FREE TRADE AGREEMENT

BETWEEN

THE EFTA STATES

AND

THE CENTRAL AMERICAN STATES

PREAMBLE

Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (hereinafter referred to as the "EFTA States"), on the one hand,

and

the Republic of Costa Rica and the Republic of Panama (hereinafter referred to as the "Central American States"), on the other,

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

RECOGNISING the common wish to strengthen the links between the EFTA States on the one part and the Central American States on the other by establishing close and lasting relations;

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

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

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

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

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

RECOGNISING the importance of trade facilitation in promoting efficient and transparent procedures to reduce costs and to ensure predictability for the trading communities of the Parties;

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

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

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

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

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

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

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1.1

Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "the GATT 1994") and Article V of the General Agreement on Trade in Services (hereinafter referred to as "the GATS"), hereby establish a free trade area, based on the respect of democratic principles and human rights by means of this Agreement.

ARTICLE 1.2

Objectives

The objectives of this Agreement are to:

(a) achieve the liberalisation of trade in goods, in conformity with Article XXIV of the GATT 1994;

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

(c) mutually enhance investment opportunities;

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

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

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

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

(h) contribute in this way to the harmonious development and expansion of world trade.

ARTICLE 1.3

Geographical Scope

1. This Agreement shall, except as otherwise specified in Annex I, apply:

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

(b) beyond the territorial sea, with respect to measures taken by a Party in the exercise of its sovereign rights or jurisdiction in accordance with domestic legislation and international law.

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

ARTICLE 1.4

Trade and Economic Relations Governed by this Agreement

1. This Agreement shall apply to the trade and economic relations between, on the one side, the individual EFTA States and, on the other side, the individual Central American States, but not to the trade relations between individual EFTA or individual Central American States, unless otherwise provided for in this Agreement.

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

ARTICLE 1.5

Relationship to Other International Agreements

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

2. If a Party considers that the maintenance or establishment of customs unions, free trade areas, arrangements for frontier trade or other preferential agreements by another Party has the effect of altering the trade regime provided for by this Agreement, it may request discussions with the Party concluding such agreement. That Party shall afford the opportunity for such discussions with the requesting Party.

ARTICLE 1.6

Taxation

1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between two or more Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.

3. Notwithstanding paragraphs 1 and 2:

(a) Article 2.8 and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the GATT 1994; and

(b) Article 2.4 shall apply to taxation measures.

4. For the purposes of this Article, taxation measures do not include a "customs duty" as defined in Article 2.3.

ARTICLE 1.7

Transparency

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

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

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

4. In case of any inconsistency between the provisions of this Article and provisions relating to transparency in other Chapters of this Agreement, the latter shall prevail to the extent of the inconsistency.

ARTICLE 1.8

Electronic Commerce

The Parties recognise the growing role of electronic commerce for trade between them. With a view to supporting provisions of this Agreement related to trade in goods and services, the Parties undertake to intensify their cooperation on electronic commerce for their mutual benefit. For that purpose, the Parties have established the framework contained in Annex II.

ARTICLE 1.9

Definitions of General Application

Unless otherwise provided for in this Agreement, "days" means calendar days.

CHAPTER 2

TRADE IN NON-AGRICULTURAL PRODUCTS

ARTICLE 2.1

Scope

This Chapter applies to trade between the Parties relating to products as set out in Annex III.

ARTICLE 2.2

Rules of Origin and Methods of Administrative Cooperation

The rules of origin and methods of administrative cooperation are set out in Annex I.

ARTICLE 2.3

Import Duties

1. Upon entry into force of this Agreement, the Parties shall abolish all customs duties and charges having equivalent effect to customs duties on imports of products originating in a Party covered by Article 2.1, except as otherwise provided for in Annexes IV and V. No new customs duties and charges having equivalent effect to customs duties shall be introduced.

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

3. The Parties recognise that they may, following a unilateral tariff reduction, raise a customs duty to the level established in the tariff dismantling schedule of each Party, for the respective year.

ARTICLE 2.4

Export Duties

1. The Parties shall, upon entry into force of this Agreement, eliminate all customs duties and other charges, including surcharges and other forms of contributions, in relation to the exportation of goods to another Party, except as provided for in Annex VI.

2. No new customs duties or other charges in relation to the exportation of goods to a Party shall be introduced.

ARTICLE 2.5

Customs Valuation[1]

For the purposes of determining the customs value of products traded between the Parties, Article VII of the GATT 1994 and Part I of the Agreement on Implementation of Article VII of the GATT 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.6

Quantitative Restrictions

Upon entry into force of this Agreement, all import or export prohibitions or restrictions on trade in goods between EFTA States and Central American States, other than customs duties and taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be eliminated on all products of each Party.

ARTICLE 2.7

Fees and Formalities

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

ARTICLE 2.8

Internal Taxation and Regulations

1. The Parties commit themselves to apply national treatment in relation to internal taxes and other charges and regulations, in accordance with Article III of the GATT 1994, which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Exporters may not benefit from repayment of internal taxes in excess of the amount of indirect taxes imposed on products exported to the territory of one of the Parties.

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

ARTICLE 2.9

Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Agreement").

2. The Parties shall work together in the effective implementation of this Article for the purpose of facilitating bilateral trade.

3. The Parties shall strengthen their cooperation in the field of sanitary and phytosanitary measures, with a view to increasing the mutual understanding of their respective systems and to improving their sanitary and phytosanitary systems.

4. The Parties shall exchange names and addresses of contact points with sanitary and phytosanitary expertise in order to facilitate communication and the exchange of information.

5. Without prejudice to paragraph 1, the Parties agree to hold technical consultations where a Party considers that another Party has taken or is considering a measure not in conformity with the SPS Agreement, in order to find an appropriate solution in conformity with the SPS Agreement. Such consultations, which may be held within or outside the framework of the Joint Committee, shall take place within 40 days from the request. If consultations are held outside the framework of the Joint Committee, the latter should be informed thereof. Such consultations may be conducted by any agreed method.

ARTICLE 2.10

Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the "TBT Agreement").

2. The Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. To this end, they shall in particular cooperate in:

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

(b) promoting the accreditation of conformity assessment bodies on the basis of relevant Standards and Guides of the International Organisation for Standardisation (ISO) and the International Electrotechnical Commission (IEC);

(c) promoting mutual acceptance of conformity assessment results of conformity assessment bodies, which have been recognised under appropriate multilateral agreements between their respective accreditation systems or bodies; and

(d) reinforcing the transparency in the development of technical regulations and conformity assessment procedures of the Parties, among others, to ensure that all adopted technical regulations are published on official websites with public access.

