misleading commercial practices, when they engage in electronic commerce transactions.

2. For the purposes of paragraph 1, the Parties shall adopt or maintain measures that contribute to consumer trust, including measures that proscribe fraudulent and deceptive commercial practices. Such measures shall provide for, among others:

(a) the right of consumers to clear and thorough information regarding the service and its provider;

(b) the obligation of traders to act in good faith and abide by honest market practices, including in response to questions by consumers;

(c) the prohibition of charging consumers for services not requested or for a period in time not authorised by the consumer; and

(d) access to redress for consumers to claim their rights, including as regards their right to remedies for services paid and not provided as agreed.

3. The Parties recognise the importance of cooperation between their respective agencies in charge of consumer protection or other relevant bodies on activities related to electronic commerce, in order to protect consumers and enhance consumer trust.

ARTICLE 10.54

Regulatory cooperation on e-commerce

1. The Parties shall maintain cooperation and dialogue on the regulatory issues raised by electronic commerce on the basis of mutually agreed terms and conditions, which shall address the following issues, among others:

(a) the recognition and facilitation of interoperable cross-border electronic signature and authentication services;

(b) the liability of intermediary service providers with respect to the transmission or storage of information;

(c) the treatment of direct marketing communications;

(d) the protection of consumers in the ambit of electronic commerce;

(e) the promotion of paperless trading; and

(f) any other issue relevant to the development of electronic commerce.

2. The cooperation referred to in paragraph 1 shall focus on exchange of information on the Parties' respective laws and regulations on these issues as well as on the implementation of such laws and regulations.

ARTICLE 10.55

Understanding on computer services

1. The Parties agree that, for the purposes of liberalising trade in services in accordance with Articles 10.3 and 10.4, the following shall be considered as computer and related services, regardless of whether they are delivered via a network, including the Internet:

(a) consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems;

(b) computer programmes defined as the sets of instructions required to make computers work and communicate (in and of themselves), plus consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programmes;

(c) data processing, data storage, data hosting or database services;

(d) maintenance and repair services for office machinery and equipment, including computers; and

(e) training services for staff of clients, related to computer programmes, computers or computer systems, and not elsewhere classified.

2. For greater certainty, services enabled by computer and related services shall not necessarily be regarded as computer and related services in themselves.

SECTION D

FINAL PROVISIONS AND EXCEPTIONS

ARTICLE 10.56

Contact points

1. No later than one 1 (one) year after the date of entry into force of the Agreement, each Party shall designate contact points and notify the other Party of their contact details with a view to:

(a) facilitate the provision of information to the other Party regarding the implementation of this Chapter, such as:

(i) commercial and technical aspects of the supply of services; and

(ii) the registration, recognition and obtaining of professional qualifications; and

(b) consider any other issues regarding the implementation of this Chapter that are referred by a Party.

2. Each Party shall promptly notify the other Party of any changes to these contact points.

ARTICLE 10.57

Subcommittee on trade in services and establishment

1. The Subcommittee on trade in services and establishment, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 22.3:

a) conduct the preparatory technical work in the event of a revision of this Chapter in accordance with Article 10.58; and

b) discuss relevant subjects for trade in services and establishment, including opportunities for the expansion of mutual investment in services and non-services sectors.

2. The Subcommittee may invite, on an ad hoc basis, representatives of relevant entities, with the necessary expertise relevant to the issues to be addressed.

ARTICLE 10.58

Review clause

In light of its objectives, this Chapter may be reviewed no earlier than 3 (three) years after the date of entry into force of this Agreement, or in the context of an overall review of this Agreement.

ARTICLE 10.59

Denial of benefits

A Party may deny the benefits of this Chapter to:

(a) the supply of a service, if it establishes that the service is supplied from or in the territory of a third country; or

(b) a juridical person, if it establishes that it is a juridical person of a third country.

CHAPTER 11

TRANSFERS OR PAYMENTS FOR CURRENT ACCOUNT TRANSACTIONS, CAPITAL MOVEMENTS AND TEMPORARY SAFEGUARD MEASURES

ARTICLE 11.1

Capital account

With regard to transactions on the capital and financial account of the balance of payments, each Party shall allow the free movement of capital for the purposes of establishment of direct investments as provided for in Chapter 10. Such movements shall include the liquidation or repatriation of such capital.

ARTICLE 11.2

Current account

Each Party shall allow, in a freely convertible currency and in accordance with the Articles of Agreement of the International Monetary Fund adopted at the United Nations Monetary and Financial Conference, in Bretton Woods, New Hampshire, on 22 July 1944 (hereinafter referred to as "Agreement of the International Monetary Fund"), any payments and transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

ARTICLE 11.3

Application of laws and regulations relating to transfers or payments for current account transactions and capital movements

Nothing in Articles 11.1 and 11.2 shall be construed as preventing a Party from applying in an equitable and non-discriminatory manner, and in a way that would not constitute a disguised restriction on transfers or payments for current account transactions or on capital movements its laws and regulations relating to:

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

(b) issuing, trading or dealing in securities;

(c) criminal or penal offences[1];

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

(e) the satisfaction of judgments in adjudicatory proceedings.

ARTICLE 11.4

Temporary safeguard measures

If, in exceptional circumstances, transfers or payments for current account transactions or capital movements cause or threaten to cause serious difficulties for the operation of the Economic and Monetary Union of the European Union, the European Union may adopt safeguard measures that are strictly necessary to address those difficulties or the threat thereof for a period not exceeding 6 (six) months.

[1] For greater certainty, this includes laws and regulations on anti-money laundering and combating the financing of terrorism.

ARTICLE 11.5

Restrictions to safeguard the balance of payments

1. If, in exceptional circumstances, a Party experiences serious balance-of-payments difficulties including with regard to the operation of monetary policy or exchange rate policy, or external financial difficulties or the threat thereof, it may adopt or maintain restrictive measures with regard to transfers or payments for current account transactions or capital movements.

2. The measures referred to in paragraph 1 shall:

(a) be non-discriminatory compared to those applied to a third country in like situations;

(b) be consistent with the Articles of Agreement of the International Monetary Fund, as applicable;

(c) avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and

(d) be temporary, proportional and strictly necessary to address the difficulties and be phased out progressively as the situation referred to in paragraph 1 improves. If extremely exceptional circumstances arise such that a Party seeks to extend those measures beyond a period of 1 (one) year, it shall notify the other Party that it will introduce such an extension.

ARTICLE 11.6

Final provisions

1. Nothing in this Chapter shall be construed as limiting the rights of economic operators of the Parties to benefit from any more favourable treatment that may be provided for in any existing bilateral or multilateral agreement to which a Party is party.

2. The Parties shall consult each other with a view to facilitating the movement of capital falling within the scope of this Agreement between them in order to promote the objectives of this Agreement.

CHAPTER 12

GOVERNMENT PROCUREMENT

ARTICLE 12.1

Objectives

The Parties recognise the contribution of transparent, competitive and open tendering to economic development and set as their objective the effective opening of their respective procurement markets.

ARTICLE 12.2

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "commercial goods or services" means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

(b) "construction service" means a service that has as its objective the realisation by whatever means of civil or building works, based on Division 51 of the CPC;

(c) "electronic auction" means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;

(d) "in writing" or "written" means any worded or numbered expression that can be read, reproduced and later communicated, which may include electronically transmitted and stored information;

(e) "limited tendering" means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

(f) "measure" means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;

(g) "multi-use list" means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

(h) "negotiation" means a way of conducting the procurement procedure subject to the principles of transparency and non-discrimination, that is limited to specific situations in which procuring entities are allowed to negotiate with suppliers when certain conditions are met;

(i) "notice of intended procurement" means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

(j) "offsets" means measures used to encourage local development or improve the balance-of-payments accounts by means of the use of domestic content, the licensing of technology, investment requirements, counter-trade or similar requirements;

(k) "open tendering" means a procurement method whereby all interested suppliers may submit a tender;

(l) "procuring entity" means an entity covered under the Appendices to Annexes 12-A to 12-E;

(m) "qualified supplier" means a supplier that a procuring entity recognises as having satisfied the conditions for participation;

(n) "selective tendering" means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

(o) "services" includes construction services, unless otherwise specified;

(p) "standard" means a document approved by a recognised body that provides for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory; it may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, service, process or production method;

(q) "supplier" means a person or persons that provides or could provide goods or services; and

(r) "technical specification" means a tendering requirement that:

(i) lays down the characteristics of goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

(ii) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or a service.

ARTICLE 12.3

Scope

1. This Chapter applies to covered procurement. Covered procurement means procurement for governmental purposes:

(a) of goods, services, or any combination thereof:

(i) as specified in each Party's Appendices to Annexes 12-A to 12-E; and

(ii) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;

(b) by any contractual means, including: purchase; lease; and rental or hire purchase, with or without an option to buy;

(c) for which the value equals or exceeds the relevant threshold specified in each Party's Appendices to Annex 12-A to 12-E, at the time of publication of a notice in accordance with Article 12.13;

(d) by a procuring entity as specified in each Party's Appendices to Annexes 12-A to 12-E; and

(e) that is not otherwise excluded from coverage.

2. Except where provided otherwise in each Party's Appendices to Annexes 12-A to 12-E, this Chapter does not apply to:

(a) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;

(b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees and fiscal incentives, government provision of goods and services to state, regional, or local government entities;

(c) the procurement or acquisition of fiscal agency or depositary services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;

(d) public employment contracts; or

(e) procurement conducted:

(i) for the specific purpose of providing international assistance, including development aid;

(ii) under the particular procedure or condition of an international agreement relating to the stationing of troops;

(iii) under the particular procedure or condition of an international agreement relating to the joint implementation by the signatory countries of a project; or

(iv) under the particular procedure or condition of an international organisation, or funded by international grants, loans or other assistance where the applicable procedure or condition would be inconsistent with this Chapter.

3. Each Party shall specify in each of the Appendices to Annexes 12-A to 12-E the following information:

(a) in Appendices 12-A-1, 12-B-1, 12-C-1, 12-D-1 and 12-E-1, the central government entities whose procurement is covered by this Chapter;

(b) in Appendices 12-A-2, 12-B-2, 12-C-2, 12-D-2 and 12-E-2, the sub-central government entities whose procurement is covered by this Chapter;

(c) in Appendices 12-A-3, 12-B-3, 12-C-3, 12-D-3 and 12-E-3, all other entities whose procurement is covered by this Chapter;

(d) in Appendices 12-A-4, 12-B-4, 12-C-4, 12-D-4 and 12-E-4, the goods covered by this Chapter;

(e) in Appendices 12-A-5, 12-B-5, 12-C-5, 12-D-5 and 12-E-5, the services, other than construction services, covered by this Chapter;

(f) in Appendices 12-A-6, 12-B-6, 12-C-6, 12-D-6 and 12-E-6, the construction services covered by this Chapter; and

(g) in Appendices 12-A-7, 12-B-7, 12-C-7, 12-D-7 and 12-E-7, any General Notes.

4. Where a procuring entity, in the context of covered procurement, requires persons not covered under a Party's Appendices to Annex 12-A to 12-E to procure on its behalf, Article 12.6 shall apply *mutatis mutandis*.

ARTICLE 12.4

Valuation of contracts

1. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:

(a) neither divide a procurement into separate procurements nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Agreement; and

(b) include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:

(i) premiums, fees, commissions, and interest; and

(ii) if the procurement provides for the possibility of options, the total value of such options.

2. If an individual requirement for a procurement results in the award of more than one contract or in the award of contracts in separate parts (both hereinafter referred to as "recurring procurements"), the calculation of the estimated maximum total value shall be based on

(a) the value of recurring procurements of the same type of good or service awarded during the preceding 12 (twelve) months or the procuring entity's preceding fiscal year, adjusted, where possible, to take into account anticipated changes in the quantity or value of the good or service being procured over the subsequent 12 (twelve) months; or

(b) the estimated value of recurring procurements of the same type of good or service to be awarded during the 12 (twelve) months subsequent to the initial contract award or the procuring entity's fiscal year.

3. In the case of procurement by lease, rental, or hire purchase of goods or services, or procurement for which a total price is not specified, the basis for valuation shall be:

(a) in the case of a fixed-term contract

(i) where the term of the contract is 12 (twelve) months or less, the total estimated maximum value for its duration; or

(ii) where the term of the contract exceeds 12 (twelve) months, the total estimated maximum value, including any estimated residual value;

(b) if the contract is of an indefinite duration, the estimated monthly instalment multiplied by 48 (forty-eight); and

(c) if it is not certain whether the contract is of indefinite duration or a fixed-term contract, point (b) shall apply.

ARTICLE 12.5

Security and general exceptions

1. Nothing in this Chapter shall be construed as preventing a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition, defence products or war materials, or to procurement indispensable for national security or for national defence purposes.

2. Subject to the requirement that such measures not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions prevail, or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:

(a) relating to goods or services of natural persons with disabilities, of philanthropic institutions or of prison labour;

(b) necessary to protect public morals, order or safety;

(c) necessary to protect human, animal, or plant life or health, including environmental measures; or

(d) necessary to protect intellectual property.

ARTICLE 12.6

Non-discrimination

1. With respect to any measure related to covered procurement:

(a) the European Union, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the Signatory MERCOSUR States and to the suppliers of the Signatory MERCOSUR States offering those goods and services, treatment no less favourable than the treatment accorded to its domestic goods, services and suppliers;

(b) each Signatory MERCOSUR State, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the European Union and to the suppliers of the European Union offering those goods and services, treatment no less favourable than the treatment accorded to its domestic goods, services and suppliers.

2. With respect to any measure concerning covered procurement, the European Union and each Signatory MERCOSUR State, including their respective procuring entities, shall not:

(a) treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation to, or ownership by persons of the other Party[1] [2]; or

(b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

3. This Article does not apply to customs duties or any other measure of an equivalent nature which have an impact on foreign trade, or to other import regulations and measures affecting trade in services, different from the ones which specifically regulate public procurement covered under this Chapter.

---

[1] Notwithstanding Article 12.3(1), in the case of the European Union and Argentina, paragraph 2(a) shall apply to all procurement in Argentina with regard to suppliers of the European Union which are juridical persons established in Argentina, and in the European Union with regard to suppliers of Argentina which are juridical persons established in the European Union. This remains subject to security and general exceptions as defined in Article 12.5.

[2] Notwithstanding Article 12.3(1), in the case of the European Union and Brazil, paragraph 2(a) shall apply to all procurement in Brazil with regard to suppliers of the European Union which are juridical persons established in Brazil, and in the European Union with regard to suppliers of Brazil which are juridical persons established in the European Union. This remains subject to security and general exceptions as defined in Article 12.5.

ARTICLE 12.7

Use of electronic means

1. Each Party shall conduct covered procurement by electronic means to the widest extent possible and shall cooperate in developing and expanding the use of electronic means in government procurement systems.

2. If a procuring entity conducts a covered procurement by electronic means, it shall:

(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and

(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time and receipt and the prevention of inappropriate access.

ARTICLE 12.8

Conduct of procurement

A procuring entity shall conduct covered procurement in a transparent and impartial manner that avoids conflicts of interest, prevents corrupt practices and that is consistent with this Chapter, using the following methods: open tendering, selective tendering or limited tendering. Each Party shall adopt or maintain sanctions against corrupt practices according to its law.

ARTICLE 12.9

Rules of origin

For the purposes of Article 12.6, determination of the origin of goods shall be made on a non-preferential basis.

ARTICLE 12.10

Denial of benefits

Without prejudice to the time-periods of the procurement procedure, and subject to prior notification to a service supplier of the other Party and, if requested, consultations with a service supplier of the other Party, a Party may deny the benefits of this Chapter to that supplier, if such supplier is a juridical person of the other Party not engaged in substantial business operation in the territory of that other Party.

ARTICLE 12.11

Offsets

With regard to covered procurement, a Party shall not seek, take account of, impose or enforce offsets.

ARTICLE 12.12

Publication of procurement information

1. Each Party shall:

(a) promptly publish any law, regulation, judicial decision or administrative ruling of general application, standard contract clauses that are mandated by law or regulation and incorporated by reference in notices and tender documentation and procedure regarding covered procurement, and any modifications thereof, in officially designated electronic or paper media that are widely disseminated and remain readily accessible to the public;

(b) provide, if so requested by the other Party, further information concerning the application of such provisions;

(c) list, in Appendices 12-F-1, 12-G-1, 12-H-1, 12-I-1 and 12-J-1, the electronic or paper media in which the Party publishes the information described in point (a);

(d) list, where available in Appendices 12-F-2, 12-G-2, 12-H-2, 12-I-2 and 12-J-2, the electronic media, in which the Party publishes the notices required by Articles 12.13, 12.15(4) and 12.23(2).

2. Each Party shall promptly notify the other Party of any modification to the information listed in its Appendices to Annexes 12-F to 12-J. The Trade Council shall amend Annexes 12-F to 12-J accordingly, pursuant to point (f) of Article 22.1(6).

ARTICLE 12.13

Publication of notices

Notice of intended procurement

1. For each covered procurement, except in the circumstances described in Article 12.20, a procuring entity shall publish a notice of intended procurement, which shall be directly accessible by electronic means, free of charge, through a single point of access, for the European Union at European level and for Signatory MERCOSUR States at national level or once such single point of access is established at the MERCOSUR level. The notice of intended procurement shall remain readily accessible to the public, at least until the expiration of the time-period indicated in the notice. The electronic medium shall be listed by each Party in its Appendices to Annexes 12-F to 12-J. Each such notice shall include the information set out in Annex 12-O.

Summary notice

2. For each case of intended procurement, a procuring entity shall publish a summary notice that is readily accessible, at the same time as the publication of the notice of intended procurement, in one of the WTO languages in which the WTO Agreement is authentic. Each such notice shall include the information set out in Annex 12-K.

Notice of planned procurement

3. Procuring entities are encouraged to publish in the appropriate paper or electronic medium listed in Appendices to Annexes 12-F to 12-J as early as possible in each fiscal year a notice regarding their future procurement plans. Such notice should include the subject-matter of the procurement and the planned date of the publication of the notice of intended procurement.

4. A procuring entity in Appendices 12-A-2, 12-A-3, 12-B-2, 12-B-3, 12-C-2, 12-C-3, 12-D-2, 12-D-3, 12-E-2 and 12-E-3 to Annexes 12-A to 12-E may use a notice of planned procurement as a notice of intended procurement, provided that it includes as much of the information referred to in Annex 12-O as is available and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

ARTICLE 12.14

Conditions for participation

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In assessing whether a supplier satisfies the conditions for participation, a procuring entity shall evaluate the financial capacities and commercial and technical abilities of a supplier on the basis of that supplier's business activities inside and outside the territory of the Party of the procuring entity.

3. The procuring entity may require a supplier to demonstrate relevant prior experience; it may not, however, impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a given Party or that the supplier has prior work experience in the territory of a given Party.

4. In making this assessment, the procuring entity shall base its evaluation on the conditions that it has specified in advance in notices or tender documentation.

5. A procuring entity may exclude a supplier on the following grounds:

(a) bankruptcy;

(b) false declarations;

(c) significant deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;

(d) final judgments in respect of crime or serious public offences;

(e) other sanctions that disqualify the supplier to contract with entities of a Party;

(f) grave professional misconduct which renders the suppliers' integrity questionable; or

(g) failure to pay taxes.

6. The conditions for participation established by a procuring entity as set out in paragraphs 1, 2 and 3 shall be fulfilled by the suppliers of the Parties through the presentation of the documentation required by the tender or through equivalent documentation.

ARTICLE 12.15

Qualification of suppliers

Selective tendering

1. Where a procuring entity intends to use selective tendering, the entity shall:

(a) include in the notice of intended procurement at least the information specified in points (a), (b), (c), (i), (j) and (k) of: Annex 12-O and invite suppliers to submit a request for participation; and

(b) provide, by the commencement of the time period for tendering, at least the information specified in points (d) to (h) of Annex 12-O to the qualified suppliers.

2. A procuring entity shall recognise as qualified suppliers any domestic supplier and any supplier of the other Party that meets the conditions for participation in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation regarding the number of suppliers permitted to tender and the criteria for selecting the limited number of suppliers.

3. Where the tender documentation is not made publicly available on the date of publication of the notice referred to in paragraph 1, a procuring entity shall ensure that those documents are made available at the same time to all qualified suppliers selected in accordance with paragraph 2.

Multi-use lists

4. If a Party's law provides that procuring entities may maintain a multi-use list of suppliers, it shall ensure that a notice inviting interested suppliers to apply for inclusion on the list is:

(a) published annually; and

(b) where published by electronic means, made available continuously, in the appropriate medium listed in Appendices to Annexes 12-F to 12-J. Such a notice shall include the information set out in Annex 12-L.

5. Notwithstanding paragraph 4, if a multi-use list is valid for 3 (three) years or less, a procuring entity may publish the notice referred to in paragraph 4 only once, at the beginning of the period of validity of the list, provided that the notice:

(a) states the period of validity and that further notices will not be published; and

(b) is published by electronic means and is made available continuously during the period of its validity.

6. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

7. Where a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all the required documents relating thereto, within the time period provided for in Annex 12-M, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that it has insufficient time to examine the request, unless, in exceptional cases, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.

Entities listed in Appendices 12-A-2, 12-A-3, 12-B-2, 12-B-3, 12-C-2, 12-C-3, 12-D-2, 12-D-3, 12-E-2 and 12-E-3

8. A procuring entity listed in Appendices 12-A-2, 12-A-3, 12-B-2, 12-B-3, 12-C-2, 12-C-3, 12-D-2, 12-D-3, 12-E-2 and 12-E-3 may use a notice inviting suppliers to apply for inclusion on a multi-use list as a notice of intended procurement, provided that:

(a) the notice is published in accordance with paragraph 4 and includes the information listed in Annex 12-L, as much of the information listed in Annex 12-O as is available and a statement that it constitutes a notice of intended procurement or that only the suppliers on the multi-use list will receive further notices of procurement covered by the multi-use list; and

(b) the procuring entity promptly provides to suppliers that have expressed to it an interest in a given procurement information sufficient to allow them to assess their interest in the procurement, including all remaining information required in Annex 12-O, to the extent such information is available.

9. A supplier having applied for inclusion on a multi-use list in accordance with paragraph 6 may be allowed by a procuring entity covered under Appendices 12-A-2, 12-A-3, 12-B-2, 12-B-3, 12-C-2, 12-C-3, 12-D-2, 12-D-3, 12-E-2 and 12-E-3 to tender in a given procurement, if there is sufficient time for the procuring entity to examine whether it satisfies the conditions for participation.

Information on procuring entity decisions

10. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement or an application for inclusion on a multi-use list of the procuring entity's decision with respect to the request or application.

11. The procuring entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision, if the entity:

(a) rejects a supplier's request for participation in a procurement or its application for inclusion on a multi-use list;

(b) ceases to recognise a supplier as qualified; or

(c) removes a supplier from a multi-use list.

ARTICLE 12.16

Technical specifications

1. A procuring entity shall not prepare, adopt or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of limiting competition, creating unnecessary obstacles to international trade, or discriminating between suppliers.

2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, where appropriate:

(a) set out the technical specifications in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specifications on international standards, where these exist; otherwise on national technical regulations, recognized national standards or building codes; each reference shall be accompanied by the words "or equivalent".

3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as "or equivalent" in the tender documentation.