3. Where a Party detains at a port of entry, goods originating in another Party due to a perceived failure to comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention.

4. The Parties shall exchange names and addresses of contact points with expertise on technical regulations in order to facilitate communication and the exchange of information.

5. Without prejudice to paragraph 1, the Parties agree to hold technical consultations where a Party considers that another Party has taken or is considering a measure not in conformity with the TBT Agreement, in order to find an appropriate solution in conformity with the TBT Agreement. Such consultations, which may be held within or outside the framework of the Joint Committee, shall take place within 40 days from the request. If consultations are held outside the framework of the Joint Committee, the latter should be informed thereof. Such consultations may be conducted by any agreed method.

6. The Parties shall no later than two years after the entry into force of this Agreement and thereafter upon request of a Party, jointly review this Article in the Joint Committee. In its assessment, the Joint Committee shall consider among others the acceptance of conformity assessment procedures and results undertaken by all Parties with a third party.

ARTICLE 2.11

Trade Facilitation

Provisions related to trade facilitation are set out in Annex VII.

ARTICLE 2.12

Sub-Committee on Trade in Goods

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

2. The mandate of the Sub-Committee is set out in Annex VIII.

ARTICLE 2.13

State Trading Enterprises

With respect to the rights and obligations of the Parties concerning state trading enterprises, Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.14

Subsidies and Countervailing Measures

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

2. Before a Party initiates an investigation to determine the existence, degree and effect of any alleged subsidy in another Party, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 45 day period with a view to finding a mutually acceptable solution. Consultations shall take place in the Joint Committee if any Party so requests within 20 days from the receipt of the notification.

3. Chapter 12 shall only apply to paragraph 2.

ARTICLE 2.15

Anti-dumping

1. The rights and obligations relating to anti-dumping measures shall be governed by Article VI of the GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994 (hereinafter referred to as "the WTO Anti-dumping Agreement"), subject to the provisions below.

2. When a Party receives a properly documented application and before initiating an investigation under the WTO Anti-dumping Agreement, the Party shall notify in writing to the other Party whose goods are allegedly being dumped and allow a 20-day period for consultation with a view of trying to find a mutually acceptable solution. If a solution cannot be reached, each Party retains its rights and obligations under Article VI of the GATT 1994 and the WTO Anti-dumping Agreement.

3. Should a Party decide to impose an anti-dumping duty, the amount of such duty shall not exceed the margin of dumping, but it shall be less than the margin of dumping if such lesser duty would be adequate to remove the injury to the domestic industry.

4. Anti-dumping measures may not be applied by a Party where, on the basis of the information made available during the investigation, it is concluded that it would not be in the public interest to apply such measures.

5. Any anti-dumping measure applied against imports of a Party, shall be terminated without exception on a date not later than five years from its imposition. After the termination, a new investigation procedure can be started against the imports of a Party.

6. Five years after the date of entry into force of this Agreement, the Joint Committee shall review this Article in order to determine whether its content is necessary considering the policy objectives of the Parties.

7. Chapter 12 shall only apply to paragraphs 2 to 5.

ARTICLE 2.16

Global Safeguard Measures

1. The rights and obligations of the Parties in respect of global safeguards shall be governed by Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

2. In taking measures according to paragraph 1, a Party shall exclude imports of an originating product from one or several Parties if such imports do not in and of themselves cause or threaten to cause serious injury. The Party taking the measure shall demonstrate that such exclusion is in accordance with the jurisprudence of the World Trade Organisation (hereinafter referred to "WTO").

3. No Party may apply, with respect to the same product, at the same time:

(a) a bilateral safeguard measure; and

(b) a measure under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

4. Chapter 12 shall only apply to paragraphs 2 and 3.

ARTICLE 2.17

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause[2] of serious

[2] Substantial cause means a cause which is important and not less than any other cause.

injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of paragraphs 2 to 9.

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

3. The Party intending to take or extend a bilateral safeguard measure under this Article shall immediately, and in any case before taking a measure, notify the other Parties. The notification shall contain all pertinent information, including evidence of serious injury or threat thereof caused by increased imports, a precise description of the product concerned, and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure. A Party that may be affected by the bilateral safeguard measure shall be offered compensation in the form of substantially equivalent trade liberalisation in relation to the imports from any such Party.

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

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

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

(i) the Most-Favoured-Nation (hereinafter referred to as "MFN") rate of duty applied at the time the action is taken; or

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

5. Bilateral safeguard measures shall only be taken during the transition period which shall be five years from the date of entry into force of this Agreement. Where the liberalisation process lasts five or more years, the transition period means the tariff elimination period for the goods according to the Party's schedule of tariff commitments in Annexes IV, V and IX to XIV plus two years. Bilateral safeguard measures shall only be taken for a period not exceeding two years. In very exceptional circumstances, measures may be taken up to a total maximum period of four years. No bilateral safeguard measures shall be applied to the import of a product, which has previously been subject to such a measure.

6. The Joint Committee shall, within 30 days from the date of notification, examine the information provided under paragraph 3 in order to facilitate a mutually acceptable resolution of the matter. In the absence of such resolution, the importing Party may adopt a bilateral safeguard measure pursuant to paragraph 4 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the

bilateral safeguard measure is taken may take compensatory action. The bilateral safeguard measure and the compensatory action shall be immediately notified to the other Parties. In the selection of the bilateral safeguard measure and the compensatory action, priority must be given to the measure which least disturbs the functioning of this Agreement. The Party taking compensatory action shall apply the measure only for the minimum period necessary to achieve the substantially equivalent trade effects and in any event, only while the bilateral safeguard measure under paragraph 4 is being applied.

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

8. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional bilateral safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The Party intending to take such a measure shall immediately notify the other Parties thereof. Within 30 days of the date of the notification, the pertinent procedures set out in paragraphs 2 to 6, including for compensatory action shall be initiated. Any mutually agreed compensation and any compensatory action shall be based on the total period of application of the provisional bilateral safeguard measure and of the bilateral safeguard measure.

9. Any provisional bilateral safeguard measure shall be terminated within 200 days at the latest. The period of application of any such provisional bilateral safeguard measure shall be counted as part of the duration, and any extension thereof, of the bilateral safeguard measure, set out in paragraphs 4 and 5. Any tariff increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

10. For the purposes of this Article, the definitions established in Article 4.1 of the WTO Agreement on Safeguards shall apply.

ARTICLE 2.18

General Exceptions

With respect to the rights and obligations of the Parties concerning general exceptions, Article XX of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.19

Security Exceptions

With respect to the rights and obligations of the Parties concerning security exceptions, Article XXI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.20

Balance-of-Payments

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance of payments purposes.

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

3. The Party introducing a measure under this Article shall promptly notify the other Parties thereof.

CHAPTER 3

TRADE IN AGRICULTURAL PRODUCTS

ARTICLE 3.1

Scope

This Chapter applies to trade between the Parties relating to products other than those covered in the Annex III.

ARTICLE 3.2

Tariff Concessions

1. Costa Rica shall grant tariff concessions to agricultural products originating in Iceland as specified in Section 1 of Annex IX to this Agreement. Iceland shall grant tariff concessions to agricultural products originating in Costa Rica as specified in Section 2 of Annex IX to this Agreement.

2. Costa Rica shall grant tariff concessions to agricultural products originating in Norway as specified in Section 1 of Annex X to this Agreement. Norway shall grant tariff concessions to agricultural products originating in Costa Rica as specified in Section 2 of Annex X to this Agreement.

3. Costa Rica shall grant tariff concessions to agricultural products originating in Liechtenstein and Switzerland as specified in Section 1 of Annex XI to this Agreement. Liechtenstein and Switzerland shall grant tariff concessions to agricultural products originating in Costa Rica as specified in Section 2 of Annex XI to this Agreement.

4. Panama shall grant tariff concessions to agricultural products originating in Iceland as specified in Section 1 of Annex XII to this Agreement. Iceland shall grant tariff concessions to agricultural products originating in Panama as specified in Section 2 of Annex XII to this Agreement.

5. Panama shall grant tariff concessions to agricultural products originating in Norway as specified in Section 1 of Annex XIII to this Agreement. Norway shall grant tariff concessions to agricultural products originating in Panama as specified in Section 2 of Annex XIII to this Agreement.

6. Panama shall grant tariff concessions to agricultural products originating in Liechtenstein and Switzerland as specified in Section 1 of Annex XIV to this Agreement. Liechtenstein and Switzerland shall grant tariff concessions to agricultural products originating in Panama as specified in Section 2 of Annex XIV to this Agreement.

ARTICLE 3.3

Agricultural Export Subsidies

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

2. Should a Party adopt, maintain, introduce or re-introduce export subsidies on a product subject to a tariff concession in accordance with Article 3.2, the other Party may increase the rate of duty on such imports to the applied MFN tariff duty rate. The Party increasing its rate of duty shall notify the other Party within 30 days.

ARTICLE 3.4

Minimum Export Price

This Agreement does not prevent Costa Rica to apply minimum export prices to bananas, in accordance to its domestic legislation.

ARTICLE 3.5

Other Provisions

With respect to trade in agricultural products referred to in this Chapter, the following provisions of Chapter 2 shall apply, *mutatis mutandis*: Articles 2.2 on Rules of Origin and Methods of Administrative Cooperation, 2.4 on Export Duties, 2.5 on Customs Valuation, 2.6 on Quantitative Restrictions, 2.7 on Fees and Formalities, 2.8 on Internal Taxation and Regulations, 2.9 on Sanitary and Phytosanitary Measures, 2.10 on Technical Regulations, 2.11 on Trade Facilitation, 2.13 on State Trading Enterprises, 2.15 on Anti-dumping, 2.16 on Global Safeguard Measures, 2.17 on Bilateral Safeguard Measures, 2.18 on General Exceptions, 2.19 on Security Exceptions and 2.20 on Balance-of-Payments.

ARTICLE 3.6

Dialogue

The Parties shall examine any difficulties that might arise in their trade in agricultural products and shall endeavour to seek appropriate solutions through dialogue and consultations.

ARTICLE 3.7

Further liberalisation

The Parties undertake to continue their efforts with a view to achieving further liberalisation of their trade in agricultural products, taking account of the arrangements for processed agricultural products, the pattern of trade in agricultural products between the Parties, the particular sensitivities of such products, the development of each Party's agricultural policy and developments in bilateral and multilateral *fora*. With a view to achieving this objective, the Parties may consult in conjunction with the Joint Committee meetings.

CHAPTER 4

TRADE IN SERVICES

ARTICLE 4.1

Scope and Coverage[3]

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

2. With respect to the commitments of the Parties concerning air transport services, paragraphs 2, 3 and 6 of the Annex on Air Transport Services of the GATS shall apply and are hereby incorporated into and made part of this Chapter.

3. Nothing in this Chapter shall be construed to impose any obligation with respect to government procurement, which is subject to Chapter 7.

ARTICLE 4.2

Incorporation of Provisions from the GATS

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

(a) "Member" means Party;

(b) "Schedule" means a Schedule referred to in Article 4.18 and contained in Annex XV; and

(c) "specific commitment" means a specific commitment in a Schedule referred to in Article 4.18.

ARTICLE 4.3

Definitions

For the purposes of this Chapter:

(a) the following definitions of Article I of the GATS are hereby incorporated into and made part of this Chapter:

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[3] The dispute settlement procedures of this Agreement may be invoked only where obligations or specific commitments have been assumed by the concerned Party.

(i) "trade in services";

(ii) "services"; and

(iii) "a service supplied in the exercise of governmental authority";

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

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

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

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

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

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

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

(aa) natural persons of that other Party identified under subparagraph (c)(i), excluding subparagraph (c)(ii); or

(bb) juridical persons of that other Party identified under subparagraph (d)(i);

(e) the following definitions of Article XXVIII of the GATS are hereby incorporated into and made part of this Chapter:

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

(i) "measure";

(ii) "supply of a service";

(iii) "measures by Members affecting trade in services";

(iv) "commercial presence";

(v) "sector" of a service;

(vi) "service of another Member";

(vii) "monopoly supplier of a service";

(viii) "service consumer";

(ix) "person";

(x) "juridical person";

(xi) "owned", "controlled" and "affiliated"; and

(xii) "direct taxes".

ARTICLE 4.4

Most-Favoured-Nation Treatment

1. Without prejudice to measures taken in accordance with Article VII of the GATS, except as provided for in its List of MFN Exemptions contained in Annex XVI, and with respect to any measure covered by this Chapter, each Party shall accord immediately and unconditionally, to services and service suppliers of any other Party treatment no less favourable than the treatment it accords to like services and service suppliers of any non-party.

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

3. If a Party enters into an agreement notified under Article V or Article V *bis* of the GATS, it shall, upon request from another Party, afford adequate opportunity to that Party to negotiate the benefits granted therein.

4. With respect to the rights and obligations of the Parties concerning advantages accorded to adjacent countries, paragraph 3 of Article II of the GATS shall apply and is hereby incorporated into and made part of this Chapter.