4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, the entity includes words such as "or equivalent" in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation of adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. For greater certainty, a Party, including its procuring entities, may, in accordance with this Article, prepare, adopt or apply technical specifications to promote the conservation of natural resources or protect the environment.

ARTICLE 12.17

Tender documentation

1. A procuring entity shall make available to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of intended procurement, such documentation shall include a complete description of the following issues:

(a) the procurement, including the nature and quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings or instructional materials;

(b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection therewith;

(c) all evaluation criteria to be considered in the awarding of the contract and, except where the price is the sole criterion, the relative importance of such criteria;

(d) where the procuring entity conducts the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;

(e) where the procuring entity holds an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;

(f) where there is a public opening of tenders, the date, time and place for the opening and, where appropriate, the persons authorised to be present;

(g) any other terms or conditions, including terms of payment and any limitation to the means by which tenders may be submitted, for instance on paper or by electronic means; and

(h) any dates for the delivery of goods or the supply of services.

2. In establishing in the tender documentation any delivery date for the goods or services being procured, a procuring entity shall take into account such factors as the complexity of the procurement, the extent of subcontracting anticipated and the realistic time required for production, de-stocking and transport of goods from the point of supply or for supply of services.

3. The evaluation criteria set out in the notice of intended procurement or tender documentation may include, among others, price and other cost factors, quality, technical merit, environmental characteristics and terms of delivery.

4. A procuring entity shall promptly provide the tender documentation to any supplier participating in the procurement, if so requested by such supplier, and reply to any reasonable request for relevant information by a supplier participating in the procurement, provided that such information does not give that supplier an advantage over its competitors in the procurement and that the request was presented within the applicable time limits.

5. Where, prior to the assessment of tenders in accordance with Article 12.22, a procuring entity modifies or amends the criteria or requirements set out in the notice of intended procurement or tender documentation provided to participating suppliers, it shall transmit in writing all such modifications:

(a) to all suppliers that are participating at the time the information is amended, if such suppliers are known, and in all other cases, in the same manner as the original information; and

(b) at a time that allows such suppliers to modify and re-submit amended tenders, as appropriate.

6. Procuring entities may require the participating suppliers to provide guarantees for maintaining the offer, and the successful supplier to provide a guarantee for the execution.

ARTICLE 12.18

Time periods

A procuring entity shall, in accordance with its own needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as the nature and complexity of the procurement, the extent of subcontracting anticipated, and the time for transmitting tenders from foreign as well as domestic points where electronic means are not used. Such time periods, including any extension thereof, shall be the same for all interested or participating suppliers. The applicable time periods are set out in Annex 12-M.

ARTICLE 12.19

Negotiations

1. If a Party's law provides that procuring entities may conduct procurement through negotiations, the procuring entities may do so in the following cases:

(a) in the context of procurements in which they have indicated such intent in the notice of intended procurement; or

(b) where it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set forth in the notices or tender documentation.

2. A procuring entity shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notices or tender documentation; and

(b) when negotiations are concluded, provide a common deadline for the remaining suppliers to submit any new or revised tenders.

ARTICLE 12.20

Limited tendering

1. Provided that the tendering procedure is not used to avoid competition or to protect domestic suppliers, a procuring entity may award contracts by limited tendering, in the following circumstances:

(a) where:

(i) no tenders were submitted, or no suppliers requested participation;

(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted have involved collusion,

provided that the requirements of the tender documentation are not substantially modified;

(b) where, for works of art, or for reasons connected with the protection of exclusive intellectual property rights, such as patents or copyrights, or proprietary information, or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists;

(c) for additional deliveries by the original supplier of goods and services that were not included in the initial procurement where a change of supplier for such additional goods or services:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

(d) for goods purchased on a commodity market;

(e) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development; when such contracts have been fulfilled, subsequent procurements of goods or services shall be subject to this Chapter;

(f) insofar as is strictly necessary where for reasons of urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time by means of an open tendering procedure or selective tendering;

(g) where a contract is awarded to a winner of a design contest provided that the contest has been organised in a manner that is consistent with the principles of this Chapter, and the participants are judged by an independent jury with a view to awarding a design contract to a winner; or

(h) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as unusual disposals by juridical persons that normally are not suppliers, or disposals of assets of businesses in liquidation or receivership.

2. A procuring entity shall maintain records or prepare written reports providing specific justification for any contract awarded under paragraph 1.

ARTICLE 12.21

Electronic auctions

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the entity shall provide each participant, before commencing the electronic auction, with:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that are to be used in the automatic ranking or re-ranking during the auction;

(b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender; and

(c) any other relevant information relating to the conduct of the auction.

ARTICLE 12.22

Treatment of tenders and award of contracts

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.

2. A procuring entity shall not penalise any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.

3. To be considered for an award, a tender shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the tender documentation and, where applicable, in the notices, and it shall be from a supplier that satisfies the conditions for participation.

4. Unless a procuring entity determines that it is not in the public interest to award a contract, the entity shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted the most advantageous tender or, where price is the sole criterion, the lowest price.

5. Where a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

6. A procuring entity shall not use options, cancel a procurement, or modify awarded contracts in a manner that circumvents the obligations under this Chapter.

7. Each Party may provide that if, for reasons imputable to the successful supplier, the contract is not concluded within a reasonable time, or the successful supplier does not fulfil the guarantee for the execution of the contract referred to in Article 12.17 or does not comply with the contract terms, the contract may be awarded to the supplier that has submitted the next most advantageous tender.

ARTICLE 12.23

Transparency of procurement information

1. A procuring entity shall promptly inform participating suppliers of the entity's contract award decisions and, on the request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article 12.24, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.

2. After the award of each contract covered by this Chapter, a procuring entity shall as early as possible according to the time limits established in each Party's law, publish a notice in the appropriate paper or electronic media listed in Appendices to Annexes 12-F to 12-J. Where only an electronic medium is used, the information shall remain readily available for a reasonable period of time. The notice shall include at least the following information:

(a) a description of the goods or services procured which may include the nature and the quantity of the goods procured and the nature and the extent of the services procured;

(b) the name and address of the procuring entity;

(c) the name of the successful supplier;

(d) the value of the successful tender or the highest and lowest offers taken into account in the award of the contract;

(e) the date of the award; and

(f) the type of procurement method used, and if limited tendering was used a description of the circumstances justifying the use of limited tendering.

3. Each Party shall communicate to the other Party the available and comparable statistical data relevant to the procurement covered by this Chapter.

ARTICLE 12.24

Disclosure of information

1. On request of a Party, the other Party shall promptly provide all relevant information about the adjudication of a covered procurement, in order to determine if the procurement was conducted in accordance with the rules of this Chapter. In cases where release of this information would prejudice competition in future tenders, the Party that receives that information shall not disclose it to any supplier, except after consultation with, and agreement of, the Party that provided the information.

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any supplier information that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed as requiring a Party, including its procuring entities, authorities and review bodies, to disclose confidential information where such disclosure:

(a) would impede law enforcement;

(b) might prejudice fair competition between suppliers;

(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

(d) would otherwise be contrary to the public interest.

ARTICLE 12.25

Domestic review procedures

1. Each Party shall establish or maintain timely, effective, transparent and non-discriminatory administrative or judicial review procedures through which a supplier may challenge:

(a) a breach of the Chapter; or

(b) a failure to comply with a Party's measures implementing this Chapter, if the supplier does not have a right to challenge directly a breach of the Chapter under the law of a Party,

arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made publicly available.

2. Each Party may foresee in its law that, in the event of a complaint by a supplier arising in the context of covered procurement, the Party concerned shall encourage its procuring entity and the supplier to seek resolution of the complaint through consultations. The procuring entity shall accord impartial and timely consideration to any such complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or its right to seek corrective measures under the administrative or judicial review procedure.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which may in no case be less than 10 (ten) days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.

5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge. A review body that is not a court shall either be subject to judicial review or have procedural guarantees which shall provide that:

(a) the procuring entity responds in writing to the challenge and discloses all relevant documents to the review body;

(b) the participants to the proceedings have the right to be heard prior to a decision of the review body being made on the challenge;

(c) the participants to the proceedings have the right to be represented and accompanied;

(d) the participants to the proceedings have access to all proceedings;

(e) the participants to the proceedings have the right to request that the proceedings take place in public and that witnesses may be presented; and

(f) decisions or recommendations relating to challenges by suppliers be provided, within a reasonable time, in writing, with an explanation of the basis for each decision or recommendation.

6. Each Party shall adopt or maintain procedures that provide for:

(a) rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures may result in suspension of the procurement process. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. Just cause for not acting shall be provided in writing; and

(b) corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or both, if a review body determines that there has been a breach or a failure as referred to in paragraph 1.

ARTICLE 12.26

Amendments and rectifications of coverage

1. A Party may propose to amend or rectify its respective Annexes 12-A to 12-E.

Amendments

2. If a Party intends to amend its Annexes referred to in paragraph 1, the Party shall:

(a) notify the other Party in writing; and

(b) include in the notification a proposal for appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the amendment.

3. Notwithstanding point (b) of paragraph 2, a Party does not need to provide compensatory adjustments if the amendment covers an entity over which the Party has effectively eliminated its control or influence.

4. The other Party may object to the amendment if:

(a) an adjustment proposed under point (b) of paragraph 2 is not adequate to maintain a comparable level of mutually agreed coverage; or

(b) the amendment covers an entity over which the Party has not effectively eliminated its control or influence under paragraph 3.

The other Party shall object in writing within 45 (forty-five) days of receipt of the notification referred to in point (a) of paragraph 2. If no such objection is submitted within 45 (forty-five) days after having received the notification, the Party shall be deemed to have agreed to the proposed amendment.

Rectifications

5. The following changes to a Party's Annexes shall be considered a rectification of a purely formal nature, provided that they do not affect the mutually agreed coverage provided for in the Chapter:

(a) a change in the name of an entity;

(b) a merger of two or more entities listed within an Appendix; and

(c) the separation of an entity listed in an Appendix into 2 (two) or more entities that are all added to the entities listed in the same Appendix.

The Party making such rectification of a purely formal nature shall not be obliged to provide for compensatory adjustments

6. In the case of proposed rectifications to a Party's Annexes, that Party shall notify the proposed rectifications to the other Party every 2 (two) years following the date of entry into force of this Agreement.

7. A Party may notify the other Party of an objection to a proposed rectification within 45 (forty-five) days after the receipt of the notification. If a Party submits an objection, it shall set out the reasons why it believes the proposed rectification is not a change provided for in paragraph 5, and describe the effect of the proposed rectification on the mutually agreed coverage provided for in this Chapter. If no such objection is submitted in writing within 45 (forty-five) days after the receipt of the notification, the Party shall be deemed to have agreed to the proposed rectification.

Consultations and Dispute resolution

8. If the other Party objects to the proposed amendment or rectification, the Parties shall seek to resolve the issue through consultations. If no agreement is found within 60 (sixty) days of receipt of the objection, the Party seeking to modify or rectify its Annexes may refer the matter to the dispute settlement procedure established in Chapter 21 unless the Parties agree to extend the deadline.

9. The consultation procedure under paragraph 8 is without prejudice to the consultations provided for in Chapter 21.

10. If a Party does not object to the proposed amendment pursuant to paragraphs 2 and 3 or to the proposed rectification pursuant to paragraph 5, or the amendment or rectifications are agreed between the Parties through consultations or there is a final settlement of the matter under Chapter 21, the Trade Council shall amend the relevant Annex to reflect the agreed amendment or rectifications or the agreed compensatory adjustments.

ARTICLE 12.27

Subcommittee on government procurement

1. The Subcommittee on government procurement, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 22.3:

(a) review the mutual opening of procurement markets;

(b) exchange information relating to the government procurement opportunities in each Party including exchanges on procurement statistical data; and

(c) discuss the extent and the means of cooperation in government procurement between the Parties as referred to in Article 12.28.

ARTICLE 12.28

Cooperation in government procurement

1. The Parties shall cooperate to ensure the effective implementation of this Chapter. The Parties shall use the available and existing instruments, resources and mechanisms.

2. In particular, cooperation activities in this area shall be carried out, among other activities, through:

(a) exchange of information, good practices, statistical data, experts, experiences and policies in areas of mutual interest;

(b) exchange of good practices regarding the use of sustainable procurement practices and other areas of mutual interest;

(c) promotion of networks, seminars and workshops in topics of mutual interest;

(d) transfer of knowledge, including contacts between experts from the European Union and Signatory MERCOSUR States; and

(e) sharing of information between the European Union and Signatory MERCOSUR States, with a view to facilitate access to the government procurement markets of the Parties' suppliers, in particular for micro, small and medium size enterprises.

CHAPTER 13

INTELLECTUAL PROPERTY

SECTION A

GENERAL PROVISIONS AND PRINCIPLES

ARTICLE 13.1

General provisions

1. Each Party affirms the rights and obligations to each other under the WTO, the TRIPS Agreement and any other multilateral agreement related to intellectual property to which it is a Party.

2. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice, in a manner consistent with the objectives and principles of the TRIPS Agreement and this Chapter.

ARTICLE 13.2

Objectives

The objectives of this Chapter are to:

(a) facilitate access, production and commercialisation of innovative and creative products and foster trade and investment between the Parties, contributing to a more sustainable, equitable and inclusive economy for the Parties;

(b) achieve an adequate and effective level of protection and enforcement of intellectual property rights that provides incentives and rewards to innovation while contributing to the effective transfer and dissemination of technology and favouring social and economic welfare and the balance between the rights of the holders and the public interest; and

(c) foster measures that will help the Parties to promote research and development, and access to knowledge, including to a rich public domain.

ARTICLE 13.3

Nature and scope of obligations

1. For the purposes of this Agreement, "intellectual property rights" refer to all categories of intellectual property that are the subject of Sections 1 to 7 of Part II of the TRIPS Agreement and Articles 13.9 to 13.43 of this Agreement.

2. Protection of intellectual property includes protection against unfair competition as referred to in Article 10bis of the Paris Convention for the Protection of Industrial Property, done in Paris on 20 March 1883, as last revised at Stockholm on 14 July 1967 (hereinafter referred to as "Paris Convention").

3. Nothing in this Chapter shall prevent a Party from adopting measures necessary to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology, provided that such measures are consistent with this Chapter.

4. A Party shall not be obliged to afford through its law more extensive protection than is required by this Chapter. This Chapter does not preclude a Party from applying, through its law, higher standards for the protection and enforcement of intellectual property rights, provided that they do not violate this Chapter.

ARTICLE 13.4

Principles

1. Each Party recognises that the protection and enforcement of intellectual property rights can and must be done in a manner conducive to economic, social and scientific progress. Each Party shall ensure the enforcement of intellectual property rights within its own legal system and practice.

2. In formulating or amending its laws and regulations, each Party may establish exceptions and flexibilities permitted by the multilateral instruments to which the Parties are signatories.

3. The Parties reaffirm the provisions in the TRIPS Agreement regarding competition.

4. The Parties support the attainment of the United Nations Sustainable Development Goals.

5. The Parties support the World Health Assembly Resolution WHA 60.28 and the Pandemic Influenza Preparedness Framework adopted at the sixty-fourth World Health Assembly.

6. The Parties recognise the importance of promoting the implementation of Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, adopted by the World Health Assembly on 24 of May 2008 (Resolution WHA 61.21 as amended by Resolution WHA 62.16).

7. The Parties affirm the Development Agenda recommendations, adopted in 2007 by the General Assembly of the World Intellectual Property Organization (hereinafter referred to as "WIPO").

8. Where the acquisition of an intellectual property right is subject to the right being granted or registered, each Party shall make best efforts to ensure that the procedures for grant or registration of the right are conducive to granting or registration within a reasonable period of time so as to avoid unwarranted curtailment of the period of protection.

ARTICLE 13.5

National treatment

Each Party shall accord to the nationals[1] of the other Party treatment no less favourable than that it accords to its own nationals with regard to the protection[2] of intellectual property rights covered by this Chapter, subject to the exceptions provided for in Articles 3 and 5 of the TRIPS Agreement[3].

[1] For the purposes of this Chapter, "national" means, in respect of the relevant intellectual property right, a person of a Party that would meet the criteria for eligibility for protection provided for in the TRIPS Agreement or multilateral agreements concluded and administered under the auspices of WIPO, as appropriate, to which a Party is a contracting party.

[2] For the purposes of Article 13.5, "protection" includes matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in this Chapter.

[3] In respect of performers, producers of phonograms and broadcasting organisations, this obligation only applies in respect of the rights provided under this Chapter.

ARTICLE 13.6

Protection of biodiversity and traditional knowledge

1. The Parties recognise the importance and value of biological diversity and its components and of the associated traditional knowledge, innovations and practices of indigenous and local communities[1]. The Parties furthermore affirm their sovereign rights over their natural resources and their rights and obligations as established by the Convention of Biological Diversity of 1992, done in Rio de Janeiro on 5 June 1992 (hereinafter referred to as "CBD") with respect to access to genetic resources, and to the fair and equitable sharing of benefits arising out of the utilisation of these genetic resources.

2. The Parties affirm, recognising the special nature of agricultural biodiversity, its distinctive features and problems needing distinctive solutions, that access to genetic resources for food and agriculture shall be subject to specific treatment in accordance with the International Treaty on Plant Genetic Resources for Food and Agriculture, done in Rome on 3 November 2001 (hereinafter referred to as "International Treaty on Plant Genetic Resources for Food and Agriculture").

3. The Parties may, by mutual agreement, review this Article subject to the results and conclusions of multilateral discussions.

[1] For the purposes of Article 13.6, "indigenous and local communities" may include descendants of enslaved Africans and small-scale farmers.

ARTICLE 13.7

Exhaustion

Each Party shall be free to establish its own regime for exhaustion of intellectual property rights subject to the TRIPS Agreement.

ARTICLE 13.8

TRIPS Agreement and public health

1. The Parties recognise the importance of the Declaration on the TRIPS Agreement and Public Health, adopted on 14 November 2001 (hereinafter referred to as the "Doha Declaration") by the Ministerial Conference of the WTO. In interpreting and implementing the rights and obligations under this Chapter, the Parties shall ensure consistency with the Doha Declaration.

2. Each Party shall implement Article 31bis of the TRIPS Agreement, as well as the Annex and Appendix to the Annex thereto, which entered into force on 23 January 2017.

SECTION B

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

COPYRIGHT AND RELATED RIGHTS[1]

ARTICLE 13.9

International agreements

Each Party affirms its rights and obligations under the following international agreements, taking into consideration that agreements are not binding on those that are not parties to them:

(a) the Berne Convention for the Protection of Literary and Artistic Works, done in Berne on 9 September 1886 as amended on 28 September 1979 (hereinafter referred to as "the Berne Convention");

(b) the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on 18 May 1964 (hereinafter referred to as the "Rome Convention");

[1] The Parties shall be free, in their laws and regulations, to use different names for the rights set out in this Sub-section, provided the agreed level of protection is ensured.

(c) the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, adopted at Marrakesh on 27 June 2013;

(d) the WIPO Copyright Treaty, done in Geneva on 20 December 1996;

(e) the WIPO Performances and Phonograms Treaty, done in Geneva on 20 December 1996; and

(f) the Beijing Treaty on Audiovisual Performances, done in Beijing on 24 June 2012.

ARTICLE 13.10

Authors

Each Party shall provide authors with the exclusive right to authorise or prohibit:

(a) direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their works;

(b) any form of distribution to the public by sale or otherwise of the original of their works or of copies thereof;

(c) any communication to the public of their works, by wire or wireless means; and

(d) the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

ARTICLE 13.11

Performers

Each Party shall provide performers with the exclusive right to authorise or prohibit:

(a) the fixation of their performances;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of fixations of their performances;

(c) the distribution to the public, by sale or otherwise, of the fixations of their performances;

(d) the broadcasting by wireless means or by wire means if the laws and regulations of a Party provides for it, and the communication to the public of their performances, except if the performance is itself already a broadcast performance or is made from a fixation; and

(e) the making available to the public of fixations of their performances in such a way that members of the public may access them from a place and at a time individually chosen by them.

ARTICLE 13.12

Producers of phonograms

Each Party shall provide phonogram producers with the exclusive right to authorise or prohibit:

(a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their phonograms;

(b) the distribution to the public, by sale or otherwise, of their phonograms, including copies thereof; and

(c) the making available to the public of their phonograms in such a way that members of the public may access them from a place and at a time individually chosen by them.

ARTICLE 13.13

Broadcasting organisations

Each Party may stipulate the legal requirements in its laws and regulations as to what is to be considered a broadcasting organisation and shall provide broadcasting organisations with the exclusive right to authorise or prohibit:

(a) the fixation of their broadcasts;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their broadcasts;

(c) the making available to the public, by wire or wireless means, of fixations of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite in such a way that members of the public may access them from a place and at a time individually chosen by them;

(d) the distribution to the public, by sale or otherwise, of fixations of their broadcasts[1]; and

(e) the rebroadcasting of their broadcasts by wireless means, or if the Party's laws and regulations so provide, retransmission by wire means, as well as the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee[2].

---

1 Points (c) and (d) of Article 13.13 shall not apply to a Party to the extent that that Party does not provide in its laws and regulations for the rights set out therein. In such case, the other Parties may exclude broadcasting organisations of that Party from the protection granted in points (c) and (d) of Article 13.13, and the obligation under Article 13.5 shall not apply in respect of the rights provided for in points (c) and (d) of Article 13.13.

2 Each Party may grant more extensive rights as regards the communication to the public by broadcasting organisations.

ARTICLE 13.14

Right to remuneration for broadcasting and communication to the public of phonograms published for commercial purposes

1. Each Party shall provide a right in order to ensure that remuneration is paid by the user to the performers and producers of phonograms, if a phonogram published for commercial purposes, or a reproduction of such a phonogram, is used for broadcasting by wireless means or for any communication to the public[1].

2. Each Party shall provide that the remuneration referred to in paragraph 1 be claimed from the user by the performer or by the producer of a phonogram or by both. Each Party may enact legislation that, in the absence of an agreement between performers and producers of phonograms, sets the terms according to which performers and producers of phonograms are to share such remuneration.

[1] Each Party may grant more extensive rights, in place of the right to remuneration or in addition to this right, as regards the broadcasting and communication to the public of phonograms published for commercial purposes, to performers and producers of phonograms.

ARTICLE 13.15

Term of protection

1. The rights of the author of a literary or artistic work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for at least 50 (fifty) years after the author's death or, if the Party's laws and regulations so provide, for 70 (seventy) years after the author's death. With respect to photographic and cinematographic works, each Party shall establish the term of protection in accordance with its laws and regulations.

2. In the case of a work of joint authorship, the terms referred to in paragraph 1 shall be calculated from the death of the last surviving author.

3. In the case of anonymous or pseudonymous works, the term of protection shall run for at least 50 (fifty) years after the work is lawfully made available to the public or, if the Party's laws and regulations so provide, for 70 (seventy) years after the work is lawfully made available to the public. Notwithstanding the first sentence, if the pseudonym adopted by the author leaves no doubt as to the author's identity, or if the author discloses his or her identity during the period referred to in the first sentence, the term of protection applicable shall be that laid down in paragraph 1.

4. The rights of performers in a performance other than fixed in a phonogram shall expire not less than 50 (fifty) years after the date of the performance.