ARTICLE 4.5

Market Access

With respect to the commitments of the Parties concerning market access, Article XVI of the GATS shall apply and is hereby incorporated into and made part of this Chapter.

ARTICLE 4.6

National Treatment

With respect to the commitments of the Parties concerning national treatment, Article XVII of the GATS shall apply and is hereby incorporated into and made part of this Chapter.

ARTICLE 4.7

Additional Commitments

With respect to the additional commitments of the Parties, Article XVIII of the GATS shall apply and is hereby incorporated into and made part of this Chapter.

ARTICLE 4.8

Domestic Regulation

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

2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of another Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.[5]

3. Where authorisation is required by a Party for the supply of a service, the competent authorities of that Party shall, within a reasonable period of time after an application considered complete under that Party's domestic laws and regulations has been submitted, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of that Party shall provide, without undue delay, information concerning the status of the application.

[5] The provisions of this paragraph shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. Each Party shall ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures are based on objective and transparent criteria, such as competence and the ability to supply the service.

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

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

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

(ii) in the case of licensing procedures, not in itself a restriction on the supply of the service.

(b) In determining whether a Party is in conformity with the obligation under subparagraph (a), account shall be taken of international standards of relevant international organisations[6] applied by that Party.

7. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of any other Party.

ARTICLE 4.9

Recognition

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

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

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

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

ARTICLE 4.10

Movement of Natural Persons Supplying Services

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

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding nationality, citizenship, residence or employment on a permanent basis.

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

4. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment.[7]

ARTICLE 4.11

Transparency

With respect to the rights and obligations of the Parties concerning transparency, paragraphs 1 and 2 of Article III and Article III *bis* of the GATS shall apply and are hereby incorporated into and made part of this Chapter.

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

ARTICLE 4.12

Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 4.4 and specific commitments.

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

3. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

ARTICLE 4.13

Business Practices

1. Parties recognise that certain business practices of service suppliers, other than those falling under Article 4.12, may restrain competition and thereby restrict trade in services.

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

ARTICLE 4.14

Payments and Transfers

1. Except under the circumstances envisaged in Article 4.15, a Party shall not apply restrictions on international transfers and payments for current transactions with another Party.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties under the Articles of Agreement of the International Monetary Fund (hereinafter referred to as the "IMF"), including the use of exchange actions which are in conformity

with the Articles of Agreement of the IMF, provided that a Party shall not impose restrictions on capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 4.15 or at the request of the IMF.

ARTICLE 4.15

Restrictions to Safeguard the Balance of Payments

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

2. Any restriction to safeguard the balance of payments adopted or maintained by a Party under and in conformity with Article XII of the GATS shall apply under this Chapter.

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

ARTICLE 4.16

General Exceptions

With respect to the rights and obligations of the Parties concerning general exceptions, Article XIV of the GATS shall apply and is hereby incorporated into and made part of this Chapter.

ARTICLE 4.17

Security Exceptions

With respect to the rights and obligations of the Parties concerning security exceptions, paragraph 1 of Article XIV *bis* of the GATS shall apply and is hereby incorporated into and made part of this Chapter.

ARTICLE 4.18

Schedules of Specific Commitments

1. Each Party shall set out in a schedule the specific commitments it undertakes under Articles 4.5, 4.6 and 4.7. With respect to sectors where such commitments are undertaken, each schedule shall specify:

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

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments referred to in Article 4.7; and

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

2. Measures inconsistent with both Articles 4.5 and 4.6 shall be dealt with as provided for in paragraph 2 of Article XX of the GATS.

3. The Parties' Schedules of Specific Commitments are set out in Annex XV.

ARTICLE 4.19

Modification of Schedules

The Parties shall, upon written request by a Party, hold consultations to consider any modification or withdrawal of a specific commitment in the requesting Party's Schedule of Specific Commitments. The consultations shall be held within three months after the requesting Party made its request. In the consultations, the Parties shall aim to ensure that a general level of mutually advantageous commitments no less favourable to trade than that provided for in the Schedule of Specific Commitments prior to such consultations is maintained. Modifications of Schedules are subject to the procedures set out in Articles 11.1 and 13.3.

ARTICLE 4.20

Review

The Schedules of Specific Commitments and the Lists of MFN Exemptions of the Parties shall be subject to periodic review within the framework of the Joint Committee with a view to achieving a higher level of liberalisation, taking into account in particular any autonomous liberalisation and ongoing work under the auspices of the WTO.

ARTICLE 4.21

Annexes

The following Annexes form an integral part of this Chapter:

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

(b) Annex XVI (Lists of MFN Exemptions); and

(c) Annex XVII (Financial Services).

CHAPTER 5

INVESTMENT

ARTICLE 5.1

Scope and Coverage

1. This Chapter shall apply to commercial presence in all sectors, with the exception of services sectors as set out in Article 4.1 of this Agreement.[8]

2. This Chapter shall be without prejudice to the interpretation or application of other international agreements relating to investment or taxation to which one or several EFTA States and one or several Central American States are parties.[9] [10]

3. Subject to paragraph 1, this Chapter applies to measures taken:

(a) by the Parties' central, regional or local governments and authorities, as well as;

(b) by non-governmental bodies in the exercise of powers delegated by the Parties' central, regional or local governments or authorities.

ARTICLE 5.2

Definitions

For the purposes of this Chapter:

(a) "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;

(b) "juridical person of a Party" means a juridical person constituted or otherwise organised under the law of an EFTA State or of a Central American State and engaged in substantive business operations in the EFTA State concerned or in the Central American State concerned;

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8 It is understood that services specifically exempted from the scope of Chapter 4 do not fall under the scope of this Chapter.

9 It is understood that any dispute settlement mechanism in an investment protection agreement to which one or several Parties of this Agreement are parties is not applicable to alleged breaches of this Chapter.

10 Any dispute initiated by a Party regarding the same matter arising under this Chapter and any investment protection agreement to which one or several Central American States and one or several EFTA States are Parties, may be settled in either forum at the discretion of the complaining Party. The forum selected shall be to the exclusion of the other.

(c) "natural person" means a person who is a national of one of the EFTA States or of one of the Central American States in accordance with their respective legislations;

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

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

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

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

ARTICLE 5.3

National Treatment

With respect to commercial presence, and subject to Article 5.4 and the reservations set out in Annex XVIII each Party shall accord to juridical and natural persons of another Party and to the commercial presence of such persons, treatment no less favourable than that it accords, in like situations, to its own juridical and natural persons, and to the commercial presence of such persons.

ARTICLE 5.4

Reservations

1. Article 5.3 shall not apply to:

(a) any reservation that is listed by a Party in Annex XVIII;

(b) an amendment to a reservation referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the reservation with Article 5.3;

(c) any new reservation adopted by a Party in accordance with paragraph 4 and incorporated into Annex XVIII;

to the extent that such reservations are inconsistent with Article 5.3.

2. As part of the reviews provided for in Article 5.11 the Parties undertake to review the status of the reservations set out in Annex XVIII with a view to reducing the reservations or removing them.

3. A Party may, at any time, either upon the request of another Party or unilaterally, remove in whole or in part reservations set out in Annex XVIII by written notification to the other Parties.

4. In case of the adoption of a new reservation as referred to in subparagraph 1(c), the Party concerned shall ensure that the overall level of its commitments under this Agreement is not affected. It shall promptly notify the other Parties of the reservation and set out, where applicable, the measures aimed at maintaining the overall level of its commitments. On receiving such notification, any other Party may request consultations regarding the reservation and related issues. Such consultations shall be entered into without delay. The Party that requests consultations shall inform the other Parties and any of them may participate in the consultations. The parties to the consultations shall inform the other Parties of the results of the consultations.

ARTICLE 5.5

Key Personnel

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

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

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

ARTICLE 5.6

Right to Regulate

1. Subject to the provisions of this Chapter and Annex XVIII, a Party may, on a non-discriminatory basis, adopt, maintain or enforce any measure that is in the public interest, such as measures to meet health, safety or environmental concerns or reasonable measures for prudential purposes.

2. A Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of a commercial presence of persons of another Party or a non-party.

ARTICLE 5.7

Payments and Transfers

1. Except under the circumstances envisaged in Article 5.8, a Party shall not apply restrictions on current payments and capital movements relating to commercial presence activities in non-services sectors.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties under the Articles of Agreement of the IMF, including the use of exchange actions which are in conformity with the Articles of Agreement of the IMF, provided that a Party shall not impose restrictions on capital transactions inconsistent with its obligations under this Chapter except under Article 5.8 or at the request of the IMF.

ARTICLE 5.8

Restrictions to Safeguard the Balance-of-Payments

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

2. With respect to the rights and obligations of the Parties concerning restrictions referred to in paragraph 1, paragraphs 1 to 3 of Article XII of the GATS shall apply and are hereby incorporated into and made part of this Chapter, *mutatis mutandis*.

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

ARTICLE 5.9

General Exceptions

With respect to the rights and obligations of the Parties concerning general exceptions, Article XIV of the GATS shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 5.10

Security Exceptions

With respect to the rights and obligations of the Parties concerning security exceptions, paragraph 1 of Article XIV *bis* of the GATS shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 5.11

Review

This Chapter shall be subject to periodic review within the framework of the Joint Committee regarding the possibility to further develop the Parties' commitments.

CHAPTER 6

PROTECTION OF INTELLECTUAL PROPERTY

ARTICLE 6.1

Protection of Intellectual Property Rights

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex XIX and the international agreements referred to therein.

2. The Parties shall accord to each other's nationals, treatment no less favourable than that they accord to their own nationals with respect to the protection of intellectual property. Exemptions from this obligation must be in accordance with the substantive provisions of Articles 3 and 5 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "TRIPS Agreement").

3. The Parties shall grant to each other's nationals treatment no less favourable than that accorded to nationals of any other state. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. The Parties may agree, upon mutual consent, to review in the future this Article and Annex XIX with a view to further developing the levels of protection and to avoiding or remedying trade distortions caused by the current levels of protection of intellectual property rights.

CHAPTER 7

GOVERNMENT PROCUREMENT

ARTICLE 7.1

Scope and Coverage

1. This Chapter applies to any measure of a Party regarding covered procurement. For the purposes of this Chapter, "covered procurement" means procurement for governmental purposes:

(a) of goods, services, or any combination thereof:

(i) as specified in each Party's Appendices to Annex XX; 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, rental or hire purchase, with or without an option to buy;

(c) for which the value, as estimated in accordance with the rules specified in Appendix 9 of Annex XX, equals or exceeds the relevant threshold specified in Appendices 1 to 3 to Annex XX at the time of publication of a notice in accordance with Article 7.10;

(d) that is conducted by a procuring entity; and

(e) that is not otherwise excluded from coverage in paragraph 2 or in Annex XX.

2. This Chapter does not apply to:

(a) the acquisition or rental of land, existing buildings, or other immovable property or the rights thereon;

(b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees and fiscal incentives;

(c) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;

(d) public employment contracts;

(e) procurement conducted:

(i) for the specific purpose of providing international assistance, including development aid;

(ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or

(iii) under the particular procedure or condition of an international organisation, or funded by international grants, loans or other assistance where the applicable procedure or condition would be inconsistent with this Chapter;

(f) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers.

ARTICLE 7.2

Definitions

For the purposes of this Chapter:

(a) "commercial goods or services" means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

(b) "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 Provisional Central Product Classification of the United Nations (hereinafter referred to as 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, including 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) "list of suppliers" 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;

(g) "measure" means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;

(h) "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;

(i) "offset" means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade, and similar actions or requirements;

(j) "open tendering" means a procurement method where all interested suppliers may submit a tender;

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

(l) "procuring entity" means an entity covered under Appendices 1 to 3 to Annex XX;

(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 or registered 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 group of 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 service.

ARTICLE 7.3

General Exceptions

1. Subject to the requirement that such measures are not 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 imposing or enforcing measures:

(a) necessary to protect public morals, order or safety;

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

(c) necessary to protect intellectual property; or

(d) relating to goods or services of persons with disabilities, philanthropic institutions, or prison labour.

2. The Parties understand that subparagraph 1(b) includes environmental measures necessary to protect human, animal or plant life or health.

ARTICLE 7.4

National Treatment and Non-Discrimination

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of any other Party and to the suppliers of any other Party offering such goods or services, treatment no less favourable than the treatment accorded to domestic goods, services and suppliers.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

(a) treat a locally established supplier less favourably than another locally established supplier on the basis of degree of foreign affiliation or ownership; or

(b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of any other Party.

ARTICLE 7.5

Use of Electronic Means

1. The Parties shall, to the extent possible, endeavour to use electronic means of communication to permit efficient dissemination of information on government procurement, particularly as regards tender opportunities offered by procuring entities, while respecting the principles of transparency and non-discrimination.