5. The rights of performers and producers of phonograms shall not expire for at least 50 (fifty) years after the fixation is lawfully published or lawfully communicated to the public or, if the Party's laws and regulations so provide, 70 (seventy) years after the fixation is lawfully published or lawfully communicated to the public[1]. Each Party may, in accordance with its laws and regulations, adopt effective measures to ensure that the profits generated during the 20 (twenty) years of protection beyond 50 (fifty) years are fairly shared between performers and producers.

6. The term of protection of the rights of the broadcasting organisations shall be at least 20 (twenty) years from the first broadcast or, if a Party's laws and regulations so provide, 50 (fifty) years from the first broadcast.

7. The terms laid down in this Article shall be calculated from the 1st (first) of January of the year following the event which gives rise to them.

8. Each Party may provide for longer terms of protection than those provided for in this Article.

ARTICLE 13.16

Resale right

1. Each Party may provide, for the benefit of the author of graphic or plastic art, a resale right, defined as an inalienable right, which cannot be waived, even in advance, to receive a percentage of the price obtained from any resale of that work, after the first transfer of that work by the author.

[1] Each Party may provide that the publication or lawful communication to the public of the fixation of the performance or of the phonogram must occur within a defined period of time of the date of the performance (in the case of the performers) or the date of the fixation (in the case of producers of phonograms).

2. The right referred to in paragraph 1 applies to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art.

3. Each Party may provide that the right referred to in paragraph 1 does not apply to acts of resale if the seller has acquired the work directly from the author less than 3 (three) years before that resale and if the resale price does not exceed a minimum amount.

4. Each Party may provide that authors who are nationals of the other Party and their successors in title enjoy the resale right in accordance with this Article and the laws and regulations of the Party concerned provided that the laws and regulations of the country of which the author or the author's successor in title is a national permits resale right protection in that country for authors from the Party concerned and their successors in title.

ARTICLE 13.17

Cooperation on collective management of rights

1. The Parties shall promote cooperation, transparency and non-discrimination of collective management organisations, in particular as regards the revenues they collect, the deductions they apply to such revenues, the use of the royalties collected, the distribution policy and their repertoire, including in the digital environment.

2. If a collective management organisation established in the territory of a Party represents a collective management organisation established in the territory of another Party by way of a representation agreement, the former Party shall seek to ensure that the representing collective management organisation:

(a) does not discriminate against entitled members of the represented organisation; and

(b) pays the amounts owed to the represented organisation accurately, regularly, diligently and in a fully transparent manner and provides the represented organisation with information on the amounts of revenues collected on its behalf and the deductions made.

ARTICLE 13.18

Exceptions and limitations

1. Each Party shall confine exceptions and limitations to the rights in this Sub-Section to certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the right holders.

2. Each Party shall exempt from the reproduction right temporary acts of reproduction which are transient or incidental, which are an integral and essential part of a technological process and the sole purpose of which is to enable:

(a) a transmission in a network between third parties by an intermediary; or

(b) a lawful use of a work or other subject matter to be made, and which have no independent economic significance.

ARTICLE 13.19

Protection of technological measures

1. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by right holders in connection with the exercise of their rights under this Sub-Section and that restrict acts which are not authorised by the right holders concerned or permitted by law.

2. Each Party may, if permissible under its law, ensure that right holders make available to the beneficiary of an exception or limitation the means for benefiting, to the extent necessary, from that exception or limitation.

ARTICLE 13.20

Obligations concerning rights management information

1. For the purposes of this Article, "rights-management information" means any information provided by right holders which identifies the work or other subject-matter referred to in this Sub-Section, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information.

2. Each Party shall provide adequate legal protection against any person knowingly performing without authority any of the following acts, if that person knows, or has reasonable grounds to know, that by so doing that person is inducing, enabling, facilitating or concealing an infringement of any copyright or any related rights:

(a) the removal or alteration of any electronic rights-management information; and

(b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Sub-Section from which electronic rights-management information has been removed or altered without authorisation.

3. Paragraph 1 applies when any of the items of information referred to in that paragraph is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Sub-Section.

4. The Parties shall ensure that the obligations set out in this Article do not harm non-infringing uses.

SUB-SECTION 2

TRADEMARKS

ARTICLE 13.21

International agreements

Each Party shall:

(a) comply with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Nice on 15 June 1957 (hereinafter referred to as "Nice Classification")[1]; and

(b) make best efforts to accede to the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, done in Madrid on 27 June 1989, as last amended on 12 November 2007.

[1] This obligation only applies to trademarks registered after the date of adoption of the Nice Classification criteria or of accession to the instrument.

ARTICLE 13.22

Registration procedure

1. Each Party shall establish a system for the registration of trademarks in which each final negative decision, including the partial refusal of registration, issued by the relevant trademark administration, shall be notified in writing, duly reasoned and open to challenge.

2. Each Party shall provide for the possibility to oppose applications to register trademarks or, if appropriate, the registration of trademarks. Such opposition proceedings shall be adversarial.

3. Each Party shall provide a publicly available electronic database of applications and registrations of trademarks.

ARTICLE 13.23

Rights conferred by a trademark

A registered trademark shall confer on the proprietor exclusive rights therein. The proprietor shall be entitled to prevent all third parties not having the proprietor's consent from using in the course of trade:

(a) any sign which is identical to the trademark in relation to goods or services which are identical to those for which the trademark is registered; and

(b) any sign which is identical to, or similar to, the trademark and is used in relation to goods or services which are identical to, or similar to, the goods or services for which the trademark is registered, if there exists a likelihood of confusion on the part of the public, which includes the likelihood of association between the sign and the trademark.

ARTICLE 13.24

Well-known trademarks

1. Article 6bis of the Paris Convention shall apply, *mutatis mutandis*, to services. In determining whether a trademark is well-known, each Party shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Party concerned which has been obtained as a result of the promotion of the trademark.

2. Article 6bis of the Paris Convention shall apply, *mutatis mutandis*, to goods or services which are not similar to those in respect of which a trademark is registered, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.

3. For the purpose of giving effect to protection of well-known trademarks, as referred to in Article 6bis of the Paris Convention and paragraphs 2 and 3 of Article 16 of the TRIPS Agreement, each Party shall take into due consideration the principles established in the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

ARTICLE 13.25

Bad faith applications

Each Party shall provide that a trademark may be declared invalid if the application for the registration thereof was made in bad faith by the applicant. Each Party may also provide that such a trademark shall not be registered.

ARTICLE 13.26

Exceptions to the rights conferred by a trademark

1. Each Party shall provide for limited exceptions to the rights conferred by a trademark such as the fair use of descriptive terms including in the case of geographical indications, and may provide other limited exceptions if such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

2. The trademark shall not entitle the owner to prohibit a third party from using the following when used in accordance with honest practices in industrial and commercial matters:

(a) his or her own name or address if that third party is a natural person;

(b) indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services; or

(c) the trademark, if it is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts.

SUB-SECTION 3

DESIGNS

ARTICLE 13.27

International agreements

Each Party shall make best efforts to accede to the Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs, done at Geneva on 2 July 1999.

ARTICLE 13.28

Protection of registered designs

1. Each Party shall provide for the protection of independently created designs that are new and original[1] [2]. This protection shall be provided by registration and shall confer an exclusive right upon their holders in accordance with this Sub-Section.

[1] For the purposes of this Article, a Party may consider that a design having individual character is original.

[2] Argentina shall provide for the protection of independently created designs that are new or original.

2. The holder of a registered design shall have the right to prevent third parties not having the holder's consent from making, offering for sale, selling, putting on the market, importing, exporting, stocking such a product or using articles bearing or embodying the protected design if such acts are undertaken for commercial purposes.

ARTICLE 13.29

Term of protection

The duration of protection available, including renewals, shall amount to at least 15 (fifteen) years from the date of filing the application.

ARTICLE 13.30

Protection of unregistered designs

Each Party may establish legal means to prevent the use of unregistered designs.

ARTICLE 13.31

Exceptions and exclusions

1. Each Party may establish limited exceptions to the protection of designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs and do not unreasonably prejudice the legitimate interests of the holder of the protected design, taking account of the legitimate interests of third parties.

2. The protection of designs shall not extend to designs dictated essentially by technical or functional considerations.

ARTICLE 13.32

Relation to copyright

Each Party shall, to the extent that it is provided for in its laws and regulations, ensure that a design shall also be eligible for protection under its law of copyright as from the date on which the design was created or fixed in any form. Each Party shall determine the extent and conditions of such protection, including the level of originality required.

SUB-SECTION 4

GEOGRAPHICAL INDICATIONS

ARTICLE 13.33

Protection of geographical indications

1. This Sub-Section applies to the recognition and protection of geographical indications originating in the territory of the Parties.

2. The Parties shall take the necessary measures to implement the protection of geographical indications referred to in paragraph 1 in their territories, determining the appropriate method for such implementation within their own legal system and practice.

3. Geographical indications of a Party shall only be subject to this Article if they are protected as geographical indications in the territory of the Party of origin under its system of registration and protection of geographical indications.

4. Each Party, having examined the legislation of the other Party in Annex 13-A and the geographical indications in Annex 13-B, and having completed an objection procedure or public consultation related to the geographical indications in Annex 13-B, undertake to protect since the date of entry into force of this Agreement those geographical indications in accordance with the level of protection laid down in this Sub-Section including the specific level of protection, notably as set out in Article 13.35(8) and Appendix 13-B-1.

5. Each Party may protect geographical indications for products other than agricultural foodstuffs, wines, spirit drinks or aromatised wines in its laws and regulations. The Parties acknowledge that geographical indications listed in Annex 13-D are protected as geographical indications in the country of origin.

ARTICLE 13.34

Addition of new geographical indications

By request of a Party, and once completed the steps described in Article 13.33(4), the Subcommittee on intellectual property rights referred to under Article 13.59 may recommend to the Trade Council to adopt a decision, pursuant to point (f) of Article 22.1(6) to add new geographical indications to Annex 13-B, including in order to transfer the geographical indications listed in Annex 13-C to Annex 13-B.

ARTICLE 13.35

Scope of protection of geographical indications

1. Each Party shall provide, according to its laws and regulations, the legal means for interested parties to prevent:

(a) the use of a geographical indication of the other Party listed in Parts 1 and 2 of Annex 13-B for any product that falls within the relevant product class, as specified in Section 3 of Annex 13-B and that either:

(i) does not originate in the country of origin specified in Annex 13-B for that geographical indication; or

(ii) originates in the country of origin specified in Annex 13-B for that geographical indication but was not produced or manufactured in accordance with the laws and regulations of the other Party that would apply if the product was for consumption in the other Party;

(b) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin, in a manner which misleads the public as to the geographical origin of the good;

(c) any other use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention;

(d) any direct or indirect commercial use of a protected name for comparable products not complying with the product specification of the protected name, or that exploits the reputation of a geographical indication;

(e) the use of a geographical indication not originating in the place indicated by the geographical indication, even if the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like; and

(f) any misuse, imitation or deceiving use of a protected name of a geographical indication; or any false or misleading indication of a protected name of a geographical indication; or any practice liable to mislead the consumer as to the true origin, provenance and nature of the product.

2. Regarding the relationship between trademarks and geographical indications:

(a) if a geographical indication is protected under this Sub-Section, each Party shall refuse the registration of a trademark for the same or a similar product the use of which would contravene this Sub-Section, provided that an application for registration of the trademark was submitted after the date of application for protection of the geographical indication on the territory concerned; trademarks registered in breach of this paragraph shall be invalidated in accordance with the law of the Parties;

(b) for geographical indications listed in Annex 13-B at the date of entry into force of this Agreement, the date of submission of the application for protection referred to in point (a) shall be the date of the publication of the opposition procedure or public consultation in the respective territories;

(c) for geographical indications referred to in Article 13.34, the date of submission of the application for protection shall be the date of the transmission of a request to another Party to protect a geographical indication;

(d) without prejudice to point (e), each Party shall protect the geographical indications referred to in Annex 13-B also if a prior trademark exists; a prior trademark shall mean a trademark which has been applied for, registered or established by use, if that possibility is provided for by the laws and regulations of the Party concerned, in good faith in the territory of one Party before the date of application for protection of the geographical indication, as referred to in paragraph 1 is submitted by the other Party under this Agreement;

such prior trademark may continue to be used, renewed and be subject to variations which may require the filing of new trademark applications, notwithstanding the protection of the geographical indication, provided that no grounds for the trademark's invalidity or revocation exist in the trademark law under which the trademark has been registered or established;

neither the prior trademark nor the geographical indication shall be used in a way that would mislead the consumer as to the nature of the intellectual property right concerned; and

(e) a Party shall not be obliged to protect a geographical indication in light of a famous, reputed or well-known trademark, if the protection is liable to mislead the consumer as to the true identity of the product.

3. Nothing in this Sub-Section shall prevent the use by a Party, with respect to any product, of a customary name of a plant variety or an animal breed, existing in the territory of that Party[1].

4. Nothing in this Sub-Section shall prevent the use by a Party of an individual component of a multi-component term that is protected as a geographical indication in the territory of that Party if such individual component is a term customary in the common language as the common name for the associated good[2].

5 Nothing in this Sub-Section shall require a Party to protect a geographical indication which is identical to the term customary in common language as the common name for the associated good in the territory of that Party.

6. If a translation of a geographical indication is identical with or contains within it a term customary in common language as the common name for a product in the territory of a Party, or if a geographical indication is not identical with but contains within it such a term, this Sub-Section shall not prejudice the right of any person to use that term in association with that product.

---

[1] The Parties define in Appendix 13-B-1 the plant varieties and animal breeds the use of which shall not be prevented.

[2] The Parties define in Appendix 13-B-1 the terms for which protection is not sought or granted.

7. With regard to homonymous geographical indications:

(a) in the case of existing or future homonymous geographical indications of the Parties for products falling within the same product category[1], both shall coexist per se, and each Party shall determine the practical conditions under which the homonymous indications in question shall be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled; and

(b) if a Party, in the context of negotiations with a third country proposes to protect a geographical indication from that third country, and the name is homonymous with a geographical indication of the other Party, the latter shall be informed and be given the opportunity to comment before the name is protected.

[1] In accordance with the Nice Classification and its amendments.

8. Without prejudice to Articles 13.35(1) to 13.35(7), a specific level of protection is defined for the following cases of geographical indications listed in Annex 13-B[1]:

(a) "Genièvre", "Jenever" or "Genever": the protection of the geographical indication "Genièvre", "Jenever" or "Genever" shall not prevent prior users of the term "Ginebra" in the territory of Argentina that have used the term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Genièvre", "Jenever" or "Genever" in Argentina, and prior users of the term "Genebra" in the territory of Brazil that have used the term in good faith and in a continuous manner prior to the publication for opposition of the geographical indication "Genièvre", "Jenever" or "Genever" in Brazil, to continue using the term, provided these products are not commercialised using graphics, names, pictures or flags as references to the genuine origin of the geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards to the origin of the product;

[1] For greater certainty, the specific level of protection by each Signatory MERCOSUR State as defined in Article 13.35(8) applies only in favour of those prior users that are part of the prior users' list of that particular Signatory MERCOSUR State.

(b) "Queso Manchego": the protection of the geographical indication "Queso Manchego" for cheeses elaborated in Spain in accordance with the applicable technical specifications, using sheep's milk, shall not prevent prior users of the term "Queso Manchego" in the territory of Uruguay that have used the term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Queso Manchego", if related to cheeses elaborated with cow's milk, to continue using this term provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name, and is differentiated from it in a non-ambiguous manner as regards the origin and the composition of the product;

(c) "Grappa": the protection of the geographical indication "Grappa" shall not prevent prior users of the term "Grappamiel" or "Grapamiel" in the territory of Uruguay that have used the term in good faith and in a continuous manner prior to the publication for opposition of the geographical indication "Grappa" to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(d) "Steinhäger": the protection of the geographical indication "Steinhäger" shall not prevent prior users of the term "Steinhäger" in the territory of Brazil that have used the term in good faith and in a continuous manner prior to the publication for opposition of the geographical indication "Steinhäger" to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(e) "Parmigiano Reggiano":

(i) the protection of the geographical indication "Parmigiano Reggiano" shall not prevent prior users of the term "Parmesão" in the territory of Brazil and of the term "Parmesano" in the territories of Argentina, Paraguay and Uruguay that have used these terms in good faith and in a continuous manner prior to the publication for opposition of the geographical indication "Parmigiano Reggiano" to continue using these terms, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(ii) the protection of the geographical indication "Parmigiano Reggiano" shall not prevent prior users of the term "Reggianito" in the territory of Argentina that have used this term in good faith and in a continuous manner prior to the publication for opposition of the geographical indication "Parmigiano Reggiano", and in the territories of Paraguay and Uruguay that have used this term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Parmigiano Reggiano", to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(f) "Fontina": the protection of the geographical indication "Fontina" shall not prevent prior users of the term "Fontina" in the territories of Argentina, Brazil, Paraguay and Uruguay that have used the term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Fontina", to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(g) "Gruyère" (France):

(i) the protection of the geographical indication "Gruyère" (France) shall not prevent prior users of the terms "Gruyère" and "Gruyere" in the territories of Argentina, Brazil, Paraguay and Uruguay that have used the term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Gruyère" (France), to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(ii) the protection of the geographical indication "Gruyère" (France) shall not prevent prior users of the terms "Gruyerito" and "Gruyer" in the territory of Uruguay that have used the term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Gruyère" (France) to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product;

(h) "Grana Padano": the protection of the geographical indication "Grana Padano" shall not prevent prior users of the term "Grana" in the territory of Brazil that have used the term in good faith and in a continuous manner for at least 5 (five) years prior to the publication for opposition of the geographical indication "Grana Padano" to continue using this term, provided these products are not commercialised using graphics, names, pictures or flags as references to the protected European geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards the origin of the product; and

(i) "Gorgonzola": the protection of the geographical indication "Gorgonzola" shall not prevent prior users of the term "Gorgonzola" in the territory of Brazil that have used the term in good faith prior to the publication for opposition to continue using the term, provided these products are not commercialised using graphics, names, pictures or flags as references to the genuine origin of the geographical indication and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and is differentiated from it in a non-ambiguous manner as regards to the origin of the product.

9. Prior users as referred to in points (a) to (i) of paragraph 8 are listed in Annex 13-E. Succession of prior users and the effects thereof shall be determined by the domestic laws and regulations of each Signatory MERCOSUR State.

10. Protected geographical indications listed in Annex 13-B shall not become generic in the territories of the Parties.

11. Nothing in this Chapter shall create an obligation for the Parties to protect geographical indications which are not or cease to be protected in their place of origin.

12. This Chapter shall not prejudice the right of any person to make commercial use of that person's name or the name of that person's predecessor in business, except if such name is used in such a manner as to mislead the public.

ARTICLE 13.36

Right of use of geographical indications

1. Any operator marketing agricultural products, foodstuffs, wines, aromatised wines or spirit drinks which conform to the corresponding specification may use a geographical indication under this Agreement.

2. Once a geographical indication is protected under this Agreement, the use of such protected name shall not be subject to any registration of users or further charges.

ARTICLE 13.37

Enforcement of protection

Each Party shall provide the legal means for interested parties to seek enforcement of the protection provided for in Article 13.35 via appropriate administrative and judicial action within its own legal system and practice.

ARTICLE 13.38

Import, export and marketing

Import, export and marketing of products carrying the names listed in Annex 13-B shall comply with the laws and regulations applying in the territory of the Party in which the products are placed on the market.

ARTICLE 13.39

Cooperation and transparency on geographical indications

1. The Subcommittee on intellectual property rights, referred to in Article 13.59, shall monitor the proper functioning of this Sub-Section and may consider any matter related to its implementation and operation. It shall be responsible for:

(a) exchanging information on legislative and policy developments on geographical indications and any other matter of mutual interest in the area of geographical indications; and

(b) cooperating on the development of alternative names for products that were once marketed by producers of a Party with terms corresponding to geographical indications of the other Party, especially in cases subject to a phasing-out.

2. The Subcommittee on intellectual property rights may recommend to the Trade Council to amend, pursuant to point (f) of Article 22.1(6):

(a) Annex 13-A as regards the references to the law applicable in the Parties;

(b) Annex 13-B as regards geographical indications and exchanging information for that purpose;

(c) Annex 13-C as regards the geographical indication; and

(d) Annex 13-E as regards prior users.

3. Each Party shall notify the other if a geographical indication listed in Annex 13-B ceases to be protected in its territory. Following such notification, the Trade Council shall amend Annex 13-B in accordance with point (f) of Article 22.1(6) to end the protection under this Agreement. Only the Party in which the product originates is entitled to request the end of the protection under this Sub-Section of a geographical indication listed in Annex 13-B.

4. MERCOSUR shall notify the European Union if, following the entry into force of this Agreement, it identifies additional prior users that comply with the specific requirements set forth in points (a) to (i) of Article 13.35(8). Following such a notification and provided that the Parties agree that the proposed additional prior users meet the aforementioned requirements, the Trade Council shall amend Annex 13-E pursuant to point (f) of Article 22.1(6) by adding such additional prior users.

5. The Parties shall, either directly or through the Subcommittee on intellectual property rights, remain in contact directly on all matters relating to the implementation and the functioning of this Sub-Section. In particular, a Party may request from the other Party information relating to product specifications and amendments thereto, and contact points for control.

6. A product specification referred to in this Sub-Section shall be the one approved, including any amendments also approved, by the authorities of the Party in the territory from which the product originates.

7. The Parties may make publicly available the product specifications or a summary thereof corresponding to the geographical indications of the other Party protected pursuant to this Sub-Section, in Portuguese, Spanish or English.

SUB-SECTION 5

PATENTS

ARTICLE 13.40

International treaties

Each Party shall make best efforts to accede to the Patent Cooperation Treaty, done in Washington on 19 June 1970[1].

[1] For the European Union this provision can be fulfilled through adherence of its Member States.

SUB-SECTION 6

PLANT VARIETIES

ARTICLE 13.41

International agreements

Each Party shall protect plant varieties rights, in accordance with the International Convention for the Protection of New Varieties of Plants done in Paris on 2 December 1961, as revised in Geneva on 10 November 1972, and on 23 October 1978 (1978 UPOV ACT) or on 19 March 1991 (1991 UPOV ACT), and shall cooperate to promote the protection of plant varieties.

SUB-SECTION 7

PROTECTION OF UNDISCLOSED INFORMATION

ARTICLE 13.42

Scope of protection of trade secrets

1. In fulfilling its obligation under Article 13.1(1) to comply with the TRIPS Agreement, and in particular with paragraphs 1 and 2 of Article 39 of the TRIPS Agreement, each Party shall provide for appropriate civil judicial procedures and remedies for any trade secret holder to prevent, and obtain redress for, the acquisition, use or disclosure of a trade secret whenever carried out in a manner contrary to honest commercial practices.

2. For the purposes of this Sub-Section:

(a) "trade secret" means information that:

(i) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

(ii) has commercial value because it is secret; and

(iii) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret; and

(b) "trade secret holder" means any natural or legal person lawfully controlling a trade secret.

3. For the purposes of this Sub-Section, a Party shall consider at least the following conducts to be contrary to honest commercial practices:

(a) the acquisition of a trade secret without the consent of the trade secret holder, whenever carried out by unauthorised access to, appropriation of, or copying of any documents, objects, materials, substances or electronic files, lawfully under the control of the trade secret holder, containing the trade secret or from which the trade secret can be deduced;

(b) the use or disclosure of a trade secret whenever carried out without the consent of the trade secret holder by a person who:

(i) acquired the trade secret unlawfully;

(ii) was in breach of a confidentiality agreement or any other duty not to disclose the trade secret; or

(iii) was in breach of a contractual or any other duty to limit the use of the trade secret; and

(c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use or disclosure, knew or ought to have known, under the circumstances, that the trade secret had been obtained directly or indirectly from another person who was using or disclosing the trade secret unlawfully within the meaning of point (b).

4. A Party shall not be required to consider any of the following conducts to be contrary to honest commercial practices under this Sub-Section:

(a) independent discovery or creation by a person of the relevant information;

(b) reverse engineering of a product by a person who is lawfully in possession of that product and who is free from any legally valid duty to limit the acquisition of the relevant information;

(c) acquisition, use or disclosure of information required or allowed by the relevant Party's law; or

(d) use by employees of their experience and skills honestly acquired in the normal course of their employment.

5. Nothing in this Sub-Section shall be understood as restricting freedom of expression and information, including media freedom as protected in the jurisdiction of each of the Parties.

ARTICLE 13.43

Civil judicial procedures and remedies of trade secrets

1. Each Party shall ensure that any person participating in the civil judicial proceedings referred to in Article 13.42 or having access to documents which form part of those legal proceedings is not permitted to use or disclose any trade secret or alleged trade secret which the competent judicial authorities have, in response to a duly reasoned application by an interested party, identified as confidential and of which they have become aware as a result of such participation or access.

2. In the civil judicial proceedings referred to in Article 13.42, each Party shall provide that its judicial authorities have the authority to, at least:

(a) order provisional measures, as set out in its laws and regulations, to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(b) order injunctive relief to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(c) order the person that knew or ought to have known that he or she was acquiring, using or disclosing a trade secret in a manner contrary to honest commercial practices to pay the trade secret holder damages appropriate to the actual prejudice suffered as a result of the unlawful acquisition, use or disclosure of the trade secret;

(d) take specific measures to preserve the confidentiality of any trade secret or alleged trade secret produced in civil proceedings relating to the alleged acquisition, use and disclosure of a trade secret in a manner contrary to honest commercial practices; such specific measures may include, in accordance with the Party's law, restricting access to certain documents in whole or in part, restricting access to hearings and the corresponding records or transcript and making available a non-confidential version of judicial decision in which the passages containing trade secrets have been removed or redacted; and

(e) impose sanctions on parties, or other persons subject to the court's jurisdiction, for violation of judicial orders concerning the protection of a trade secret or alleged trade secret produced in those proceedings.

3. A Party shall not be required to provide for the judicial procedures and remedies referred to in Article 13.42 if the conduct contrary to honest commercial practices is carried out, in accordance with that Party's law, to reveal misconduct, wrongdoing or illegal activity or for the purpose of protecting a legitimate interest recognised by law.

SECTION C

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

CIVIL AND ADMINISTRATIVE ENFORCEMENT

ARTICLE 13.44

General obligations

1. Each Party reaffirms its commitments under the TRIPS Agreement and in particular under Part III thereof, and shall ensure the enforcement of intellectual property rights in accordance with its law and within its own legal system and practice.

2. For the purposes of this Section, "intellectual property rights" means, unless otherwise provided, intellectual property rights as defined in Article 13.3(1) with the exception of the rights referred to in Articles 13.42 and 13.43.

3. Procedures[1] adopted, maintained or applied to implement this Section shall be effective, fair and equitable and shall not be unnecessarily complicated or costly, or entail unreasonable time limits or unwarranted delays, and shall act as a deterrent to further infringements. Each Party shall take into account the need for proportionality among the infringement, the rights of all parties involved, the interests of third parties, and the applicable measures, remedies and penalties.

4. The Parties shall apply the procedures referred to in paragraph 3 concerning the enforcement of intellectual property rights in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

5. Articles 13.44 to 13.58 do not create any obligation for a Party to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general in accordance with that Party's law, nor does it affect the capacity of the Parties to enforce their law in general.

ARTICLE 13.45

Persons entitled to apply for procedures

Each Party shall recognise at least the following persons as entitled to seek application of the procedures concerning the enforcement of intellectual property rights referred to in this Section and in Part III of the TRIPS Agreement, in accordance with the law where the procedure takes place:

(a) the holders of intellectual property rights;

[1] For the purposes of this Section, "procedures" includes measures and remedies.

(b) exclusive licensees provided they are authorised by the right holders; and

(c) intellectual property collective rights management bodies which are legally and expressly recognised as having a right to represent holders of intellectual property rights.

ARTICLE 13.46

Evidence

1. Each Party shall ensure that the competent judicial authorities have the authority to order, on application by a party which has presented reasonably available evidence to support the Party's claims that that party's intellectual property right has been infringed or is about to be infringed, prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information[1].

2. The provisional measures referred to in paragraph 1 may include the detailed description, with or without the taking of samples, or the physical seizure, of the alleged infringing goods, and in appropriate cases the documents relating thereto.

3. Each Party shall take the measures necessary to, in cases of trademark counterfeiting or copyright piracy on a commercial scale[2], enable the competent judicial authorities to order, if appropriate, on application by a party, and if necessary to determine the existence and extent of an infringement, the communication of relevant banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.

---

1 For the purposes of this Article, "confidential information" may include personal data.

2 A Party may extend the application of this paragraph to other intellectual property rights.

4. Each Party shall ensure that the judicial authorities have the competence to subject the measures to preserve evidence to the lodging by the applicant of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the defendant.

5. If the measures to preserve evidence are revoked, if they lapse due to any act or omission by the applicant, or if it is subsequently found that there was no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon the request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

ARTICLE 13.47

Right of information

1. Each Party shall ensure that, in cases of an infringement of intellectual property rights and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order the infringer or any other person to provide relevant information on the origin and distribution networks of the infringing goods or services.

2. For the purposes of this Article:

(a) "any other person" means a person who was:

(i) found in possession of the infringing goods on a commercial scale;

(ii) found to be using the infringing services on a commercial scale;

(iii) found to be providing on a commercial scale services used in infringing activities; or

(iv) indicated by the person referred to in points (i) to (iii) as being involved in the production, manufacture or distribution of the goods or the provision of the services.

(b) "relevant information" may include information regarding any person involved on a commercial scale in the infringement or alleged infringement and regarding the means of production and distribution networks of the goods or services.

3. This Article applies without prejudice to other statutory provisions which:

(a) grant the right holder rights to receive fuller information;

(b) govern the use in civil proceedings of the information communicated pursuant to this Article;

(c) govern responsibility for misuse of the right of information;

(d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 1 to admit their own involvement or that of their close relatives; or

(e) govern the protection of confidentiality of information sources or the processing of personal data.

ARTICLE 13.48

Provisional and precautionary measures

1. Each Party shall provide that its judicial authorities have the authority to order prompt and effective provisional and precautionary measures, including an interlocutory injunction, against a party or, if appropriate, against a third party over whom the relevant judicial authority exercises jurisdiction, to prevent an infringement of an intellectual property right from occurring and, in particular, to prevent infringing goods from entering into the channels of commerce.

2. An interlocutory injunction may also be issued to order the seizure or delivery up of goods suspected of infringing an intellectual property right, so as to prevent their entry into or movement within the channels of commerce.

3. Each Party shall ensure that, in the case of an alleged infringement committed on a commercial scale, if the applicant demonstrates circumstances likely to endanger the recovery of damages, the judicial authorities are able to order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of the alleged infringer's bank accounts and other assets. To that end, each Party shall ensure that the competent authorities are able to order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

4. The judicial authorities shall have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

ARTICLE 13.49

Remedies

1. Each Party shall ensure that the competent judicial authorities are able to order, on the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the destruction, or at least the definitive removal from the channels of commerce, of goods that they have found to infringe an intellectual property right. Such goods may be used for the public interest. The judicial authorities shall also have the authority to order that materials and implements predominantly used in the creation of the infringing goods be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimise the risks of further infringements. In considering such requests, the competent judicial authorities shall take the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties into account.

2. The competent judicial authorities of each Party shall have the authority to order that those measures be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

ARTICLE 13.50

Injunctions

Each Party shall ensure that, if a judicial decision finds an infringement of an intellectual property right, the competent judicial authorities are able to issue against the infringer or, if appropriate, against a third party over whom the relevant judicial authority exercises jurisdiction, an injunction aimed at prohibiting the continuation of the infringement.

ARTICLE 13.51

Alternative measures

Each Party may provide that the judicial authorities, in appropriate cases and upon the request of the person liable to be subject to the measures provided for in Article 13.49 or 13.50, may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in Article 13.49 or 13.50, if it is found that the former acted unintentionally and without negligence, or if execution of the measures in question would cause them disproportionate harm or if pecuniary compensation to the injured party appears reasonably satisfactory[1].

[1] In deciding what is "reasonably satisfactory", the judge may take into consideration the public interest.

ARTICLE 13.52

Damages

1. Each Party shall ensure that the judicial authorities have the authority, upon the request of the injured party, to order an infringer who knowingly, or with reasonable grounds to know, engaged in an activity infringing intellectual property rights to pay the right holder damages appropriate to compensate for the actual prejudice suffered as a result of the infringement of the intellectual property right. In setting the damages, the competent judicial authorities:

(a) shall take into account all appropriate aspects, such as the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits[1] made by the infringer and, if applicable, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement; or

(b) as an alternative to point (a), they may, in appropriate cases, set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.

[1] "Unfair profits" are those derived from the infringement, in accordance with a Party's law.

ARTICLE 13.53

Legal costs

Each Party shall provide that its judicial authorities, if appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning the enforcement of intellectual property rights, that the prevailing party be awarded payment by the losing party of legal costs and other expenses, as provided for under that Party's law.

ARTICLE 13.54

Publication of judicial decisions

Each Party shall ensure that its judicial authorities are able to order the publication of the decision in cases of infringement of an intellectual property right, unless this would not be proportionate to the seriousness of the infringement.

ARTICLE 13.55

Presumption of authorship or ownership

Each Party shall, at least in provisional measures requested in civil proceedings involving copyright and related rights, provide for a presumption that, in the absence of proof to the contrary, the person or entity whose name is indicated as the author or related right holder of the work or subject matter in the usual manner is the designated right holder in such work or subject matter.

ARTICLE 13.56

Public awareness

The Parties shall take the necessary measures to enhance public awareness of protection of intellectual property including educational and dissemination projects on the use of intellectual property rights as well as on the enforcement thereof.

SUB-SECTION 2

BORDER ENFORCEMENT

ARTICLE 13.57

Consistency with GATT and the TRIPS Agreement

In implementing border measures for the enforcement of intellectual property rights by customs authorities, whether or not covered by this Chapter, each Party shall ensure consistency with its obligations under the GATT and the TRIPS Agreement and, in particular, with Article V of GATT and Article 41 and Section 4 of Part III of the TRIPS Agreement.

ARTICLE 13.58

Border measures

1. With respect to goods under customs control, each Party shall adopt or maintain procedures under which a right holder may submit applications requesting customs authorities to suspend the release or detain goods suspected of, at least, trademark counterfeiting, copyright and related rights piracy on a commercial scale or infringing of geographical indications (hereinafter referred to as "suspect goods").

2. The Parties shall not be obliged to apply the procedures in this Sub-Section to goods in transit.

3. Each Party shall encourage the use of electronic systems for the management by customs authorities of the applications granted or recorded.

4. Each Party shall ensure that customs authorities inform the applicant within a reasonable period of time whether they have granted or recorded the application.

5. Each Party shall provide for such application or recordation to apply to multiple shipments when so allowed in accordance with the provisions of the Party's law.

6. Each Party may provide that its customs authorities have the authority, with respect to goods under customs control, to suspend the release of or detain suspect goods on their own initiative.

7. Each Party shall ensure that customs authorities are able to use risk analysis to identify suspect goods.

8. Each Party may have in place administrative or judicial procedures, in accordance with the Party's law, allowing for the destruction of suspect goods, if the persons concerned accept or do not oppose to the destruction thereof. If such goods are not destroyed, each Party shall ensure that they are disposed of outside commercial channels in such a manner as to avoid any harm to the right holder.

9. The Parties shall not be obliged to apply this Article to imports of goods put on the market in another country by or with the consent of the right holders. A Party may exclude from the application of this Article goods of a non-commercial nature contained in travellers' personal luggage.

10. The Parties shall ensure that the customs authorities of each Party maintain a regular dialogue and promote cooperation with the relevant stakeholders and with other authorities involved in the enforcement of the intellectual property rights referred to in paragraph 1.

11. The Parties shall cooperate with respect to international trade in suspect goods and, in particular, to share information on such trade.

12. Without prejudice to other forms of cooperation, Annex 4-A applies to breaches of legislation on intellectual property rights the enforcement of which falls within the competence of the customs authorities in accordance with this Article.

SECTION D

FINAL PROVISIONS

ARTICLE 13.59

Subcommittee on intellectual property rights

1. The Subcommittee on intellectual property rights, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 13.39 and 22.3:

(a) to exchange information:

(i) on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement; and

(ii) related to public domain in the territories of the Parties; and

(b) to exchange experiences on:

(i) legislative progress;

(ii) the enforcement of intellectual property rights; and

(iii) enforcement at central and sub-central level by customs, police, administrative and judiciary bodies.

ARTICLE 13.60

Cooperation

1. With a view to facilitating the implementation of this Chapter the Parties shall cooperate:

(a) within the Subcommittee on intellectual property rights;

(b) in international fora;

(c) via various agencies; or

(d) as otherwise deemed appropriate.

2. The areas of cooperation include the following activities:

(a) coordination to prevent exports of counterfeit goods, including with other countries;

(b) technical assistance, capacity-building, exchange and training of personnel;

(c) protection and enforcement of intellectual property rights and the dissemination of information in this regard in, inter alia, business circles and civil society;

(d) public awareness of consumers and right holders and enhancement of institutional cooperation, particularly between intellectual property offices;

(e) actively promoting awareness and education of the general public on policies concerning intellectual property rights;

(f) engaging with SMEs, including at SME-focused events or gatherings, regarding the use, protection and enforcement of intellectual property rights;

(g) the application of the CBD and related instruments and the domestic frameworks on access to genetic resources and associated traditional knowledge, innovations and practices; and

(h) facilitation of voluntary stakeholder initiatives to reduce intellectual property rights infringement, including over the internet and in other marketplaces.

CHAPTER 14

SMALL AND MEDIUM-SIZED ENTERPRISES

ARTICLE 14.1

General principles

1. The Parties recognise that SMEs, which include micro, small and medium-sized enterprises and entrepreneurs, contribute significantly to trade, economic growth, employment and innovation. The Parties affirm their intention to support the growth and development of SMEs by enhancing their ability to participate in, and benefit from, the opportunities created by this Agreement.

2. The Parties acknowledge the importance of reducing non-tariff barriers which place a disproportionate burden on SMEs. They also acknowledge that, in addition to the provisions in this Chapter, there are other provisions in this Agreement that seek to enhance cooperation between the Parties on issues of relevance to SMEs or that otherwise may be of particular benefit to SMEs.

ARTICLE 14.2

Information sharing

1. Each Party shall establish or maintain its own publicly accessible website containing information regarding this Agreement, including:

(a) the text of this Agreement, including all Annexes, tariff schedules and product specific rules of origin;

(b) a summary of this Agreement; and

(c) information designed for SMEs containing:

(i) a description of the provisions in this Agreement that such Party considers to be relevant to SMEs; and

(ii) any additional information that such Party considers to be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

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

(a) the equivalent website of the other Party;

(b) the websites of its own government authorities and other appropriate entities that the Party considers would provide useful information to persons interested in trading, investing or otherwise doing business in the territory of that Party, including available information related to the following:

(i) rates of most-favoured-nation and preferential customs duties and quotas, rules of origin and customs or other fees imposed at the border;

(ii) customs regulations and procedures for importation, exportation and transit as well as other required forms and documents therefor;

(iii) regulations and procedures concerning intellectual property rights;

(iv) technical regulations including, where necessary, obligatory conformity assessment procedures;

(v) links to lists of conformity assessment bodies, as provided for in Chapter 5;

(vi) sanitary and phytosanitary measures relating to importation and exportation as provided for in Chapter 6;

(vii) government procurement, transparency rules and publication of procurement notices as well as other relevant provisions contained in Chapter 12;

(viii) business registration procedures; and

(ix) other information which the SMEs coordinators agree may be of assistance to SMEs.

(c) a database that is electronically searchable by tariff nomenclature code and that includes the information referred to in point (b)(i) as well as the following information:

(i) excise duties;

(ii) taxes (value added tax or sales tax);

(iii) other tariff measures;

(iv) deferral or other types of relief that result in the reduction, refund or waiver of customs duties;

(v) criteria used to determine the customs value of the good;

(vi) if applicable, country of origin marking requirements, including placement and method of marking;

(vii) information needed for import procedures; and

(viii) information related to non-tariff measures.

3. Each Signatory MERCOSUR State shall make its best efforts to ensure that no later than 3 (three) years after the entry into force of this Agreement, the websites and the database referred to in paragraphs 1 and 2 are put into place, containing as much information as possible with respect to access to its markets.

4. Each Party shall regularly, or if requested by the other Party, update the information and links referred to in paragraphs 1 and 2.

5. Each Party shall ensure that information set out in this Article is presented in a manner that is easy to use for SMEs. If possible, each Party shall endeavour to make the information available in English.

6. A Party shall not apply any fee for access to the information provided pursuant to paragraphs 1 and 2 to any person of a Party.

ARTICLE 14.3

SMEs coordinators

1. Each Party shall communicate through the SMEs coordinators to the other Party its SME coordinator responsible for carrying out the functions listed in this Article as well as any change in the contact details of its SMEs coordinator. The SMEs coordinators shall:

(a) develop a work plan to carry out the tasks referred to in this Article;

(b) carry out their work through the communication channels agreed by the SMEs coordinators, which may include email, meeting in person, meeting or communicating by telephone conference or by video conference or communicating by other means; and

(c) report periodically on their activities to the Trade Committee for its consideration.

2. The tasks of the SMEs coordinators shall be to:

(a) ensure that SME needs are taken into account in the implementation of this Agreement;

(b) monitor the implementation of Article 14.2 with a view to ensuring that it remains up to date and relevant for SMEs;

(c) recommend additional information that may be included in the Parties' websites referred to in Article 14.2;

(d) cooperate and exchange information so that SMEs of the European Union and of MERCOSUR take advantage of new opportunities under this Agreement to increase trade and investment;

(e) address any other matters of relevance to SMEs in connection with the implementation of this Agreement;

(f) participate in, if appropriate, the work of subcommittees established pursuant to Article 22.3, when those subcommittees consider matters of relevance to SMEs;

(g) exchange information to assist the Trade Committee in monitoring and implementing this Agreement as it relates to SMEs; and

(h) consider any other matter arising under this Agreement pertaining to SMEs.

3. SMEs coordinators may cooperate with experts and external organisations, as appropriate, in carrying out their activities.

ARTICLE 14.4

Non-application of dispute settlement

No Party shall have recourse to dispute settlement under Chapter 21 for any matter arising under this Chapter.

CHAPTER 15

COMPETITION

ARTICLE 15.1

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "anti-competitive practices" means any conduct or act defined under the competition law of a Party which is subject to the imposition of penalties;

(b) "competition authority" means:

(i) for the European Union, the European Commission; and

(ii) for MERCOSUR, the competent authorities of each of the Signatory MERCOSUR States;

(c) "competition law" means:

(i) for the European Union, Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings[1] and implementing regulations[2] concerning those Articles and that Regulation; and

(ii) for MERCOSUR, the competition law of each of the Signatory MERCOSUR States and the respective implementing regulations;

(d) "concentrations between undertakings" means any transaction or act as defined under the competition law of a Party; and

(e) "enforcement activities" means any application of competition law by way of investigation or proceeding conducted by the competition authorities of a Party.

---

[1] OJ EC L 24, 29.1.2004, p. 1.

[2] For greater certainty, competition law in the European Union applies to the agricultural sector in accordance with Regulation (EU) 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EU L 347, 20.12.2013, p. 671).

ARTICLE 15.2

Principles

1. The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties acknowledge that anti-competitive practices and concentrations between undertakings which significantly impede effective competition have the potential to affect the proper functioning of markets and the benefits of trade liberalisation.

2. The following are incompatible with this Agreement, in so far as they may affect trade between the Parties:

(a) agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition[1] as defined under the respective competition law of each Party;

(b) any abuse by one or more undertakings of a dominant position as defined under the respective competition law of each Party; and

(c) concentrations between undertakings, which significantly impede effective competition, as defined under the respective competition law of each Party.

[1] For greater certainty, this point shall not be construed as limiting the scope of the analysis to be carried out in the case of agreements between undertakings, decisions by associations of undertaking and concerted practices between undertakings under the respective competition law of each Party.

3. The Parties recognise the importance of applying competition law in a transparent, timely and non-discriminatory manner, respecting the principles of procedural fairness towards all interested parties including the rights of defence of the parties under investigation.

ARTICLE 15.3

Implementation

1. Each Party shall adopt or maintain in force comprehensive competition law which effectively addresses the anti-competitive practices and concentrations between undertakings referred to in Article 15.2(2) and respects the principles set out in Article 15.2(3). Each Party shall establish or maintain competition authorities designated and appropriately equipped for the transparent and effective implementation of their competition law.

2. The competition authorities of each Party shall designate a focal point and inform each other thereof. The focal points may communicate and exchange information with regard to the implementation of Articles 15.5, 15.6 and 15.7.

ARTICLE 15.4

State-owned enterprises and enterprises granted exclusive or special privileges

1. Nothing in this Chapter prevents a Party from designating or maintaining state-owned enterprises, enterprises granted exclusive or special privileges or monopolies according to their respective law.

2. The entities referred to in paragraph 1 shall be subject to competition law provided that the application of such law does not obstruct the performance, in law or in fact, of the particular tasks of public interest assigned to them by a Party.

ARTICLE 15.5

Exchange of non-confidential information and enforcement cooperation

1. With a view to facilitating the effective application of the competition law of each Party, the competition authorities may exchange non-confidential information.

2. The competition authority of one Party may request the other Party's competition authority to provide cooperation with respect to enforcement activities. Such cooperation shall not prevent the Parties from taking autonomous decisions.

3. A Party shall not be required to communicate information to the other Party pursuant to this Article. Notwithstanding the previous sentence, if a Party provides information to the other Party pursuant to this Article, it may require that such information is used subject to the terms and conditions it specifies.

ARTICLE 15.6

Consultations

1. A competition authority of a Party may request consultations with a competition authority of the other Party if it considers that its interests are being substantially and adversely affected by:

(a) anti-competitive practices that are or have been engaged in by one or more undertakings situated in the territory of the other Party;

(b) concentrations between undertakings as referred to in Article 15.2(2); or

(c) the enforcement activities of the competition authority of the other Party.

2. Entering into the consultations referred to in paragraph 1 is without prejudice to any action by a competition authority of a Party under its competition law or to the autonomy of its decision-making.

3. A competition authority consulted pursuant to paragraph 1 may take whatever corrective measures it deems appropriate, consistent with its laws and regulations, and without prejudice to its discretion to enforce competition law.