2. When conducting covered procurement by electronic means, a procuring entity shall:

(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and

(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

ARTICLE 7.6

Conduct of Procurement

A procuring entity shall conduct covered procurement in a transparent and impartial manner that:

(a) is consistent with this Chapter, using methods such as open tendering, selective tendering and limited tendering;

(b) avoids conflicts of interest; and

(c) prevents corrupt practices.

ARTICLE 7.7

Rules of Origin

No Party shall apply rules of origin to goods or services imported from or supplied by any other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade.

ARTICLE 7.8

Offsets

With respect to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose or enforce any offset.

ARTICLE 7.9

Information on the Procurement System

1. Each Party shall promptly publish any measure of general application regarding covered procurement and any modification to this information, in an officially designated electronic or paper medium that is widely disseminated and remains readily accessible to the public.

2. Each Party shall, on request, provide to any other Party further information concerning the application of such measures.

ARTICLE 7.10

Notices

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement, except in the circumstances referred to in Article 7.18. The notice shall be published in the electronic or paper media listed in Appendix 7 to Annex XX. Such media shall be widely disseminated and such notices shall remain accessible, at least, until expiration of the time period indicated in the notice. These notices shall be accessible by electronic means free of charge through a single point of access, where such single point of access exists.

2. Except as otherwise provided in this Chapter, each notice of intended procurement shall include the information specified in Appendix 10 to Annex XX.

3. Each Party shall encourage its procuring entities to publish in the appropriate paper or electronic media listed in Appendix 7 to Annex XX, as early as possible in each year, a notice regarding their future procurement plans ("hereinafter referred to as "notice of planned procurement"). The notice of planned procurement should include the subject-matter of the procurement and the estimated date of the publication of the notice of intended procurement or the date on which the procurement will be held.

4. A procuring entity covered under Appendix 2 or 3 to Annex XX may use a notice of planned procurement as a notice of intended procurement provided that the notice of planned procurement includes as much of the information referred to in paragraph 2 as is available to the entity and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

ARTICLE 7.11

Conditions for Participation

1. In establishing the conditions for participation and assessing whether a supplier satisfies such conditions, a Party, including its procuring entities:

(a) 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;

(b) shall evaluate the financial capacity and the commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity;

(c) shall base its evaluation solely on the conditions that the procuring entity has specified in advance in notices or tender documentation;

(d) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a given Party; and

(e) may require relevant prior experience where essential to meet the requirements of the procurement.

2. Where there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:

(a) bankruptcy;

(b) false declarations;

(c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;

(d) final judgments in respect of serious crimes or other serious offences;

(e) professional misconduct or acts or omissions that adversely reflect upon the commercial integrity of the supplier; or

(f) failure to pay taxes.

ARTICLE 7.12

Registration Systems and Qualification Procedures

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.

2. A Party, including its procuring entities, shall not adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of any other Party in its procurement.

3. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement of the procuring entity's decision with respect to the request. Where an entity rejects a supplier's request for participation or ceases to recognise a supplier as qualified, the entity shall, on request of the supplier, promptly provide it with a written explanation of the reasons for its decision.

4. A procuring entity shall recognise as qualified suppliers any domestic suppliers and any suppliers of the other Party that meet the conditions for participation in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.

ARTICLE 7.13

List of Suppliers

1. A procuring entity may maintain a list of suppliers, provided that a notice inviting interested suppliers to apply for inclusion in the list is published annually in the appropriate medium listed in Appendix 7 to Annex XX. Where a list of suppliers will be valid for three years or less, a procuring entity may publish the notice only once, at the beginning of the period of validity of the list, provided that the notice states the period of validity and that further notices will not be published.

2. The notice provided for in paragraph 1 shall include the information specified in Appendix 10 to Annex XX.

3. A procuring entity shall allow suppliers to apply at any time for inclusion on a list of suppliers and shall include on that list within a reasonable short time all suppliers that have complied with the corresponding requirements. Where a procuring entity rejects a supplier's application for inclusion on a list of suppliers or removes a supplier from a list of suppliers, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

ARTICLE 7.14

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 for in the notice of intended procurement pursuant to Article 7.10, such documentation shall include a complete description of the information specified in Appendix 10 to Annex XX.

2. Where procuring entities do not offer free direct access to the entire tender documents and any supporting documents by electronic means, entities shall make promptly available the tender documentation at the request of any interested supplier of the Parties. The procuring entities shall also promptly reply to any reasonable request for relevant information by any interested or participating supplier, provided that such information does not give that supplier an advantage over other suppliers.

ARTICLE 7.15

Technical Specifications

1. A procuring entity shall not prepare, adopt or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to trade among the Parties.

2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, where appropriate:

(a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specification on international standards, where such exist or otherwise, on national technical regulations, recognised national standards or building codes.

3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as "or equivalent" in the tender documentation.

4. A procuring entity shall not prescribe any technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design or type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, the entity includes words such as “or equivalent” in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption

of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. For greater certainty, a Party, including its procuring entities, may, in accordance with this Article, prepare, adopt, or apply technical specifications to promote the conservation of natural resources or protect the environment.

ARTICLE 7.16

Modifications of the Tender Documentation and Technical Specifications

Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in a notice or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all such modifications or amended or reissued notice or tender documentation:

(a) to all suppliers that are participating at the time of the modification, amendment or reissuance, if known, and in all other cases, in the same manner as the original information was made available; and

(b) in adequate time to allow such suppliers to modify and resubmit amended tenders, as appropriate.

ARTICLE 7.17

Time-Periods

A procuring entity shall, consistent with its own reasonable needs, provide suppliers sufficient time to prepare and submit requests for participation and responsive tenders, taking into account in particular the nature and complexity of the procurement. Each Party shall apply time-periods according to the conditions specified in Appendix 8 to Annex XX. Such time-periods, including any extensions, shall be the same for all interested or participating suppliers.

ARTICLE 7.18

Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of any other Party or protects domestic suppliers, a procuring entity may use limited tendering and may choose not to apply Articles 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, 7.19, 7.20, 7.21 and 7.22 only under the following circumstances:

(a) where:

(i) no tenders were submitted, or no supplier requested participation;

(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted have been collusive;

provided that the requirements of the tender documentation are not substantially modified;

(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:

(i) the requirement is for a work of art;

(ii) the protection of patents, copyrights or other exclusive rights; or

(iii) due to an absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods and services that were not included in the initial procurement where a change of supplier for such additional goods and 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 to the procuring entity;

(d) in so far as strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using an open or selective tendering procedure;

(e) for goods purchased on a commodity market;

(f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

(g) where a contract is awarded to a winner of a design contest provided that:

(i) the contest has been organised in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a notice of intended procurement; and

(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.

2. A procuring entity shall maintain records or prepare a report in writing on each contract awarded under paragraph 1. The record or the report shall include the name of the procuring entity, the value and kind of goods or services procured, and a statement indicating the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

ARTICLE 7.19

Electronic Auctions

1. Where a procuring entity intends to conduct a covered procurement using an electronic auction, the entity shall provide each participant, before commencing the electronic auction, with:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;

(b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender; and

(c) any other relevant information relating to the conduct of the auction.

ARTICLE 7.20

Negotiations

1. A Party may provide for its procuring entities to conduct negotiations:

(a) where the entity has indicated such intent in the notice of intended procurement pursuant to Article 7.10; or

(b) where it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice or tender documentation.

2. A procuring entity shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice or tender documentation; and

(b) where negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

ARTICLE 7.21

Treatment of Tenders

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.

2. Where a procuring entity provides suppliers with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the entity shall provide the same opportunity to all participating suppliers.

ARTICLE 7.22

Awarding of Contracts

1. To be considered for award, a tender shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notices and tender documentation and be from a supplier that satisfies the conditions for participation.

2. Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted:

(a) the most advantageous tender; or

(b) where price is the sole criterion, the lowest price.

3. 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.

4. A procuring entity shall not use option clauses, cancel a procurement or modify awarded contracts in a manner that circumvents the obligations of this Chapter.

ARTICLE 7.23

Transparency of Procurement Information

1. A procuring entity shall promptly inform participating suppliers of its contract award decisions and, on request, shall do so in writing. Subject to Article 7.24, 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. No later than 72 days after the award of each contract, a procuring entity shall publish in a paper or electronic medium listed in Appendix 7 to Annex XX, a notice that includes at least the following information about the contract:

(a) a description of the goods or 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 award; and

(f) the type of procurement method used, and in cases where limited tendering was used pursuant to Article 7.18, an indication of the circumstances justifying the procedure used.

3. Where the entity publishes the notice only in an electronic medium, the information shall remain readily accessible for a reasonable period of time.

4. Each procuring entity shall, for a period of at least three years from the date it awards a contract, maintain the documentation and reports of tendering procedures and contract awards relating to covered procurement, including the reports provided for in Article 7.18, and the data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.

ARTICLE 7.24

Disclosure of Information

1. On request of any other Party, a Party shall provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially and in accordance with this Chapter, including information on the characteristics and relative advantages of the successful tender.

2. In cases where disclosure of the information would prejudice competition in future tenders, the Party that receives the information shall not disclose it to any

supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

3. 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.

4. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities, and review bodies, to disclose confidential information under this Chapter where disclosure:

(a) would impede law enforcement;

(b) might prejudice fair competition between suppliers;

(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

(d) would otherwise be contrary to the public interest.

ARTICLE 7.25

Domestic Review Procedures for Supplier Challenges

1. Each Party shall provide a timely, effective, transparent and non-discriminatory administrative or judicial review procedure according to the due process principle through which a supplier may challenge where the supplier does not have a right to challenge directly a breach of this Chapter under the domestic law of a Party, a failure to comply with a Party's measures implementing this Chapter; arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made generally available.

2. Each Party may foresee in its domestic legislation that, in the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure as referred to in paragraph 1, the procuring entity and the supplier are encouraged to seek resolution of the complaint through consultations.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be less than 10 days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.

5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an

impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

6. Each Party shall ensure that a review body that is not a court shall either have its decisions subject to judicial review or have procedures that provide that:

(a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;

(b) the participants to the proceedings (hereinafter referred to as "participants") shall have the right to be heard prior to a decision of the review body being made on the challenge;

(c) the participants shall have the right to be represented and accompanied;

(d) the participants shall have access to all proceedings;

(e) the participants shall have the right to request that the proceedings take place in public and that witnesses may be presented; and

(f) the review body shall make its decisions or recommendations in a timely fashion, in writing, and shall include an explanation of the basis for each decision or recommendation.

7. Each Party shall adopt or maintain procedures that provide for:

(a) rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures may result in suspension of the procurement process. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. Just cause for not acting shall be provided in writing; and

(b) where a review body has determined that there has been a breach of this Chapter or a failure as referred to in paragraph 1, corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or both.

ARTICLE 7.26

Modifications and Rectifications to Coverage

1. A Party may make rectifications of a purely formal nature to its coverage under this Chapter, or minor amendments to its Schedules in Annex XX, provided that it notifies the other Parties in writing and no other Party objects in writing within 45 days following the date of the circulation of the notification. A Party that makes such a

rectification or minor amendment need not provide compensatory adjustments to the other Parties.

2. A Party may otherwise modify its coverage under this Chapter provided that:

(a) it notifies the other Parties in writing and offers at the same time acceptable compensatory adjustments to maintain a level of coverage comparable to that existing prior to the modification, except where provided for in paragraph 3; and

(b) no Party objects in writing within 45 days following the date of the circulation of the notification.

3. A Party need not provide compensatory adjustments when the Parties agree that the proposed modification covers a procuring entity over which a Party has effectively eliminated its control or influence. When a Party objects to the assertion that such government control or influence has been effectively eliminated, the objecting Party may request further information or consultations with a view to clarifying the nature of any government control or influence and reaching agreement on the procuring entity's continued coverage under this Chapter.

ARTICLE 7.27

Cooperation

1. The Parties recognise the importance of cooperation with a view to achieving a better understanding of their respective government procurement systems, as well as a better access to their respective markets, in particular for small business suppliers.

2. According to Chapter 10, the Parties shall endeavour to cooperate in matters such as:

(a) development and use of electronic communications in government procurement systems; and

(b) exchange of experiences and information, such as regulatory frameworks, best practices and statistics.

ARTICLE 7.28

Further Negotiations

In case a Party offers a third party, in the future, additional advantages with respect to its respective government procurement market access coverage agreed under this Chapter, it shall agree, upon request of any other Party, to enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis.

CHAPTER 8

COMPETITION

ARTICLE 8.1

Anti-competitive Practices

1. The following practices of undertakings are incompatible with the proper functioning of 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 enterprises which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuse by one or more undertakings of a dominant position[11] in the territory of a Party as a whole or in a substantial part thereof.

2. Subject to their domestic laws, the provisions of paragraph 1 shall also apply to the activities of public undertakings, and undertakings to which the Parties grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

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

4. In order to fulfil the obligations of this Chapter, if at the moment of entry into force of this Agreement a Party has not yet adopted competition legislation or designated a competent authority, it shall do so within a period of three years.