ARTICLE 15.7

Non-application of dispute settlement

No Party shall have recourse to dispute settlement under Chapter 21 for any matter arising under this Chapter.

CHAPTER 16

SUBSIDIES

ARTICLE 16.1

Principles

Each Party may grant subsidies if they are necessary to achieve a public policy objective. Nevertheless, the Parties acknowledge that certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

ARTICLE 16.2

Cooperation

1. The Parties recognise the need to cooperate, both at multilateral and regional level, in order to:

(a) seek effective ways to coordinate their positions and proposals regarding subsidies in the framework of the WTO;

(b) explore ways to improve transparency regarding subsidies; and

(c) exchange information on the functioning of their subsidy control systems.

2. The Trade Council may consider ways to further enhance the Parties' understanding of the impact of subsidisation on trade.

3. The Parties shall review the functioning of their cooperation no later than 3 (three) years after the date of entry into force of this Agreement and at regular intervals thereafter. The Parties shall consult each other on ways to improve their cooperation, in light of experience gained and any initiative on subsidy rules developed in the context of the WTO.

4. Details of such cooperation may be set out in an administrative agreement.

CHAPTER 17

STATE-OWNED ENTERPRISES, ENTERPRISES GRANTED EXCLUSIVE OR SPECIAL PRIVILEGES

ARTICLE 17.1

Definitions

For the purposes of this Chapter, the following definition apply:

(a) "commercial activities" means activities undertaken by an enterprise with a view to making a profit, the end result of which is the production of a good or supply of a service which will be sold in the relevant market in quantities and at prices determined by the enterprise[1];

(b) "commercial considerations" means price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale; or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise operating according to market-economy principles in the relevant business or industry;

(c) "enterprise granted exclusive or special privileges" means an enterprise, public or private, including a subsidiary, to which a Party has granted, formally or in effect, exclusive or special privileges;

[1] For greater certainty, this excludes activities undertaken by an enterprise that operates: (a) on a not-for-profit basis; or (b) on a cost recovery basis.

(d) "exclusive or special privileges" means rights or privileges granted by a Party to a sole enterprise or to a limited number of enterprises authorised to supply a good or a service, that are not granted according to objective, proportional and non-discriminatory criteria, taking into account the specific sectoral regulation under which the granting of the right or privilege has taken place, thereby substantially affecting the ability of any other enterprise to supply the same good or service in the same geographical area under substantially equivalent conditions[1];

(e) "service supplied in the exercise of governmental authority" means a service supplied in the exercise of governmental authority as defined in Article I:3(c) of GATS and, where applicable, Articles 1 (b), (c) and (d) of the Annex on Financial Services to GATS; and

(f) "state-owned enterprise" means an enterprise owned or controlled by a Party[2].

---

[1] For greater certainty, the granting of a licence to a limited number of enterprises in allocating a scarce resource through objective, proportional and non-discriminatory criteria is not in and of itself an exclusive or special privilege.

[2] For the purposes of this definition, the term "owned or controlled" refers to situations in which a Party owns more than 50 % of the share capital or controls the exercise of more than 50 % of the voting rights, or otherwise exercises an equivalent degree of control over the enterprise according to the governance rules of that enterprise.

ARTICLE 17.2

Scope

1. This Chapter applies to state-owned enterprises and to enterprises engaged in commercial activities to which a Party has granted, formally or in effect, exclusive or special privileges. If an enterprise combines commercial and non-commercial activities, only the commercial activities of that enterprise are covered by this Chapter.

2. This Chapter does not apply to the procurement by a Party of a good or service purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production or the supply of a good or service for commercial sale, irrespective of whether that procurement is a "covered procurement" within the meaning of Article 12.3.

3. This Chapter does not apply to a service supplied in the exercise of governmental authority.

4. This Chapter does not apply to state-owned enterprises or to enterprises granted exclusive or special privileges, if in any one of the 3 (three) previous consecutive fiscal years the annual revenue derived from the commercial activities covered by this Chapter of the enterprise concerned was less than 200 (two hundred) million special drawing rights.

5. This Chapter does not apply to the commercial activities of state-owned enterprises and enterprises granted exclusive or special privileges with respect to sectors or subsectors for which specific commitments are not made pursuant to Appendices 17-A-1 and 17-A-2 or to sectors or subsectors for which specific commitments are made subject to limitations pursuant to Appendices 17-A-1 and 17-A-2, to the extent of those limitations and subject to the terms and conditions set out therein.

6. This Chapter does not apply to state-owned enterprises in the defence sector.

7. This Chapter does not apply to state-owned enterprises or enterprises granted exclusive or special privileges referred to in Appendices 17-A-1 and 17-A-2. Article 17.4 does not apply to state-owned enterprises listed in Appendix 17-A-1.

ARTICLE 17.3

General provisions

1. Each Party affirms its rights and obligations under Article XVII of GATT 1994, the Understanding on the Interpretation of Article XVII of GATT 1994, as well as under Article VIII of GATS.

2. Nothing in this Chapter prevents a Party from establishing or maintaining state-owned enterprises, designating or maintaining monopolies, or granting enterprises exclusive or special privileges.

ARTICLE 17.4

Commercial considerations

1. Each Party shall ensure that its state-owned enterprises and enterprises granted exclusive or special privileges, when engaging in commercial activities in the territory of a Party, act in accordance with commercial considerations in their purchases or sales of goods or services, except to fulfil their public mandate or purpose[1] as provided for in a Party's law.

2. Paragraph 1 does not preclude these enterprises from:

(a) purchasing or supplying goods or services on different terms or conditions, including those relating to price, if such different terms or conditions are made in accordance with commercial considerations; or

(b) refusing to purchase or supply goods or services, if such refusal is made in accordance with commercial considerations.

[1] For greater certainty, the concept of "public mandate or purpose" includes, among others, the activities of national banks regarding the purchase of goods and services under federal procurement laws, and lending policies in support of affordable housing, exports or imports, micro, small and medium-sized enterprises and farmers or any tasks assigned by a Party to its state-owned enterprises and enterprises granted exclusive or special privileges by a Party. The concept of "public mandate or purpose" also includes activities carried out by a public entity or trust relating to social security or public retirement plans.

ARTICLE 17.5

Transparency

1. A Party which has reason to believe that its interests are being adversely affected by the commercial activities of a state-owned enterprise or of an enterprise granted exclusive or special privileges of the other Party may request the other Party to provide information in writing about the commercial activities of that enterprise which are subject to the provisions of this Chapter. The requested Party shall, to the extent possible, provide an answer in a timely manner.

2. Requests for information referred to in paragraph 1 shall indicate the enterprise, the goods services and markets concerned and indicate the interests under this Chapter that the requesting Party believes to be adversely affected.

ARTICLE 17.6

Cooperation

The Parties shall cooperate by:

(a) exploring the possibility to make additional commitments on state-owned enterprises and enterprises granted exclusive or special privileges; and

(b) exchanging experiences in the development of best practices on the corporate governance of state-owned enterprises.

ARTICLE 17.7

Amendment of Annex 17-A

Annex 17-A shall be subject to review by the Trade Council 5 (five) years after the date of entry into force of this Agreement with a view to exploring the possibility of making additional commitments. The Trade Council may adopt a decision to amend Annex 17-A as appropriate.

CHAPTER 18

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 18.1

Objectives and scope

1. The objective of this Chapter is to enhance the integration of sustainable development in the Parties' trade and investment relationship, notably by establishing principles and actions concerning labour[1] and environmental aspects of sustainable development of specific relevance in a trade and investment context.

[1] For the purposes of this Chapter, the term "labour" means the strategic objectives of the International Labour Organization under the Decent Work Agenda, which is expressed in the ILO Declaration on Social Justice for a Fair Globalization.

2. The Parties recall the Agenda 21 on Environment and Development, adopted at the UN Conference on Environment and Development, held in Rio de Janeiro, on 3 to 14 June 1992, and the Rio Declaration on Environment and Development adopted by the United Nations Conference on Environment and Development in 1992, the Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the Ministerial Declaration of the United Nations Economic and Social Council on creating an environment at the national and international levels conducive to generating full and productive employment and decent work for all, and its impact on sustainable development of 2006, the Declaration on Social Justice for a Fair Globalization of 2008 of the International Labour Organization (hereinafter referred to as "ILO") adopted by the International Labour Conference at its 97th Session in Geneva on 10 June 2008 (hereinafter referred to as "ILO Declaration on Social Justice for a Fair Globalization"), and the Outcome Document of the United Nations Conference on Sustainable Development of 2012 incorporated in Resolution 66/288 adopted by the United Nations General Assembly on 27 July 2012 entitled "The Future We Want" and the Sustainable Development Goals of the 2030 Agenda for Sustainable Development document "Transforming our World: the 2030 Agenda for Sustainable Development" adopted by the United Nations General Assembly on 25 September 2015 (hereinafter referred to as "the 2030 Agenda").

3. The Parties recognise that the economic, social and environmental dimensions of sustainable development are interdependent and mutually reinforcing, and affirm their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations.

4. Consistent with the instruments referred to in paragraph 2, the Parties shall promote sustainable development through:

(a) the development of trade and economic relations in a manner that contributes to the objective of achieving the Sustainable Development Goals and supports their respective labour and environmental standards and objectives in a context of trade relations that are free, open, transparent and respectful of multilateral agreements to which they are party;

(b) the respect of their multilateral commitments in the fields of labour and of the environment; and

(c) enhanced cooperation and understanding of their respective labour and environmental trade-related policies and measures, taking into account the different national realities, capacities, needs and levels of development and respecting national policies and priorities.

5. Recognising the differences in their levels of development, the Parties agree that this Chapter embodies a cooperative approach based on common values and interests.

ARTICLE 18.2

Right to regulate and levels of protection

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic environmental and labour protection it deems appropriate and to adopt or modify its laws, regulations and policies. Such levels, laws, regulations and policies shall be consistent with each Party's commitment to the international agreements and labour standards referred to in Articles 18.4 and 18.5.

2. Each Party shall strive to improve its relevant laws, regulations and policies so as to ensure high and effective levels of environmental and labour protection.

3. A Party should not weaken the levels of protection afforded in its environmental or labour laws and regulations with the intention of encouraging trade or investment.

4. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour laws and regulations in order to encourage trade or investment.

5. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour laws and regulations in order to encourage trade or investment.

6. A Party shall not apply its environmental and labour laws and regulations in a manner that would constitute a disguised restriction on trade or an unjustifiable or arbitrary discrimination.

ARTICLE 18.3

Transparency

1. Each Party shall, in accordance with Chapter 19, ensure that the development, enactment and implementation of the following is done in a transparent manner, ensuring awareness and encouraging public participation, in accordance with its rules and procedures:

(a) measures aimed at protecting the environment and labour conditions that may affect trade or investment; and

(b) trade or investment measures that may affect the protection of the environment or labour conditions.

ARTICLE 18.4

Multilateral labour standards and agreements

1. The Parties affirm the value of greater policy coherence in decent work, encompassing core labour standards, and high levels of labour protection, coupled with their effective enforcement, and recognise the beneficial role that those areas can have on economic efficiency, innovation and productivity, including export performance. In this context, they also recognise the importance of social dialogue on labour matters among workers and employers, and their respective organisations and governments, and commit to the promotion of such dialogue.

2. The Parties reaffirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, including for women and young people. In this context, each Party reaffirms its commitment to promote and effectively implement the ILO Conventions and Protocols ratified by the signatory MERCOSUR States and by the Member States of the European Union and classified as up to date by the ILO.

3. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted in Geneva on 18 June 1998 (hereinafter referred to as "ILO Declaration on Fundamental Principles and Rights at Work"), each Party shall respect, promote and effectively implement the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:

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

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

(c) the effective abolition of child labour; and

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

4. Each Party shall make continued and sustained efforts towards ratifying the fundamental ILO Conventions, Protocols and other relevant ILO Conventions to which it is not yet a party and that are classified as up to date by the ILO. The Parties shall regularly exchange information on their respective progress in this regard.

5. The Parties recall that among the objectives of the 2030 Agenda is the elimination of forced labour and underline the importance of ratification and effective implementation of the 2014 Protocol to the Forced Labour Convention.

6. The Parties shall consult and cooperate, as appropriate, on trade-related labour issues of mutual interest, including in the context of the ILO.

7. Recalling the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, the Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.

8. Each Party shall promote decent work as provided by the ILO Declaration on Social Justice for a Fair Globalization. Each Party shall pay particular attention to:

(a) developing and enhancing measures for occupational safety and health, including compensation in case of occupational injury or illness, as defined in the relevant ILO Conventions and other international commitments;

(b) decent working conditions for all, with regard to, among others, wages and earnings, working hours and other conditions of work;

(c) labour inspection, in particular through effective implementation of relevant ILO standards on labour inspections; and

(d) non-discrimination in respect of working conditions, including for migrant workers.

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

ARTICLE 18.5

Multilateral environmental agreements

1. The Parties recognise that the environment is one of the three dimensions of sustainable development – economic, social and environmental – and that those three should be addressed in a balanced and integrated manner. Additionally, the Parties recognise the contribution that trade can make to sustainable development.

2. The Parties recognise the importance of the United Nations Environment Assembly of the United Nations Environment Programme (hereinafter referred to as "UNEP") and of multilateral environmental agreements (hereinafter referred to as "MEAs") 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.

3. Each Party affirms its commitments to promote and effectively implement MEAs, protocols and amendments thereto to which it is a party.

4. The Parties shall regularly exchange information on their respective progress as regards the ratification of MEAs, including their protocols and amendments.

5. The Parties shall consult and cooperate, as appropriate, on trade-related environmental matters of mutual interest in the context of MEAs.

6. The Parties acknowledge their right to invoke Article 20.2 in relation to environmental measures.

7. Nothing in this agreement shall prevent a Party from adopting or maintaining measures to implement the MEAs to which it is a party if such measures are consistent with Article 18.2(6).

ARTICLE 18.6

Trade and climate change

1. The Parties recognise the importance of pursuing the ultimate objective of the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992, (hereinafter referred to as "UNFCCC"), in order to address the urgent threat of climate change and recognise the role of trade to this end.

2. Pursuant to paragraph 1, each Party shall:

(a) effectively implement the UNFCCC and the Paris Agreement, done at Paris on 20 December 2015 (hereinafter referred to as "the Paris Agreement"), established thereunder; and

(b) consistent with Article 2 of the Paris Agreement, promote the positive contribution of trade to a pathway towards low greenhouse gas emissions and climate-resilient development and to increasing the ability to adapt to the adverse impacts of climate change in a manner that does not threaten food production.

3. The Parties shall cooperate, as appropriate, on trade-related climate change issues bilaterally, regionally and in international fora, particularly in the UNFCCC.

ARTICLE 18.7

Trade and biodiversity

1. The Parties recognise the importance of the conservation and sustainable use of biological diversity in accordance with the Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992, the Convention on International Trade in Endangered Species of Wild Fauna and Flora signed at Washington D. C. on 3 March 1973 (hereinafter referred to as "CITES"), the International Treaty on Plant Genetic Resources for Food and Agriculture, and the decisions adopted thereunder, and the role that trade can play in contributing to the objectives of those Conventions and that Treaty.

2. Pursuant to paragraph 1, each Party shall:

(a) promote the use of CITES as an instrument for conservation and sustainable use of biodiversity, including through the inclusion of animal and plant species in the Appendices to CITES where the conservation status of those species is considered at risk because of international trade;

(b) implement effective measures leading to a reduction in illegal trade in wildlife, consistent with international agreements to which it is a party;

(c) encourage trade in natural resource-based products obtained through sustainable use of biological resources or which contribute to the conservation of biodiversity, in accordance with its laws and regulations; and

(d) promote the fair and equitable sharing of benefits arising from the use of genetic resources and, if appropriate, measures for access to such resources and prior informed consent.

3. The Parties shall also exchange information on initiatives and good practices on trade in natural resource-based products with the aim of conserving biological diversity and cooperate, as appropriate, bilaterally, regionally and in international fora on issues covered by this Article.

ARTICLE 18.8

Trade and sustainable management of forests

1. The Parties recognise the importance of sustainable forest management and the role of trade in pursuing this objective and of forest restoration for conservation and sustainable use.

2. Pursuant to paragraph 1, each Party shall:

(a) encourage trade in products from sustainably managed forests harvested in accordance with the laws and regulations of the country of harvest;

(b) promote, as appropriate and with their prior informed consent, the inclusion of forest-based local communities and indigenous peoples in sustainable supply chains of timber and non-timber forest products, as a means of enhancing their livelihoods and of promoting the conservation and sustainable use of forests;

(c) implement measures to combat illegal logging and related trade;

(d) exchange information concerning trade-related initiatives on sustainable forest management, forest governance and on the conservation of forest cover and cooperate to maximise the impact and ensure the mutual supportiveness of their respective policies of mutual interest; and

(e) cooperate, as appropriate, bilaterally, regionally and in international fora on issues concerning trade and the conservation of forest cover as well as sustainable forest management, consistent with the 2030 Agenda.

ARTICLE 18.9

Trade and sustainable management of fisheries and aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives and their shared commitment to achieving Sustainable Development Goal 14 of the 2030 Agenda, particularly targets 4 and 6 thereof.

2. Pursuant to paragraph 1 and in a manner consistent with its international commitments, each Party shall:

(a) implement long-term conservation and management measures and sustainable exploitation of marine living resources in accordance with international law as enshrined in the UNCLOS and other relevant United Nations and Food and Agriculture Organization of the United Nations (hereinafter referred to as "FAO") instruments to which it is a party;

(b) act in accordance with the principles of the FAO Code of Conduct for Responsible Fisheries adopted by Resolution 4/95 of 31 October 1995 (hereinafter referred to as "the FAO Code of Conduct for Responsible Fisheries");

(c) participate and cooperate actively within the regional fisheries management organisations and other relevant international fora to which it is a member, observer or cooperating non-contracting party, with the aim of achieving good fisheries governance and sustainable fisheries, including through effective control, monitoring and enforcement of management measures and, if applicable, the implementation of catch documentation or certification schemes;

(d) implement, in accordance with its international commitments, comprehensive, effective and transparent measures to combat illegal, unreported and unregulated fishing, and exclude from international trade products that do not comply with such measures, and cooperate to this end, including by facilitating the exchange of information;

(e) work with a view to coordinating the measures necessary for the conservation and sustainable use of straddling fish stocks in areas of common interest; and

(f) promote the development of sustainable and responsible aquaculture, taking into account its economic, social and environmental aspects, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries.

ARTICLE 18.10

Scientific and technical information

1. When establishing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall ensure that the scientific and technical evidence on which they are based is from recognised technical and scientific bodies and that the measures are based on relevant international standards, guidelines or recommendations where they exist.

2. In cases when scientific evidence or information is insufficient or inconclusive and there is a risk of serious environmental degradation or to occupational health and safety in its territory, a Party may adopt measures based on the precautionary principle. Such measures shall be based upon available pertinent information and be subject to periodic review. The Party adopting such measures shall seek to obtain new or additional scientific information necessary for a more conclusive assessment and shall review such measures as appropriate.

3. If a measure adopted in accordance with paragraph 2 has an impact on trade or investment, a Party may request the Party adopting the measure to provide information indicating that scientific evidence or information is insufficient or inconclusive in relation to the matter at stake and that the measure adopted is consistent with its own level of protection, and may request discussion of the matter in the Subcommittee on trade and sustainable development referred to in Article 18.14.

4. The measures referred to in this Article shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

ARTICLE 18.11

Trade and responsible management of supply chains

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices based on internationally agreed guidance.

2. Pursuant to paragraph 1, each Party shall:

(a) support the dissemination and use of relevant international instruments that it has endorsed or supported, such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted in Geneva in November 1977, the United Nations Global Compact, the United Nations Guiding Principles on Business and Human Rights endorsed by the Human Rights Council in its resolution 17/4 of 16 June of 2011 and the OECD Guidelines for Multinational Enterprises: Recommendations for Responsible Business Conduct in a Global Context annexed to the OECD Declaration on International Investment and Multinational Enterprises done in Paris on 21 June 1976.

(b) promote the voluntary uptake by enterprises of corporate social responsibility or responsible business practices, consistent with the guidelines and principles referred to in point (a); and

(c) provide a supportive policy framework for the effective implementation of the principles and guidelines referred to in point (a).

3. The Parties recognise the utility of international sector-specific guidelines in the areas of corporate social responsibility and responsible business conduct and shall promote joint work in this regard. In respect of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and its supplements, the Parties adhering to or supporting that Guidance shall also promote the uptake thereof.

4. The Parties shall exchange information as well as best practices and, if appropriate, cooperate on issues covered by this Article, including in relevant regional and international fora.

ARTICLE 18.12

Other trade and investment-related initiatives favouring sustainable development

1. The Parties confirm their commitment to enhance the contribution of trade and investment to the objective of sustainable development in its economic, social and environmental dimensions.

2. Pursuant to paragraph 1, the Parties shall:

(a) promote the objectives of the Decent Work Agenda, in accordance with the ILO Declaration on Social Justice for a Fair Globalization, including the minimum living wage, inclusive social protection, health and safety at work, and other aspects related to working conditions;

(b) encourage trade and investment in goods and services as well as the voluntary exchange of practices and technologies that contribute to enhanced social and environmental conditions, including those of particular relevance for climate change mitigation and adaptation, in a manner consistent with this Agreement; and

(c) cooperate, as appropriate, bilaterally, regionally and in international fora on matters covered by this Article.

ARTICLE 18.13

Working together on trade and sustainable development

1. The Parties recognise the importance of working together in order to achieve the objectives of this Chapter. They may work together on, among others:

(a) labour and environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the ILO, the UNEP, the UNCTAD, the United Nations High-level Political Forum for Sustainable Development and MEAs;

(b) the impact of labour and environmental law and standards on trade and investment;

(c) the impact of trade and investment law on labour and the environment; and

(d) voluntary sustainability assurance schemes, such as fair and ethical trade schemes and eco-labels, through the sharing of experience and information on such schemes.

2. In order to achieve the objectives of this Chapter, the Parties may also work together on the trade-related aspects of:

(a) the implementation of fundamental, priority and other up to date ILO Conventions;

(b) the ILO Decent Work Agenda, including on the interlinkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue, skills development and gender equality;

(c) the implementation of MEAs and support for each other's participation in such MEAs;

(d) the dynamic international climate change regime under the UNFCCC, in particular the implementation of the Paris Agreement;

(e) the Montreal Protocol on Substances that Deplete the Ozone Layer done at Montreal on 16 September 1987 and any Amendments to it ratified by the Parties, in particular measures to control the production and consumption of and trade in Ozone Depleting Substances (ODS) and Hydrofluorocarbons (HFCs), and the promotion of environmentally friendly alternatives to them, and measures to address illegal trade of substances regulated by that Protocol;

(f) corporate social responsibility, responsible business conduct, responsible management of global supply chains and accountability, including with regard to implementation, follow-up and dissemination of relevant international instruments;

(g) the sound management of chemicals and waste;

(h) the conservation and sustainable use of biological diversity, and the fair and equitable sharing of the benefits arising from the utilisation of genetic resources, including by appropriate access to such resources, as referred to in Article 18.7;

(i) combatting wildlife trafficking, as referred to in Article 18.7;

(j) the promotion of the conservation and sustainable management of forests with a view to reducing deforestation and illegal logging, as referred to in Article 18.8;

(k) private and public initiatives contributing to the objective of halting deforestation, including those linking production and consumption through supply chains, consistent with Sustainable Development Goals 12 and 15 of the 2030 Agenda;

(l) the promotion of sustainable fishing practices and trade in sustainably managed fish products, as referred to in Article 18.9; and

(m) sustainable consumption and production initiatives consistent with Sustainable Development Goal 12 of the 2030 Agenda, including, but not limited to, circular economy and other sustainable economic models aimed at increasing resource efficiency and reducing waste generation.

ARTICLE 18.14

Subcommittee on trade and sustainable development and contact points

1. The Subcommittee on trade and sustainable development, established pursuant to Article 22.3(4), shall have the following functions, in addition to those listed in Article 22.3:

(a) facilitate and monitor cooperation activities undertaken under this Chapter;

(b) carry out the tasks referred to in Articles 18.16 to 18.18; and

(c) conduct the preparatory internal work necessary for the Trade Committee, including with regard to topics for discussion with the Domestic Advisory Groups referred to in Article 22.6.

2. The Subcommittee shall publish a report after each of its meetings.

3. Each Party shall designate a contact point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter.

ARTICLE 18.15

Dispute resolution

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the interpretation or application of this Chapter.

2. Any time period mentioned in Articles 18.16 and 18.17 may be extended by mutual agreement of the Parties.

3. All time periods established under this Chapter shall be counted in calendar days from the day following the act or fact to which they refer.

4. For the purposes of this Chapter, Parties to a dispute under this Chapter shall be as set out in Article 21.3.

5. No Party shall have recourse to dispute settlement under Chapter 21 for any matter arising under this Chapter.

ARTICLE 18.16

Consultations

1. A Party may request consultations with the other Party regarding the interpretation or application of this Chapter by delivering a written request to the contact point of the other Party designated pursuant to Article 18.14(3). The request shall present the matter at issue clearly and provide a brief summary of the claims under this Chapter, including an indication of the relevant provisions thereof and explaining how it affects the objectives of this Chapter, as well as any other information the Party deems relevant. Consultations shall start promptly after a Party delivers a request for consultations, and in any event no later than 30 (thirty) days after the date of receipt of the request.

2. Consultations shall be held in person or, if so agreed by the Parties, by videoconference or other electronic means. If the consultations are held in person, they shall be held in the territory of the Party to whom the request is made, unless the Parties agree otherwise.

3. The Parties shall enter into consultations with the aim of reaching a mutually satisfactory resolution of the matter. In matters related to the multilateral agreements referred to in this Chapter, the Parties shall take into account information from the ILO or from relevant organisations or bodies responsible for MEAs ratified by both Parties, in order to promote coherence between the work of the Parties and these organisations. If relevant, the Parties may agree to seek advice from such organisations or bodies, or any other expert or body they deem appropriate.

4. If a Party considers that the matter needs further discussion, it may request in writing that the Subcommittee on trade and sustainable development be convened and notify that request to the contact point designated pursuant to Article 18.14(3). Such a request shall be made no earlier than 60 (sixty) days from the date of the receipt of the request under paragraph 1. The Subcommittee on trade and sustainable development shall meet promptly and endeavour to reach a mutually satisfactory resolution of the matter.

5. The Subcommittee on trade and sustainable development shall take into account any views on the matter provided by the Domestic Advisory Groups referred to in Article 22.6 as well as any expert advice.

6. Any resolution reached by the Parties shall be made publicly available.

ARTICLE 18.17

Panel of experts

1. If, within 120 (one hundred and twenty) days after a request for consultations under Article 18.16, no mutually satisfactory resolution has been reached, a Party may request the establishment of a panel of experts to examine the matter. Any such request shall be made in writing to the contact point of the other Party designated pursuant to Article 18.14(3) and shall identify the reasons for requesting the establishment of a panel of experts, including a description of the measures at issue and the relevant provisions of this Chapter that it considers applicable.

2. Except as otherwise provided for in this Article, Articles 21.9, 21.11, 21.12, 21.26 and 21.27, as well as the Rules of Procedure in Annex 21-A and the Code of Conduct in Annex 21-B, apply.

3. The Subcommittee on trade and sustainable development shall, at its first meeting after the date of entry into force of this Agreement, establish a list of at least 15 (fifteen) individuals who are willing and able to serve on a panel of experts. The list shall be composed of 3 (three) sub-lists: 1 (one) sub-list proposed by the EU, 1 (one) sub-list proposed by MERCOSUR and 1 (one) sub-list of individuals that are not nationals of either Party. Each Party shall propose at least 5 (five) individuals for its sub-list. The Parties shall also select at least 5 (five) individuals for the list of individuals that are not nationals of either Party. The Subcommittee on trade and sustainable development shall ensure that the list is kept up to date and that the number of experts is maintained at least at 15 (fifteen) individuals.

4. The individuals referred to in paragraph 3 shall have specialised knowledge of, or expertise in, matters addressed in this Chapter, including labour, environmental or trade law, or in the resolution of disputes arising under international agreements. They shall serve in their individual capacities, be independent and not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of any Party. They shall also comply with Annex 21-B.

5. A panel of experts shall be composed of 3 (three) members, unless the Parties agree otherwise. The chairperson shall be from the sub-list of individuals that are not nationals of either Party. A panel of experts shall be established according to the procedures set out in paragraphs 1 to 4 of Article 21.9. The experts shall be selected from the relevant individuals on the sub-lists referred to in paragraph 3 of this Article, in accordance with the relevant provisions of paragraphs 2, 3 and 4 of Article 21.9.

6. Unless the Parties agree otherwise within 7 (seven) days after the date of establishment of the panel of experts, as defined in Article 21.9(5), the terms of reference shall be:

"to examine, in the light of the relevant provisions of Chapter 18 of the Interim Agreement on Trade between the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part, the matter referred to in the request for the establishment of the panel of experts, and to issue a report, in accordance with Article 18.17, making recommendations for the resolution of the matter".

7. With regard to matters related to the respect of multilateral agreements referred to in this Chapter, the opinions of experts or information requested by the panel of experts in accordance with Article 21.12 (should include information and advice from the relevant ILO or MEA bodies. Any information obtained under this paragraph shall be provided to both Parties for their comments.

8. The panel of experts shall interpret the provisions of this Chapter in accordance with the customary rules of interpretation of public international law.

9. The panel of experts shall issue to the Parties an interim report within 90 (ninety) days after the establishment of the panel of experts, and a final report no later than 60 (sixty) days after issuing the interim report. Those reports shall set out the findings of fact, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations. Either of the involved Parties may submit written comments on the interim report to the panel of experts within 45 (forty-five) days after the date of issue of the interim report. After considering any such written comments, the panel of experts may modify the report and make any further examination it considers appropriate. If it considers that the deadlines set in this paragraph cannot be met, the chairperson of the panel of experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to issue its interim or final report.

10. The Parties shall make the final report publicly available within 15 (fifteen) days after its submission by the panel of experts.

11. The Parties shall discuss appropriate measures to be implemented, taking into account the report and recommendations of the panel of experts. The Party complained against shall inform its Domestic Advisory Group referred to in Article 22.6 and the other Party of its decisions on any actions or measures to be implemented no later than 90 (ninety) days after the report has been made publicly available. The Subcommittee on trade and sustainable development shall monitor the follow-up to the report of the panel of experts and its recommendations. The Domestic Advisory Group referred to in Article 22.6 may submit observations to the Subcommittee on trade and sustainable development in this regard.

ARTICLE 18.18

Review

1. For the purposes of facilitating the achievement of the objectives of this Chapter, the Parties shall discuss through the meetings of the Subcommittee on trade and sustainable development its effective implementation, including a possible review of its provisions, taking into account, among others, the experience gained, policy developments in each Party, developments in international agreements and views presented by stakeholders.

2. The Subcommittee on trade and sustainable development may recommend to the Parties amendments to the relevant provisions of this Chapter reflecting the outcome of the discussions referred to in paragraph 1.

CHAPTER 19

TRANSPARENCY

ARTICLE 19.1

Definitions

For the purposes of this Chapter the following definitions apply:

(a) "administrative decision" means a decision that affects the rights or obligations of a person in an individual case and covers an administrative action or failure to take an administrative action or decision as provided for in a Party's laws and regulations;

(b) "interested person" means any natural or juridical person that may be affected by a measure of general application; and

(c) "measure of general application" means a law, regulation, judicial decision, procedure or administrative ruling of general application that may have an impact on any matter covered by this Agreement.

ARTICLE 19. 2

Objectives

Recognising the impact which its regulatory environment may have on trade and investment between the Parties, each Party shall aim to promote a transparent and predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises, in accordance with the provisions of this Chapter.

ARTICLE 19.3

Publication

1. Each Party shall ensure that a measure of general application with respect to any matter covered by this Agreement:

(a) is promptly published via an officially designated medium and, if feasible, by electronic means or is otherwise made available in such a manner as to enable any person to become acquainted with it;

(b) provides an explanation of its objective and rationale; and

(c) allows for sufficient time between its publication and entry into force, except when this is not possible for reasons of urgency.

2. To the extent possible, when adopting or amending major laws or regulations of general application with respect to any matter covered by this Agreement, each Party shall, in accordance with its respective rules and procedures:

(a) publish in advance the draft law or regulation or consultation documents providing details of the objective of, and rationale for, such law or regulation;

(b) provide interested persons and the other Party a reasonable opportunity to comment on such draft law or regulation or consultation documents; and

(c) endeavour to take into consideration the comments received on such draft law or regulation or consultation documents.

ARTICLE 19.4

Enquiries

1. No later than 3 (three) years after the date of entry into force of this Agreement, each Party shall establish or maintain appropriate mechanisms for receiving and responding to enquiries from any person regarding any measure of general application which is proposed or in force and how it would be applied with respect to any matter covered by this Agreement.

2. Upon request of a Party, the other Party shall promptly provide information and respond to enquiries pertaining to any measure of general application or any proposal to adopt or amend any measure of general application with respect to any matter covered by this Agreement that the requesting Party considers may affect the operation of this Agreement.

ARTICLE 19.5

Administration of measures of general application

1. Each Party shall administer in an objective, impartial and reasonable manner all measures of general application with respect to any matter covered by this Agreement.

2. Each Party, when applying measures of general application to persons, goods or services of the other Party in specific cases, shall:

(a) endeavour to provide persons that are directly affected by administrative proceedings[1] with reasonable notice, in accordance with its laws and regulations, when administrative proceedings are initiated, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated and a general description of any issues in question; and

(b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision, in so far as time, the nature of the proceedings and the public interest permit.

[1] For greater certainty, in the case of matters covered by Chapter 15 such persons are the addressees of a decision by a Party's competition authority.

ARTICLE 19.6

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review or appeal and, if warranted, the correction of an administrative decision with respect to any matter covered by this Agreement. Each Party shall ensure that its procedures for review or appeal are carried out in a non-discriminatory and impartial manner by tribunals that are impartial and independent of the authority entrusted with administrative enforcement, and composed by individuals with no substantial interest in the outcome of the matter.

2. Each Party shall ensure that the parties to the procedures referred to in paragraph 1 are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, if required by its law, the record compiled by the administrative authority.

3. Each Party shall ensure that the decision referred to in point (b) of paragraph 2 shall, subject to appeal or further review as provided for in its law, be implemented by, and govern the practice of the authority entrusted with administrative enforcement with respect to the administrative decision concerned.

ARTICLE 19.7

Regulatory quality and performance and good regulatory practices

1. The Parties recognise the principles of good regulatory practices and shall promote regulatory quality and performance. In particular, the Parties shall endeavour to:

(a) encourage the use of regulatory impact assessments when developing major initiatives; and

(b) establish or maintain procedures to promote the regular retrospective evaluation of measures of general interest.

2. The Parties shall endeavour to cooperate in regional and multilateral fora to promote good regulatory practices and transparency in respect of international trade and investment in areas covered by this Agreement.

ARTICLE 19.8

Relation to other Chapters

This Chapter applies without prejudice to any specific rules in other Chapters of this Agreement.

CHAPTER 20

EXCEPTIONS

ARTICLE 20.1

Security Exceptions

Nothing in this Agreement shall be construed:

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

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

(i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying 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 international obligations under the Charter of the United Nations, signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, for the purpose of maintaining international peace and security.

ARTICLE 20.2

General exceptions

1. 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 the same conditions prevail, or a disguised restriction on international trade, nothing in Chapters 2, 4 and 17 shall be construed to prevent the adoption or enforcement by a Party of measures referred to in Article XX of the GATT 1994. To that end, Article XX of the GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, *mutatis mutandis*.

2. 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 investment liberalization or trade in services, nothing in Chapters 10 and 17 shall be construed to prevent the adoption or enforcement by either Party of measures:

(a) necessary to protect public security or public morals or to maintain public order[1];

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

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

(c) relating to the conservation of exhaustible natural resources, if such measures are applied in conjunction with restrictions on domestic investors or on the domestic supply or consumption of services;

(d) necessary for the protection of national treasures of artistic, historic or archaeological value;

(e) necessary to secure compliance with 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[1] or to deal with the effects of a default on contracts;

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

(iii) safety.

3. Nothing in Chapter 10 shall be construed to prevent the adoption or enforcement of a measure which implements a requirement imposed or enforced by a court, administrative tribunal or competition authority to remedy a violation of competition laws and regulations.

[1] For greater certainty, this includes anti-money laundering and counter-terrorism financing regulations.

4. For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with the provisions of Chapters 2, 4 and 17:

(a) the measures referred to in point (b) of Article XX of GATT 1994 include environmental measures, which are necessary to protect human, animal or plant life or health;

(b) point (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources; and

(c) measures taken to implement multilateral environmental agreements can fall under points (b) or (g) of Article XX of GATT 1994.

5. Before a Party takes any measures in accordance with points (i) and (j) of Article XX of GATT 1994, it shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If an agreement is not reached within 30 (thirty) days of providing such information, the Party may apply the relevant measures. Whenever exceptional and critical circumstances require immediate action, the Party intending to take the measures may apply the measure necessary to deal with the circumstances without prior notification and shall inform the other Party immediately thereof.

ARTICLE 20.3

Taxation

1. Nothing in this Agreement shall affect the rights and obligations of the European Union or its Member States or of the Signatory MERCOSUR States under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency.

2. 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 or investment, nothing in this Agreement shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure aimed at ensuring the equitable or effective imposition or collection of direct taxes[1] that:

(a) distinguishes between taxpayers, who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested; or

[1] For greater certainty, the Parties understand that such measures include measures inconsistent with Article 10.4 aimed at ensuring the equitable or effective imposition or collection of direct taxes, taken by a Party under its taxation system which:

(i) apply to non-resident investors and services 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 investors and service suppliers subject to tax on worldwide taxable items from other investors and 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 this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.

(b) aims at preventing the avoidance or evasion of taxes pursuant to the provisions of any tax convention or domestic fiscal legislation.

3. For the purpose of this Article:

(a) "residence" means residence for tax purposes; and

(b) "tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation that the European Union or its Member States or a Signatory MERCOSUR State is party to.

ARTICLE 20.4

Disclosure of information

1. Nothing in this Agreement shall be construed to require a Party to make available 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 particular enterprises, public or private, except where a panel requires such confidential information in dispute settlement proceedings under Chapter 21. In such cases, the panel shall ensure that confidentiality is fully protected.

2. When a Party provides information which is considered as confidential under its laws and regulations, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.

ARTICLE 20.5

WTO Waivers

If an obligation in this Agreement is substantially equivalent to an obligation contained in the WTO Agreement, any measure taken in conformity with a waiver adopted pursuant to paragraphs 3 and 4 of Article IX of the WTO Agreement is deemed to be in conformity with the substantively equivalent provision in this Agreement.

CHAPTER 21

DISPUTE SETTLEMENT

SECTION A

OBJECTIVE, DEFINITIONS AND SCOPE

ARTICLE 21.1

Objective

The objective of this Chapter is to establish an effective and efficient mechanism to:

(a) avoid and settle disputes between the Parties regarding the interpretation and application of this Agreement with a view to reaching, if possible, a mutually agreed solution; and

(b) preserve the balance of concessions accorded by this Agreement, when applicable.

ARTICLE 21.2

Definitions

For the purposes of this Chapter and Annexes 21-A, 21-B and 21-C:

(a) "adviser" means an individual retained by a party to advise or assist that party in connection with the arbitration proceedings;

(b) "arbitration panel" means a panel established pursuant to Article 21.9;

(c) "arbitrator" means an individual who is a member of an arbitration panel;

(d) "assistant" means an individual who, under the terms of appointment of an arbitrator, conducts researches or provides assistance to that arbitrator;

(e) "candidate" means an individual whose name is on the list of arbitrators referred to in Article 21.8(3) and who is under consideration for selection as a member of an arbitration panel established pursuant to Article 21.9;

(f) "complaining party" means a party that requests the establishment of an arbitration panel pursuant to Article 21.7;

(g) "expert" means an individual with specialised and recognised knowledge and experience in a certain field that is requested by an arbitration panel or mediator to provide an opinion, or whose opinion in that field is submitted to or requested by any of the parties;

(h) "mediator" means an individual who conducts a mediation pursuant to Article 21.6;

(i) "representative of a party" means an employee or any person appointed by a government department or agency or any other public entity of a Party who represents that Party for the purposes of a dispute under this Chapter; and

(j) "staff" means, in respect of an arbitrator, individuals under the direction and control of an arbitrator, other than assistants.

ARTICLE 21.3

Parties to the dispute

1. For the purposes of this Chapter, the European Union and MERCOSUR or one or more of the Signatory MERCOSUR States, may be parties to a dispute. The parties to the dispute shall be hereinafter referred to as "party" or "parties".

2. The European Union may initiate dispute settlement proceedings against MERCOSUR regarding a measure that concerns the European Union or one or more of its Member States, if the measure at issue is a measure of MERCOSUR.

3. The European Union may initiate dispute settlement proceedings against one or more of the Signatory MERCOSUR States regarding a measure that concerns the European Union or one or more of its Member States, if the measure at issue is a measure of such Signatory MERCOSUR State or States.

4. MERCOSUR may initiate dispute settlement proceedings against the European Union regarding a measure that concerns MERCOSUR or all of the Signatory MERCOSUR States, if the measure at issue is a measure of the European Union[1] or of one or more of the European Union's Member States.

5. One or more Signatory MERCOSUR States may individually initiate dispute settlement proceedings against the European Union regarding a measure that concerns such Signatory MERCOSUR State or Signatory MERCOSUR States, if the measure is a measure of the European Union or of one or more of the European Union's Member States.

6. If more than one Signatory MERCOSUR State initiate dispute settlement proceedings against the European Union on the same matter, Article 9 of the DSU shall apply *mutatis mutandis*[2].

---

[1] For greater certainty, a measure of the European Union referred to in this Article would also cover a measure of one or more of the European Union's Member States.

[2] For greater certainty, paragraph 3 of article 9 of the DSU shall not prevent a Signatory MERCOSUR State to appoint a member of the arbitration panel from the sub-list referred to in point (b) of Article 21.8(3) of this Chapter different from the one that served or is serving as arbitrator in a panel established to examine a complaint of another Signatory MERCOSUR State on the same matter.

ARTICLE 21.4

Scope

The provisions of this Chapter apply with respect to any dispute:

(a) concerning the interpretation and application of the provisions of this Agreement (hereinafter referred to as "covered provisions"), except if otherwise expressly provided; or

(b) concerning an allegation by a party that a measure applied by the other party nullifies or substantially impairs any benefit accruing to it under the covered provisions in a manner adversely affecting trade between the parties, whether or not such measure conflicts with the provisions of this Agreement, except if otherwise expressly provided.

SECTION B

CONSULTATIONS AND MEDIATION

ARTICLE 21.5

Consultations

1. The parties shall endeavour to resolve any dispute regarding the alleged non-compliance with the covered provisions referred to in point (a) of Article 21.4 or regarding the alleged nullification or substantial impairment referred to in point (b) of Article 21.4 by entering into consultations in good faith with the aim of reaching a mutually agreed solution. In this context, additional consideration shall be given to the specific challenges of landlocked developing countries.

2. A party shall seek consultations through a written request delivered to the other party and to the Trade Committee, giving the reason for the request, including identification of the measure at issue and, in the case of a dispute referred to in point (a) of Article 21.4, the covered provisions that it considers applicable and not complied with by the other party, or, in the case of a dispute referred to in point (b) of Article 21.4, the benefits it considers to have been, as a result of the measure at issue, nullified or substantially impaired in a manner adversely affecting trade between the parties.

3. Consultations shall be held no later than 15 (fifteen) days after the date of receipt of the request, and shall, unless the parties agree otherwise, be held in the territory of the consulted party. Consultations shall be deemed to have been concluded no later than 30 (thirty) days after the date of receipt of the request, unless both parties agree to continue consultations. Consultations, and in particular the positions taken by the parties therein, shall be confidential and without prejudice to the rights of a party in any further proceedings.

4. Consultations on matters of urgency, including those regarding perishable goods or other goods or services that rapidly lose their quality, current condition or commercial value in a short period of time, shall be held no later than 15 (fifteen) days after the date of receipt of the request and shall be deemed to have been concluded within those 15 (fifteen) days, unless both parties agree to continue consultations.

5. During consultations, each party shall provide factual information, so as to allow a complete examination of the manner in which the measure at issue could, in the case of a dispute referred to in point (a) of Article 21.4, affect the application of this Agreement, or, in the case of a dispute referred to in point (b) of Article 21.4, nullify or substantially impair the benefits accruing to the requesting party under this Agreement in a manner adversely affecting trade between the parties.

6. If consultations are not held within the time period laid down in paragraphs 3 or 4, as the case may be, or if consultations are concluded and a mutually agreed solution is not reached, the party which has requested consultations may have recourse to the establishment of an arbitration panel in accordance with Article 21.7.

7. A request for consultations concerning a dispute referred to in point (a) of Article 21.4 shall be without prejudice to the right of the requesting party to request, concurrently or subsequently, consultations concerning a dispute referred to in point (b) of Article 21.4 in respect of the same measure, and vice versa.

ARTICLE 21.6

Mediation

A party may request pursuant to Annex 21-C to enter into mediation with respect to any measure by a party adversely affecting trade between the parties. Mediation may only be initiated by mutual consensus of the parties.

SECTION C

ARBITRATION

ARTICLE 21.7

Initiation of arbitration panel proceedings

1. If the parties have failed to resolve the dispute through consultations in accordance with Article 21.5, or if the complaining party considers that the defending party has failed to comply with a solution mutually agreed during consultations, the complaining party may seek the establishment of an arbitration panel by means of a written request delivered to the defending party and to the Trade Committee.

2. The complaining party shall give the reasons for the request, including identification of the measure at issue and explain, in the case of a dispute referred to in point (a) of Article 21.4, how that measure constitutes a breach of the covered provisions in a manner that clearly presents the legal basis for the complaint, or, in the case of a dispute referred to in point (b) of Article 21.4, how the measure at issue nullifies or substantially impairs the benefits accruing to the complaining party under this Agreement.

3. A request for establishment of an arbitration panel concerning a dispute referred to in point (a) of Article 21.4 shall be without prejudice to the right of the complaining party to request, concurrently or subsequently, the establishment of an arbitration panel concerning a dispute referred to in point (b) of Article 21.4 in respect of the same measure, and vice versa.

4. If the complaining party has, at the same time and in respect of the same measure, requested the establishment of an arbitration panel both concerning a dispute referred to in point (a) of Article 21.4 and a dispute referred to in point (b) of Article 21.4, a single arbitration panel shall be established conducting a single arbitration in respect of both disputes. In case of subsequent arbitrations concerning the same measure, the later arbitration shall be referred to the same panel as the preceding dispute, wherever possible.

ARTICLE 21.8

Appointment of arbitrators

1. Arbitrators must have specialised knowledge or experience in law and international trade. Arbitrators that are not nationals of a party shall be jurists.

2. Arbitrators shall:

(a) be independent;

(b) serve in their individual capacity;

(c) not take instructions from any organisation or government or be affiliated to any government or governmental organisation of a Party to this Agreement; and

(d) comply with Annex 21-B.

3. The Trade Committee shall, no later than 6 (six) months after the date of entry into force of this Agreement, establish a list of 32 (thirty-two) individuals who are willing and able to serve as arbitrators. That list shall be composed of the following 3 (three) sub-lists:

(a) one sub-list of 12 (twelve) individuals proposed by the European Union;

(b) one sub-list of 12 (twelve) individuals proposed by MERCOSUR; and

(c) one sub-list of 8 (eight) individuals, proposed by both Parties, who are not nationals of either Party and who shall act as chairperson of the arbitration panel.

4. The Trade Committee shall ensure that the list referred to in paragraph 3 of this Article contains the number of individuals therein required. The Trade Committee may amend the list of arbitrators, in accordance with Rule 25 of the Rules of Procedure as set out in Annex 21-A.

5. If, at the moment of the establishment of a particular arbitration panel pursuant to Article 21.9, the list provided for in paragraph 3 of this Article has not been established or, once established, not all individuals included in a particular sub-list are able to serve as arbitrator in a dispute, the co-chair of the Trade Committee of the complaining party shall draw by lot the arbitrators in accordance with Rules 10, 26 and 28 to 31 of the Rules of Procedure as set out in Annex 21-A.

ARTICLE 21.9

Establishment of the arbitration panel

1. An arbitration panel shall be composed of 3 (three) arbitrators.

2. No later than 10 (ten) days after the date of receipt of the written request for the establishment of an arbitration panel pursuant to Article 21.7(1), the parties shall consult one another with a view to agreeing on its composition[1]. Expertise relevant to the subject matter of the dispute may be taken into consideration by the parties for the selection of arbitrators. The arbitration panel shall always be chaired by a non-national of either Party.

3. If there is no agreement on the composition of the arbitration panel within the time period set out in paragraph 2 of this Article, each party shall appoint one member of the arbitration panel from the sub-list of that party referred to in Article 21.8(3) no later than 10 (ten) days after the expiry of the time period referred to in paragraph 2 of this Article. If a party fails to appoint an arbitrator within that time period, the co-chair of the Trade Committee of the complaining party or his or her designee shall, no later than 5 (five) days after the expiry of the time period referred to in the previous sentence, select the arbitrator by lot from the sub-list of that party.

4. During the time period referred to in paragraph 2 of this Article, the parties shall endeavour to agree on the chairperson of the arbitration panel. If they are unable to agree, either party shall request the co-chair of the Trade Committee of the complaining party to select the chairperson of the arbitration panel by lot from the sub-list referred to in Article 21.8(3) no later than 5 (five) days after that request.

[1] For greater certainty, when agreeing on the composition of the arbitration panel pursuant to this paragraph, the parties may agree to select as arbitrators persons who are not included in the list of arbitrators established pursuant to Article 21.8(3).

5. The date of the establishment of the arbitration panel shall be that on which all selected arbitrators have accepted the appointment in accordance with the Rules of Procedure set out in Annex 21-A.

6. If a party considers that an arbitrator does not comply with Annex 21-B, the procedures provided for in Annex 21-A apply.

7. If an arbitrator is unable to participate in the proceedings, withdraws or needs to be replaced, a new arbitrator shall be selected in accordance with the selection procedures set out in this Article and the Rules of Procedure set out in Annex 21-A. The arbitration proceedings shall be suspended during that period for up to a maximum of 25 (twenty-five) days.

8. The parties shall accept as binding, *ipso facto* and with no need for a special agreement, the authority of any arbitration panel established in accordance with this Chapter.

ARTICLE 21.10

Decision on urgency

If a party so requests, the arbitration panel shall decide, within 10 (ten) days of its establishment, whether the case concerns matters of urgency.

ARTICLE 21.11

Hearings

The hearings of the arbitration panel shall be open to the public, unless the parties to the dispute decide otherwise. The hearings of the arbitration panel shall be partially or completely closed to the public when the submission or arguments of a party contain information which that party has designated as confidential.

ARTICLE 21.12

Information and technical advice

1. The arbitration panel may request, in accordance with Annex 21-A, the opinion of experts or obtain information from any source deemed relevant.

2. The opinions of experts as well as information obtained from any relevant source shall be non-binding.

3. Experts must be persons of professional standing and experience in the relevant field. The arbitration panel shall consult the parties before choosing such experts.

4. The arbitration panel shall set a reasonable time period for the submission of information or the report of the experts.

5. Persons of the Parties shall be authorised to submit amicus curiae briefs to the arbitration panels in accordance with the conditions set out in Annex 21-A. Those conditions shall ensure that the amicus curiae briefs do not create an undue burden for the parties to the dispute or unduly delay or complicate the arbitration panel proceedings.

6. Any information obtained under this Article shall be disclosed to each of the parties and submitted for their comments.

ARTICLE 21.13

Applicable law and rules of interpretation

1. In the case of a dispute referred to in point (a) of Article 21.4, the arbitration panel shall resolve the dispute in accordance with the covered provisions.

2. In all disputes referred to in Article 21.4, the arbitration panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law. When interpreting an obligation under this Agreement which is identical to an obligation under the WTO Agreement, the arbitration panel shall take into consideration any relevant interpretation established in the rulings of the WTO Dispute Settlement Body.

ARTICLE 21.14

Arbitral award

1. The arbitration panel shall deliver an interim arbitral report to the parties no later than 90 (ninety) days after the date of establishment of the arbitration panel. The interim arbitral report shall set out the findings of fact, the applicability of covered provisions where relevant, and the basic rationale behind any findings and recommendations that the arbitration panel makes.

2. When the arbitration panel considers that the deadline referred to in paragraph 1 cannot be met, the chairperson of the arbitration panel shall notify the parties and the Trade Committee in writing, stating the reasons for the delay and the date on which the arbitration panel plans to deliver its interim arbitral report. Under no circumstances shall the interim arbitral report be delivered later than 120 (one hundred and twenty) days after the date of establishment of the arbitration panel.

3. In cases of urgency, including those regarding perishable goods or other goods or services that rapidly lose their quality, current condition or commercial value in a short period of time, the arbitration panel shall make every effort to deliver its interim arbitral report within 45 (forty-five) days and, in any case, no later than 60 (sixty) days after the date of establishment of the arbitration panel.

4. A party may deliver a written request to the arbitration panel to review precise aspects of the interim arbitral report no later than 14 (fourteen) days after its receipt or, in cases of urgency, including those involving perishable goods or seasonal goods or services, no later than 7 (seven) days after its receipt. After considering any written comments by the parties on the interim arbitral report, the arbitration panel may modify it and make any further examination it considers appropriate.

5. If no written request to review precise aspects of the interim arbitral report are delivered within the time period referred to in paragraph 4, the interim arbitral report shall become the arbitral award.

6. The arbitration panel shall deliver its arbitral award to the parties and the Trade Committee no later than 120 (one hundred and twenty) days after the establishment of the arbitration panel. If the arbitration panel considers that that deadline cannot be met, the chairperson of the arbitration panel shall notify the parties and the Trade Committee in writing, stating the reasons for the delay. Under no circumstances shall the arbitral award be delivered later than 150 (one hundred and fifty) days after the establishment of the arbitration panel.

7. In cases of urgency, including those regarding perishable goods or other goods or services that rapidly lose their quality, current condition or commercial value in a short period of time, the arbitration panel shall make every effort to deliver its arbitral award no later than 60 (sixty) days after the date of its establishment. Under no circumstances shall the arbitral award be delivered later than 75 (seventy-five) days after such date.

8. The arbitral award shall set out the findings of fact, the applicability of covered provisions where relevant, and the basic rationale behind the findings and recommendations. The arbitral award shall include sufficient analysis of the arguments made by the parties, and shall clearly respond to the questions and observations of both parties, including those made to the interim arbitral report.

9. The arbitration panel shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and of the arguments and evidence presented by both parties, and:

(a) in the case of a dispute referred to in point (a) of Article 21.4, the applicability of and conformity with the covered provisions; or

(b) in the case of a dispute referred to in point (b) of Article 21.4, the existence of a nullification or substantial impairment of any benefit accruing to the complaining party under the covered provisions in a manner adversely affecting trade between the parties.

10. In the case of a dispute referred to in point (b) of Article 21.4, unless the parties agree otherwise, the arbitration panel shall:

(a) determine if the measure at issue nullifies or substantially impairs any benefit accruing to the complaining party under the covered provisions, in a manner adversely affecting trade between the parties;

(b) if applicable, determine the level of benefits accruing to the complaining party under the covered provisions which have been nullified or substantially impaired in a manner adversely affecting trade between the parties;

(c) if it has found that the measure at issue nullifies or substantially impairs any benefit accruing to the complaining party under the covered provisions, in a manner adversely affecting trade between the parties, recommend that the defending party make a mutually satisfactory adjustment; the defending party is not obliged to withdraw the measure at issue; and

(d) if applicable, and if so requested by both parties, suggest ways and means of reaching a mutually satisfactory adjustment, including by means of compensation; such suggestions shall not be binding on the parties.

11. The arbitration panel shall make every effort to take any decision by consensus. If, nevertheless, a decision cannot be reached by consensus, the matter at issue shall be decided by majority vote. The arbitrators shall not issue dissenting or separate opinions and shall maintain confidentiality as regards the voting.

12. The Trade Committee shall make the arbitral award of the arbitration panel publicly available in its entirety, unless the parties decide, by mutual agreement, not to make public parts thereof which contain confidential information.

13. The arbitral award shall be binding on the parties from the date on which it is delivered and shall not be subject to appeal.

14. The arbitral award cannot add to or diminish the rights and obligations provided for in the covered provisions. The arbitral award shall not be construed as conferring rights on or imposing obligations for persons.

15. Paragraphs 2, 4, 6, 8 and 11 shall be applicable to the rulings of the arbitration panel referred to in Articles 21.18, 21.19, 21.20 and 21.21.

ARTICLE 21.15

Withdrawal, mutually agreed solution or suspension of a dispute

1. The complaining party may, subject to the consent of the defending party, withdraw its complaint before the arbitral award has been issued.

2. If the parties reach a mutually agreed solution at any time either before or following the issuance of the arbitral award, the Trade Committee shall be notified in writing by both parties.

3. The arbitration panel shall, at the request of both parties, suspend its work at any time, before the arbitral award has been issued, for a period agreed by the parties and not exceeding 12 (twelve) consecutive months. Within that period, the arbitration panel shall resume its work only at the written request of both parties. The request shall be notified to the Trade Committee. The proceedings shall be resumed from the stage at which they were suspended 20 (twenty) days after the date of receipt of the request. If the work of the arbitration panel has been suspended for more than 12 (twelve) months, the authority of the arbitration panel shall lapse, without prejudice to the right of the complaining party to request at a later point in time the establishment of an arbitration panel on the same subject matter.

ARTICLE 21.16

Request for clarification

No later than 10 (ten) days the after the receipt of the arbitral award, a party may submit to the arbitration panel, with the other party and the Trade Committee in copy, a written request for clarification with regard to specific aspects of any finding or recommendation in the arbitral award that the requesting party considers ambiguous. The other party to the dispute may submit comments on that request to the arbitration panel no later than 5 (five) days after its receipt. The arbitration panel shall respond to the request for clarification of the arbitral award no later than 15 (fifteen) days after its receipt. Requests for clarification shall not be used as a means to review the arbitral award.

ARTICLE 21.17

Compliance with the arbitral award

1. The defending party shall take any measure necessary to comply promptly and in good faith with the arbitral award.

2. In the event that the arbitration panel concludes that the measure at issue nullifies or substantially impairs any benefit accruing to the complaining party under the covered provisions, in a manner adversely affecting trade between the parties, the parties shall engage in consultations with the purpose of agreeing a mutually agreed solution. The parties shall endeavor to privilege a solution which effectively expands market access by means of measures including the reduction of tariffs or the elimination of non-tariff barriers.

ARTICLE 21.18

Reasonable period of time for compliance

1. If it is impracticable to comply immediately with the arbitral award, the defending party shall have a reasonable period of time in which to do so. In that case, the defending party shall, no later than 30 (thirty) days after the receipt of the arbitral award, notify the complaining party and the Trade Committee of the length of the reasonable period of time it will require for compliance.

2. If the parties have not agreed on the length of the reasonable period of time to comply with the arbitral award, the complaining party shall, no later than 20 (twenty) days after the receipt of the notification made under paragraph 1 by the defending party, request in writing the original arbitration panel to determine the length of the reasonable period of time. Such request shall be notified to the other party and to the Trade Committee. The arbitration panel shall deliver its ruling to the parties and to the Trade Committee no later than 20 (twenty) days after the date of the submission of the request.

3. The defending party shall inform the complaining party in writing of its progress in complying with the arbitral award at least 1 (one) month before the expiry of the reasonable period of time.

4. The reasonable period of time may be extended by mutual agreement between the parties.

ARTICLE 21.19

Review of any measure taken to comply with the arbitral award

1. Before the expiry of the reasonable period of time referred to in Article 21.18, the defending party shall notify the other party and the Trade Committee of any measure it has taken to comply with the arbitral award.

2. If the parties disagree on the existence or the conformity of the measure notified by the defending party pursuant to paragraph 1 with the arbitral award or with the covered provisions, the complaining party may deliver a request to the original arbitration panel to decide on the matter. Such request shall identify the specific measure at issue and explain how that measure does not comply with the arbitral award or is inconsistent with the covered provisions in a manner to present the legal basis for the complaint clearly. The arbitration panel shall deliver its ruling to the parties no later than 45 (forty-five) days after the date of delivery of the request.

ARTICLE 21.20

Temporary remedies in the event of non-compliance

1. If the defending party has not notified the measure it has taken to comply with the arbitral award or with the covered provisions within the reasonable period of time determined according to Article 21.18, or if the arbitration panel makes a ruling pursuant to Article 21.19(2) to the effect that no measure taken to comply exists or that the measure notified pursuant to Article 21.19(1) is inconsistent with the arbitral award or with the defending party's obligations under the covered provisions, the defending party shall, if so requested by the complaining party, present an offer for temporary compensation.

2. The complaining party may, upon notification to the defending party and the Trade Committee, suspend concessions or other obligations under the covered provisions if:

(a) the complaining party decides not to request an offer for temporary compensation under paragraph 1; or

(b) such request is made and no agreement on compensation is reached within 30 (thirty) days after:

(i) the end of the reasonable period of time determined pursuant to Article 21.18; or

(ii) the delivery of an arbitral award pursuant to Article 21.19(2) finding that no measure taken to comply exists or that the measure notified pursuant to Article 21.19(1) is inconsistent with the arbitral award or with the covered provisions.

3. The suspension of concessions or other obligations shall not exceed the level equivalent to the nullification or impairment suffered as a result of the failure of the defending party to comply with the arbitral award. The complaining party shall notify the other party of the concessions or other obligations it intends to suspend 30 (thirty) days before the date on which the suspension is due to enter into force.

4. In considering which concessions or other obligations to suspend, a complaining party should first seek to suspend concessions or other obligations within the same sector or sectors as that or those affected by the measure found not to be in conformity with the covered provisions or to have nullified or substantially impaired benefits accruing to the complaining party under this Agreement in a manner adversely affecting trade between the parties.

5. In the case of a dispute referred to in point (a) of Article 21.4, the suspension of concessions may be applied to sectors other than the sector or sectors in which the arbitration panel has found nullification or impairment, in particular if the complaining party is of the view that such suspension is effective in inducing compliance.

6. In the case of a dispute referred to in point (b) of Article 21.4, if the complaining party considers that suspension of concessions within the same sector or sectors as that or those adversely affected by the measure at issue are not practicable or effective, it may seek to apply those to other sectors. In such case, the complaining party shall take into account:

(a) the trade in the sector adversely affected by the measure at issue and the importance of such trade to that party;

(b) the broader economic elements related to the nullification or substantial impairment; and

(c) the broader economic consequences of the application of the suspension of concessions, including spreading the adoption of temporary remedies across multiple sectors in order to account for the different economic sizes of the sectors involved.

7. In the case of a dispute referred to in point (b) of Article 21.4, the complaining party shall continue to accord to the defending party, in the sector which is subject to the remedies in question, treatment that is meaningfully more favourable than the treatment it accorded to that party prior to the entry into force of this Agreement.

In particular, when a temporary remedy is adopted through the suspension of tariff concessions, the complaining party shall prioritize goods that are subject to full tariff liberalization.

For goods subject to tariff rate quotas, any temporary remedies shall be applied in such a manner that at least 50 (fifty) percent of the quota volume specified in Annex 2-A, pertaining to the defending party, remains unaffected and fully accessible under the terms of this Agreement.

For goods subject to staged liberalization and for which the staging period until full liberalization is longer than 11 (eleven) years, any temporary remedies in the form of suspension of tariff concessions shall not exceed 50 (fifty) percent of the difference between, on the one hand, the rate set out in Annex 2-A applicable at the relevant time and, on the other hand, the suspending party's applied non-preferential tariff rate, until trade in the goods concerned is fully liberalized.

8. In the case of a dispute referred to in point (b) of Article 21.4 involving a landlocked developing country, the complaining party shall consider what further action it might take which would be appropriate to the circumstances of that landlocked developing country, taking into account not only the trade coverage of measures complained about, but also the impact of any temporary remedies on the specific economic challenges of that landlocked developing country.

9. If the defending party considers that the notified level of suspension of concessions or other obligations exceeds the level equivalent to the nullification or impairment caused as a result of the failure of the defending party to comply with the arbitral award, it may deliver a written request to the original arbitration panel to rule on the matter. Such a request shall be notified to the complaining party and to the Trade Committee no later than 30 (thirty) days after the date of receipt of the notification referred to in paragraph 2. Within 10 (ten) days of the date of receipt of the request for the arbitration panel, the complaining party shall present a document indicating the methodology used to calculate the level of the suspension of concessions or other obligations. The arbitration panel shall deliver its ruling no later than 30 (thirty) days after the date of the receipt of the request. During that time period, the complaining party shall not suspend any concessions or other obligations.

10. The suspension of concessions or other obligations shall be temporary, and shall not replace the objective of full compliance with the arbitral award and the covered provisions. Concessions or other obligations shall only be suspended until:

(a) in the case of a dispute referred to in point (a) of Article 21.4, any measure that the arbitration panel has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the defending Party into compliance with those provisions;

(b) in the case of a dispute referred to in point (b) of Article 21.4, any measure that the arbitration panel has found to nullify or substantially impair a benefit accruing to the complaining party under the covered provisions, in a manner adversely affecting trade between the parties, has been withdrawn or amended so as to eliminate that nullification or substantial impairment;

(c) the parties have agreed that the measure notified pursuant to Article 21.19(1) brings the defending party into compliance with the arbitral award or with the covered provisions; or

(d) the parties have reached a mutually agreed solution pursuant to Article 21.24.

11. Notwithstanding paragraph 1, in the case of a dispute referred to in point (b) of Article 21.4, compensation may be part of a mutually satisfactory adjustment as final settlement of the dispute.

ARTICLE 21.21

Review of any measure taken to comply after the adoption
of temporary remedies for non-compliance

1. The defending party shall deliver a notification to the complaining party and the Trade Committee of any measure it has taken to comply with the arbitral award following the suspension of concessions or other obligations or following the application of temporary compensation, as the case may be. With the exception of cases under paragraph 2, the complaining party shall terminate the suspension of concessions or other obligations no later than 30 (thirty) days after the delivery of the notification. If compensation has been applied, and with the exception of cases under paragraph 2, the defending party may terminate the application of such compensation no later than 30 (thirty) days after its notification that it has complied with the arbitral award.

2. If the parties disagree on whether the notified measure brings the defending party into compliance with the arbitral award or the covered provisions, any of the parties may, no later than 30 (thirty) days after delivery of the notification of the measure, request in writing the arbitration panel to rule on the matter. Such request shall be notified to the other party and to the Trade Committee. The arbitration panel shall notify its ruling to the parties and to the Trade Committee no later than 45 (forty-five) days after the receipt of the request. If the arbitration panel rules that the measure taken to comply is in conformity with the arbitral award and with the covered provisions, the suspension of concessions or other obligations or compensation, as the case may be, shall be terminated. If relevant, the complaining party shall adjust the level of suspension of concessions or other obligations to the level determined by the arbitration panel.

3. The suspension of concessions or other obligations or the compensation, as the case may be, shall also be terminated if no request to the arbitration panel is made in accordance with paragraph 2.

ARTICLE 21.22

Annexes

1. Annexes 21-A, 21-B and 21-C shall form an integral part of this Chapter.

2. Disputes under this Chapter shall be conducted in accordance with Annexes 21-A and 21-B.

3. The Trade Committee may amend Annexes 21-A and 21-B.

SECTION D

GENERAL PROVISIONS

ARTICLE 21.23

Choice of forum

1. Disputes related to the same matter arising under the covered provisions and under the WTO Agreement or under any other agreement to which the relevant parties are party may be settled under this Chapter, under the DSU or under the dispute settlement procedures of that other agreement at the discretion of the complaining party.

2. For the purposes of this Article:

(a) dispute settlement procedures under the WTO Agreement are deemed to be initiated by a party's request for the establishment of an arbitration panel under Article 6 of the DSU;

(b) dispute settlement procedures under any other agreement are deemed to be initiated by a party's request for the establishment of a dispute settlement panel or tribunal in accordance with the provisions of that agreement; and

(c) dispute settlement procedures under this Chapter are deemed to be initiated by a party's request for the establishment of an arbitration panel under Article 21.7.

3. Notwithstanding paragraph 1 and subject to paragraph 4, when the European Union or MERCOSUR or one or more of the Signatory MERCOSUR States has or have requested the establishment of a panel under Article 6 of the DSU or under the relevant provisions of another agreement to which the relevant parties are party, or an arbitration panel pursuant to Article 21.7, that party may not initiate another set of proceedings on the same matter in any of the other fora, except in cases where the competent body in the forum chosen has not taken a decision on the substance of the matter due to jurisdictional or procedural reasons other than termination of the proceedings following a request for withdrawal or suspension of the proceedings.

4. Once MERCOSUR has requested the establishment of an arbitration panel under Article 21.7, a Signatory MERCOSUR State shall not initiate another proceeding on the same matter in any other forum. Once the European Union has requested the establishment of an arbitration panel under Article 21.7 against MERCOSUR, the European Union shall not initiate another proceeding against one or more Signatory MERCOSUR States in any other forum, if the contested measure of that or those Signatory MERCOSUR States is a measure implementing the contested measure of MERCOSUR and the European Union alleges the violation of a substantially equivalent obligation.

5. Two or more disputes concern the same matter when they involve the same parties to the dispute, refer to the same measure and deal with the alleged violation of a substantially equivalent obligation[1].

6. Without prejudice to paragraph 3, nothing in this Agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of another international agreement to which the disputing parties are party. The WTO Agreement or the other international agreement between the parties shall not be invoked to preclude a Party from suspending obligations under this Chapter.

ARTICLE 21.24

Mutually agreed solution

1. The parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 21.4. The parties shall agree upon a time period for the implementation of such a solution.

2. If a mutually agreed solution is reached during the arbitration panel proceedings, the parties shall jointly notify that solution to the chairperson of the arbitration panel. Upon such notification, the arbitration panel proceedings shall be terminated.

[1] For greater certainty, two or more disputes which involve the same parties to the dispute and refer to the same measure, but do not concern an alleged violation of the covered provisions or the WTO Agreement or any other agreement to which the relevant parties are party, shall not be considered as concerning the same matter for the purpose of this Article.

3. Each party shall adopt the measures necessary to implement the mutually agreed solution within the agreed time period.

4. The solution may be adopted by means of a decision of the Trade Council. The conclusion of the mutually agreed solution between the parties may be subject to the completion of any necessary internal procedures. Mutually agreed solutions shall be made publicly available without containing information that a party has designated as confidential.

5. The implementing party shall, within the agreed time period, inform the other party, in writing, of any measure that it has taken to implement the mutually agreed solution.

ARTICLE 21.25

Time periods

1. The arbitration panel or the mediator may at any time propose to the parties to modify any time period referred to in this Chapter, stating the reasons for the proposal.

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

ARTICLE 21.26

Confidentiality

The deliberations of the arbitration panel shall be confidential. The arbitration panel and the parties shall treat as confidential any information submitted by a party to the arbitration panel which that party has designated as confidential. Where that party submits a confidential version of its written submissions to the arbitration panel, it shall also, upon request of the other party, provide a non-confidential summary of the information contained in its submissions that may be disclosed to the public.

ARTICLE 21.27

Costs

1. Each party shall bear its own expenses in relation to the participation in an arbitration panel or mediation proceedings.

2. The parties[1] shall share jointly and equally the expenses in relation to organisational matters, including the remuneration and expenses of the arbitrators and of the mediator in accordance with Annex 21-A.

[1] For greater certainty, such costs are to be shared jointly and equally between, on the one part, the European Union and, on the other part, the Signatory MERCOSUR States that are parties to the dispute and MERCOSUR, if the latter is also party to the dispute.

CHAPTER 22

INSTITUTIONAL PROVISIONS

ARTICLE 22.1

Trade Council

1. A Trade Council is hereby established to oversee the fulfilment of the objectives of this Agreement and supervise its implementation. The Trade Council shall address the matters covered by this Agreement and shall examine any major issue arising within the framework of this Agreement.

2. The Trade Council shall be composed of representatives of the European Union, on the one side, and of each of the Signatory MERCOSUR States, on the other, at ministerial level with responsibility for trade and trade-related matters, or by their designees.

3. The Trade Council shall meet at ministerial level at regular intervals, at least on a biennial basis or on an ad-hoc basis as mutually agreed. It may also meet via teleconference, video-conference or through other means, as mutually agreed by the Parties.

4. The Trade Council shall adopt its own rules of procedure and the rules of procedure of the Trade Committee.

5. The Trade Council shall be co-chaired by a representative of the European Union and a representative of MERCOSUR in accordance with the provisions laid down in its rules of procedure taking into consideration the specific issues to be addressed at any given session.

6. The Trade Council shall have the power to:

(a) oversee the fulfilment of the objectives of this Agreement and supervise its implementation;

(b) discuss any matter covered by this Agreement and without prejudice to Chapter 21 address any major issue arising from its implementation;

(c) take decisions and make appropriate recommendations to the Parties as provided for in this Agreement;

(d) adopt, through decisions, interpretations of the provisions of this Agreement which shall be binding on the Parties and all subcommittees and other bodies set up under this Agreement, including panels established under Chapter 21;

(e) take such other action in the exercise of its functions as the Parties may agree; and

(f) adopt decisions to amend, in fulfilment of the objectives of this Agreement:

(i) Annex 2-A in accordance with Article 2.4(9);

(ii) Appendix 2-D-1 in accordance with paragraph 6 of Article 2 of Annex 2-D;

(iii) Appendix 2-D-2 in accordance with paragraph 3 of Article 4 of Annex 2-D;

(iv) Appendix 2-D-3 in accordance with paragraph 4 of Article 5 of Annex 2-D;

(v) Chapter 3 in accordance with Article 3.34;

(vi) Section A of Annex 5-A in accordance with paragraph 9 of Article 5.8;

(vii) Annex 6-A in accordance with Article 6.18;

(viii) Annexes 12-A to 12-E in accordance with Article 12.26;

(ix) Annexes 12-F to 12-J in accordance with Article 12.12;

(x) Annex 13-A in accordance with Article 13.39;

(xi) Annex 13-B in accordance with Article 13.39;

(xii) Annex 13-C in accordance with Article 13.39;

(xiii) Annex 13-E, in accordance with Article 13.39;

(xiv) Annex 17-A, in accordance with Article 17.7;

(xv) Annexes 21-A and 21-B in accordance with Article 21.22; and

(xvi) any other provision, Annex, Appendix or Protocol, for which the possibility of such decision is explicitly foreseen in this Agreement.

7. Unless the Parties agree otherwise, 3 (three) years after the entry into force of this Agreement, and every 5 (five) years thereafter, the Trade Council shall initiate a review process of this Agreement. Based on the outcome of each review, the Trade Council shall deliberate on the need to amend this Agreement.

8. The decisions adopted by the Trade Council shall be binding on the Parties, which shall take the measures necessary for the implementation of these decisions. The decisions referred to in point (f) of paragraph 6 shall be subject to Article 23.5(2). All decisions and recommendations of the Trade Council shall be adopted by agreement of the Parties and in accordance with the Trade Council's rules of procedure.

9. The Trade Council may delegate to the Trade Committee any of its functions, including the power to take decisions, in accordance with the Trade Council's rules of procedure.

ARTICLE 22.2

Trade Committee

1. A Trade Committee is hereby established.

2. The Trade Committee shall be composed of representatives of the European Union, on the one side, and each of the Signatory MERCOSUR States, on the other, at senior official level with responsibility for trade-related matters or by their designees.

3. The Trade Committee shall be co-chaired by a representative of MERCOSUR and a representative of the European Union taking into consideration the specific issues to be addressed in any given session.

4. The Trade Committee shall generally meet once a year alternately in Brussels and in a State Party to MERCOSUR on a date and with an agenda agreed in advance by the Parties. Additional meetings may also be convened by mutual agreement, at the request of either the European Union or MERCOSUR. It may also meet via teleconference, video-conference or through other means, as mutually agreed by the Parties.

5. The Trade Committee shall have the power to:

(a) assist the Trade Council in the performance of its duties;

(b) prepare the meetings of the Trade Council;

(c) review the implementation of this Agreement including with a view to appraising its impacts on employment, investment and trade between the Parties; the review shall consider views or recommendations of civil society actors, including non-governmental organizations, business and employers' organizations, social movements and trade unions, taking into account in particular the provisions of Articles 22.5 to 22.7, consistent with each Party's laws and regulations;

(d) take decisions as provided for in this Agreement or where such power has been delegated to it by the Trade Council; when exercising delegated powers, the Trade Committee shall take its decisions in accordance with the rules of procedure of the Trade Council;

(e) supervise the work of all subcommittees established in accordance with this Agreement;

(f) explore the most appropriate way to prevent or solve any difficulty that may arise in relation to the interpretation and application of the Agreement without prejudice to Chapter 21 (Dispute Settlement);

(g) establish additional subcommittees, to allocate responsibilities within its competence to subcommittees, to decide to modify the functions of the sub-committees it establishes, including by assigning new ones, or to dissolve the subcommittees;

(h) prepare decisions for adoption by the Trade Council, in compliance with the specific objectives of this Agreement, including the modifications referred to in Article 22.1(6)(f), or adopt such decisions in the intervals between the meetings of the Trade Council, or when the Trade Council cannot meet; and

(i) take any other action in the exercise of its functions as the Parties may agree or as instructed by the Trade Council.

6. The decisions adopted by the Trade Committee shall be binding on the Parties, which shall take the measures necessary for the implementation of these decisions. The decisions referred to in points (d) and (h) of paragraph 5 that introduce amendments to this Agreement shall be subject to Article 23.4(2). All decisions of the Trade Committee shall be adopted by agreement of the Parties.

ARTICLE 22.3

Subcommittees

1. The subcommittees shall be composed of representatives of the European Union, on the one part, and of each of the Signatory MERCOSUR States, on the other part.

2. The subcommittees shall meet at an appropriate level at the request of a Party, and, in any event, at least once a year. If in person, meetings shall be held alternately in Brussels and in one of the Signatory MERCOSUR States. The subcommittees may also meet via teleconference, video-conference or through other means, as mutually agreed by the Parties. The subcommittees shall be co-chaired by a representative of the European Union and a representative of MERCOSUR.

3. Each subcommittee shall agree on its meeting schedule and set its agenda by mutual consent.

4. The following subcommittees are hereby established under the auspices of the Trade Committee:

(a) the Subcommittee on trade in goods;

(b) the Subcommittee on trade in wine products and spirits;

(c) the Subcommittee on customs, trade facilitation and rules of origin;

(d) the Subcommittee on SPS matters;

(e) the Subcommittee on dialogues on issues related to the agri-food chain;

(f) the Subcommittee on trade in services and establishment;

(g) the Subcommittee on government procurement;

(h) the Subcommittee on intellectual property rights; and

(i) the Subcommittee on trade and sustainable development.

5. With respect to issues related to their area of competence, the subcommittees shall have the power to:

(a) monitor the implementation and ensure the proper functioning of this Agreement;

(b) adopt by agreement of the Parties decisions and recommendations in respect of all matters where this Agreement so provides;

(c) discuss issues arising from the implementation of this Agreement or of any supplementing agreement with a view to resolving them, without prejudice to Chapter 21; and

(d) provide a forum for the Parties to exchange information, including discussing best practices and sharing implementation experience.

6. The tasks of the subcommittees are further defined as appropriate in the relevant Chapters of this Agreement and can be modified, if necessary, by decision of the Trade Committee.

7. The subcommittees shall conduct the preparatory technical work necessary to support the functions of the Trade Council and the Trade Committee, including when those bodies have to adopt decisions or recommendations.

8. The subcommittees shall report on their activities to the Trade Committee. The existence of a subcommittee shall not prevent either Party from bringing any matter directly to the Trade Committee.

9. The Trade Committee shall adopt rules of procedure which determine the composition, duties and functioning of the subcommittees and other bodies.

ARTICLE 22.4

Coordinators of the Agreement

1. The European Union and each Signatory MERCOSUR State shall each appoint a Coordinator and notify the other Party thereof within 30 (thirty) days following the entry into force of this Agreement.

2. The coordinators shall:

(a) prepare the agenda and coordinate the preparation of the meeting of the Trade Council and the Trade Committee in accordance with Articles 22.1 and 22.2;

(b) follow up on the decisions adopted by the Trade Council or the Trade Committee, as appropriate;

(c) act as contact points to facilitate communication between the Parties on any matter covered by this Agreement, unless otherwise provided in this Agreement;

(d) receive any notifications and information submitted under this Agreement, including any notification or information submitted to the Trade Council or the Trade Committee, unless otherwise provided in this Agreement; and

(e) fulfil any other tasks as requested by the Trade Council or the Trade Committee.

ARTICLE 22.5

Relationship with Civil Society

1. In order to facilitate the implementation of this agreement the Parties shall promote consultations with civil society through the establishment of an appropriate mechanism of consultation and the promotion of interaction between the representatives of their civil society.

2. The Parties shall promote the dialogue between the Economic and Social Committee, from the European Union and the Consultative Social and Economic Forum, for MERCOSUR and encourage their contribution to the mechanisms set out below.

ARTICLE 22.6

Domestic Advisory Groups

1. The EU Party and the MERCOSUR Party shall each designate a Domestic Advisory Group, established in accordance with each Party's internal arrangements, to advise the Party concerned on issues covered by this Agreement. It should be comprised of a balanced representation of independent civil society organisations including non-governmental organisations, business and employers' organisations and trade unions active on economic, development, social, human rights, environmental and other matters.

2. The Parties shall promote a regular dialogue with their Domestic Advisory Group and shall consider views or recommendations submitted by their respective Domestic Advisory Group on the implementation of this Agreement.

3. In order to promote public awareness of the Domestic Advisory Groups, the EU Party and the MERCOSUR Party shall each made available to the public the list of organisations participating in consultations as well as the contact point for that group.

ARTICLE 22.7

Civil Society Forum

1. The Parties shall facilitate the organisation of a Civil Society Forum, to conduct a public dialogue on the implementation of this Agreement and shall agree at the first meeting of the Trade Council on operational guidelines for the conduct of the Forum.

2. The Parties may also facilitate participation in the Civil Society Forum by virtual means.

3. The Civil Society Forum shall be open for the participation of independent civil society organisations established in the territories of either the EU Party or the MERCOSUR Party, including members of the Domestic Advisory groups referred to in Article 22.6. The Parties shall promote a balanced representation, including, non-governmental organisations, business and employers' organizations and trade unions active on economic, development, social, human rights, environmental and other matters.

4. The representatives of the Parties participating in the Trade Council or the Trade Committee, as appropriate, shall take part in a session of the meeting of the Civil Society Forum in order to present information on the implementation of the Agreement and to engage in a dialogue with the Forum.

CHAPTER 23

GENERAL AND FINAL PROVISIONS

ARTICLE 23.1

Territorial application

1. This Agreement shall apply:

(a) to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applicable, under the conditions laid down in those Treaties; and

(b) to the territories of the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, respectively.

2. References to "territory" in this Agreement shall include air space and territorial sea as provided in the United Nations Convention on the Law of the Sea of 10 December 1982.

3. References to "territory" in this Agreement shall be understood in this sense, save as otherwise expressly provided.

4. As regards those provisions concerning the tariff treatment of goods, including provisions on customs and trade facilitation, mutual administrative assistance in customs matters and rules of origin, as well as the temporary suspension of this treatment, this Agreement shall also apply to those areas of the customs territory of the European Union, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code[1], not covered by point (a) of paragraph 1 of this Article.

ARTICLE 23.2

Entry into force

1. This Agreement shall enter into force between on the one part, the European Union and, on the other part, MERCOSUR and the Signatory MERCOSUR States on the first day of the month following the date on which they have notified each other in writing of the completion of their respective internal procedures required for this purpose.

2. Notifications shall be sent to the Secretary-General of the Council of the European Union and the Government of the Republic of Paraguay, or its successors, who are the Depositories of this Agreement.

[1] OJ EU L 269, 10.10.2013, p. 1.

ARTICLE 23.3

Application before entry into force

1. This Agreement may be provisionally applied. Such provisional application may take place between, on the one part, the European Union and, on the other part, one or more of the Signatory MERCOSUR States in accordance with their respective internal procedures.

2. The provisional application of this Agreement by the European Union and a Signatory MERCOSUR State shall begin on the first day of the second month following the date on which the European Union and that Signatory MERCOSUR State have notified each other of the completion of their respective internal procedures or ratification of the Agreement and confirm their agreement to provisionally apply the Agreement.

3. Notifications shall be sent to the Depositories of this Agreement.

4. The Trade Council, as well as the Trade Committee and other bodies established under this Agreement, may exercise their functions in respect of this Agreement during the period in which this Agreement is being provisionally applied. Any decisions adopted during this period in the exercise of their functions, shall apply exclusively between the Parties applying the Agreement provisionally and shall cease to be effective between the Party or Parties that cease to apply the Agreement provisionally and the remaining Party or Parties.

4. Where, in accordance with this Article, this Agreement provisionally applies by the European Union and one or more Signatory MERCOSUR State, any reference to:

(a) MERCOSUR shall be understood to refer to such Signatory MERCOSUR States that have agreed to apply the Agreement provisionally;

(b) "the Parties" shall be understood to refer to such Signatory MERCOSUR State or States that have agreed to apply the Agreement provisionally and the European Union; and

(c) the date of entry into force of the Agreement shall be understood to refer to the date from which provisional application takes place.

5. Amendments to this Agreement may also provisionally apply in accordance with this Article. If amendments to this Agreement are adopted during the provisional application of the Agreement, they shall apply to a Signatory MERCOSUR State upon its agreement to provisionally apply the Agreement in accordance with paragraph 2 and shall remain valid after entry into force of the Agreement.

ARTICLE 23.4

Other agreements

1. Title II of the Interregional Framework Cooperation Agreement between the European Community and its Member States, of the one part, and the Southern Common Market and its Party States, of the other part, signed in Madrid on 15 December 1995, shall cease to have effect and is replaced by this Agreement upon its entry into force.

2. References to the aforementioned Title of the aforementioned agreement in all other agreements between the Parties shall be construed as referring to this Agreement.

3. At the latest 3 (three) months after the date of entry into force of this Agreement, and within the first three months of each subsequent year if so requested, the European Union shall inform MERCOSUR and the Signatory MERCOSUR States of how it would give effect to the cooperation arrangements described in the EU–MERCOSUR Partnership Agreement, including as regards envisaged funding announced in relation thereto.

ARTICLE 23.5

Amendments

1. The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable internal requirements and procedures necessary for the entry into force of the amendment, or on such other date as they may agree.

2. Notwithstanding paragraph 1, the Trade Council or the Trade Committee, as appropriate, may decide to amend the Annexes to or other parts of this Agreement if it so provides. Such decision may provide that such amendments apply as of the date agreed by the Parties or upon the notification of the completion of legal requirements of a Party or Parties, if applicable.

ARTICLE 23.6

Fulfilment of obligations

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

2. If either Party considers, based on the factual situation, that the European Union or one or more of its Member States, or MERCOSUR or one or more of the Signatory MERCOSUR States, as the case may be, has or have committed a violation of the obligations that are described as essential elements in Article 1.2(1), Article 5.2(2) and Article 7.7(3) of the EU–MERCOSUR Partnership Agreement, it may take appropriate measures in accordance with Article 30.4(3) of that agreement also with respect to this Agreement.

3. Either Party may also take appropriate measures with respect to this Agreement if it considers that the factual situation is such that it would amount to a violation by the European Union or one or more of its Member States, or MERCOSUR or one or more of the Signatory MERCOSUR States, as the case may be, of the obligations that are described as essential elements in Article 1.2(1), Article 5.2(2) and Article 7.7(3) if those provisions were being applied.

Before doing so, the Party invoking the application of this paragraph shall notify the other Party of this fact and of the measures to be taken. The notified Party may request that the Trade Council meet within 15 days from the date of notification to hold urgent consultations with a view to seeking a timely and mutually agreeable solution. The notifying Party adopting the measures shall submit all relevant information required for a thorough examination of the situation. If no mutually agreeable solution is found within a period of up to 15 days from the commencement of consultations and no later than 30 days from the date of the notification, the Party invoking the application of this paragraph may apply the measures referred to in the first subparagraph. The notifying Party may extend the time periods set out in this paragraph, upon request of the other Party. Where the Parties are unable to agree on a mutually acceptable solution, the Parties may also resort to the mediation procedure provided for in Article 21.6.

For the purpose of this paragraph, "appropriate measures" may include the suspension, in part or in full, of this Agreement. Suspension of this Agreement is a measure of last resort and can be imposed only in the event that the factual situation is such that it would amount to a particularly serious and substantial violation by the other Party of the obligations that are described as essential elements in Article 1.2(1), Article 5.2(2) and Article 7.7(3) of the EU–MERCOSUR Partnership Agreement if those provisions were being applied. In such an event, the Parties shall be released from the obligation to perform this Agreement, in full or in part, in their mutual relations during the period of the suspension. Such suspension shall apply for the minimum period necessary to resolve the issue in a manner acceptable to the Parties.

4. For the purpose of paragraphs 2 and 3 of this Article, Articles 30.4(5), 30.4(6) and 30.4(7) of the EU–MERCOSUR Partnership Agreement shall be incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 23.7

Private rights

1. Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons, other than those created between the Parties under public international law.

2. Nothing in this Agreement shall be construed as permitting this Agreement to be directly invoked in the domestic legal systems of the Parties. A State Party to Mercosur signatory of this Agreement may provide otherwise under its domestic law.

ARTICLE 23.8

Accession of new Member States of the European Union

1. The European Union shall notify MERCOSUR of any request for accession of a third country to the European Union.

2. During the negotiations between the European Union and the candidate country seeking accession, the European Union shall:

(a) provide, upon request of MERCOSUR, and to the extent possible, any information regarding any matter covered by this Agreement; and

(b) take into account any concerns expressed by MERCOSUR.

3. The Trade Committee shall examine any effects of accession of a third country to the European Union on this Agreement sufficiently in advance of the date of such accession.

4. To the extent necessary, the Parties shall, before the entry into force of the agreement on the accession of a third country to the European Union, put in place by decision of the Trade Council the necessary adjustments or transitional arrangements regarding this Agreement.

5. Without prejudice to paragraph 4, this Agreement shall apply between on the one part the new Member State of the European Union and, on the other part, MERCOSUR and each of the Signatory MERCOSUR States from the date of accession of that new Member State to the European Union.

ARTICLE 23.9

Accession of State Parties to Mercosur

1. MERCOSUR shall notify the European Union of any request for accession of a third country to MERCOSUR.

2. During the negotiations between the MERCOSUR and the candidate country seeking accession, MERCOSUR shall:

(a) provide, upon request of the European Union, and to the extent possible, any information regarding any matter covered by this Agreement; and

(b) take into account any concerns expressed by the European Union.

3. Any State Party to MERCOSUR that is not a Party to this Agreement on the date of its signature ("applicant MERCOSUR State Party") may accede to this Agreement by means of a Protocol of Accession concluded by the European Union and the applicant MERCOSUR State Party. The Protocol of Accession shall incorporate the results of the accession negotiations and, if necessary, any adjustments recommended by the Trade Committee pursuant to paragraph 4. This Agreement shall be amended pursuant to Article 23.5(1) to reflect the terms of accession as agreed in the Protocol of Accession between the European Union and the applicant MERCOSUR State Party.

4. During the negotiations of the Accession Protocol referred to in paragraph 3, MERCOSUR may accompany the delegation of the applicant MERCOSUR State Party and, before the conclusion of the negotiations, either Party may request a meeting of the Trade Committee to examine any effects on this Agreement of the accession of the applicant MERCOSUR State Party and consider possible adjustments.

ARTICLE 23.10

Duration

This Agreement shall remain in force until the entry into force of the EU–MERCOSUR Partnership Agreement.

ARTICLE 23.11

Denunciation

1. Either Party may give written notice to the other Party of its intention to denounce this Agreement.

2. Denunciation shall take effect nine (9) months after notification to the other Party.

ARTICLE 23.12

Annexes, Appendices and Protocols

1. The Annexes, Appendices and Protocols to this Agreement shall form an integral part thereof.

2. Each Annex to this Agreement, including its appendices, identified by a code starting with an Arabic number, shall form an integral part of that Chapter in this Agreement that is identified by the same number and in which reference is made to that particular Annex.

ARTICLE 23.13

Authentic languages

This Agreement is drawn up in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.