ARTICLE 8.2

Cooperation

1. Subject to their domestic laws, the Parties involved shall cooperate in their dealings with anticompetitive practices as outlined in Article 8.1, with the aim of putting an end to such practices.

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

[11] The term "dominant position" may be referred to as an undertaking able to operate independently from its competitors or customers, or alternatively as a substantial market power or as a notable market participation, as specified in the Central American States' respective competition laws.

ARTICLE 8.3

Consultations

To foster understanding between the Parties or to address any matter arising under this Chapter, a Party may request consultations within the Joint Committee. This request shall indicate the reasons for the consultations. Consultations shall be held promptly with a view to reaching a conclusion consistent with this Chapter. The Parties concerned shall give to the Joint Committee all the support and information needed. No Party shall be required to disclose information that is confidential according to its laws.

ARTICLE 8.4

Dispute Settlement

No Party may have recourse to dispute settlement under Chapter 12 for any matter arising under this Chapter.

CHAPTER 9

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 9.1

Context and Objectives

1. The Parties recall the Declaration of the United Nations Conference on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998, the Johannesburg Plan of Implementation on Sustainable Development of 2002 and the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006 and the ILO Declaration on Social Justice for a Fair Globalization of 2008.

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

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

4. The Parties reaffirm their commitment to promote the development of international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties' trade relationship.

ARTICLE 9.2

Scope

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

ARTICLE 9.3

Right to Regulate and Levels of Protection

1. The Parties recognise the right of each Party to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies in a manner consistent with their respective Constitutions, and the provisions of this Agreement, in order to set their own sustainable development priorities.

2. Each Party shall seek to ensure that its laws, policies and practices provide for and encourage high levels of environmental and labour protection, appropriate to its social, environmental and economic conditions and consistent with the internationally recognised standards, principles and agreements referred to in Articles 9.5 and 9.6, and shall strive to improve the levels of protection provided for in those laws and policies.

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

ARTICLE 9.4

Upholding Levels of Protection

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

2. Subject to Article 9.3:

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

(b) a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from such environmental or labour laws, regulations or standards in order to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory.

ARTICLE 9.5

International Labour Standards and Agreements

1. The Parties, in accordance with their obligations as members of the ILO, reaffirm their commitments to respect, promote and realise, the principles concerning the fundamental rights, contained in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up adopted by the International Labour Conference at its 86th Session in 1998, namely:

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

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

(c) effective abolition of child labour; and

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

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

3. The Parties recall the obligations as members of the ILO to effectively implement, in accordance with the ILO Declaration on Fundamental Principles and Rights at Work of 1998, the ILO Fundamental Conventions which they have ratified and to make continued and sustained efforts towards ratifying the fundamental ILO Conventions. The Parties will exchange information on the respective situation and advancements as regards the other ILO Conventions.

4. The violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage. Labour standards shall not be used for protectionist trade purposes.

ARTICLE 9.6

Multilateral Environmental Agreements and Environmental Principles

The Parties reaffirm their commitment to the effective implementation in their laws and practices of the multilateral environmental agreements to which they are party. The Parties also reaffirm their adherence to environmental principles reflected in the international instruments referred to in Article 9.1.

ARTICLE 9.7

Promotion of Trade and Investment Favouring Sustainable Development

1. The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services beneficial to sustainable development, including:

(a) environmental technologies, sustainable renewable energy, organic production, energy efficient and eco-labelled goods and services, including through addressing related non-tariff barriers;

(b) goods and services that are the subject of schemes such as fair and ethical trade.

2. The Parties shall endeavour to facilitate and promote the development of practices and programmes aiming at fostering appropriate economic returns from the conservation and sustainable use of the environment, such as ecotourism.

3. To this end, the Parties agree to exchange views and may consider, jointly or bilaterally, cooperation in this area.

4. The Parties shall encourage corporate social responsibility, as well as cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development and are beneficial to the environment.

ARTICLE 9.8

Trade in Forest-Based Products

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

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

ARTICLE 9.9

Cooperation in International Fora

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

ARTICLE 9.10

Implementation and Consultations

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

2. The Parties shall cooperate, through the contact points referred to in paragraph 1, regarding any matter arising under this Chapter. Cooperation may include the exchange of pertinent information that is available to the Parties. No Party shall be required to disclose information that is confidential according to its legislation.

3. To foster understanding between the Parties, or to address any matter arising under this Chapter, or if a Party considers that a measure of another Party does not comply with the obligations under this Chapter, a Party may request consultations within the Joint Committee. This request shall indicate the reasons for the consultations. Consultations shall be held promptly with a view to reaching a conclusion consistent with the objectives set forth in this Chapter. The Parties concerned shall give to the Joint Committee all the support and information needed.

4. No Party may have recourse to dispute settlement under Chapter 12 for any matter arising under this Chapter.

ARTICLE 9.11

Review

The Parties shall periodically review in the Joint Committee progress achieved in pursuing the objectives set out in this Chapter and consider future relevant international developments in order to further promote these objectives.

CHAPTER 10

COOPERATION

ARTICLE 10.1

Objectives and Scope

1. The Parties declare their readiness to foster trade, economic cooperation and technology transfer in order to facilitate the implementation of the overall objectives of this Agreement, in particular to enhance trading and investment opportunities arising from this Agreement and contribute to sustainable development.

2. The provisions set out in this Chapter shall have a cooperative nature and shall not be subject to dispute settlement under Chapter 12 of this Agreement.

ARTICLE 10.2

Methods and Means

1. Cooperation and technical assistance provided by the EFTA States for the implementation of this Chapter shall be carried out through programmes administered by the EFTA Secretariat.

2. Parties shall cooperate with the objective of identifying and employing the most effective methods and means for the implementation of this Chapter. To this end they may coordinate efforts with relevant international organisations.

3. Sustainable development shall be integrated and reflected in the implementation of cooperation, assistance and technology transfer in the various sectors to which it is relevant.

4. Means of cooperation and assistance may include:

(a) exchange of information, technology transfer and training;

(b) implementation of joint actions such as seminars and workshops; and

(c) technical and administrative assistance.

ARTICLE 10.3

Fields of Cooperation

Cooperation, assistance and technology transfer may cover any fields jointly identified by the Parties that may serve to enhance the Parties' and their economic operators' capacities to benefit from increased international trade and investment, including in particular:

(a) promotion and facilitation of exports of goods and services to the other Parties, and promotion of market opportunities;

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

(c) technical regulations and sanitary and phytosanitary measures, including standardisation and certification;

(d) regulatory assistance and implementation of laws in areas such as intellectual property and public procurement; and

(e) regulatory assistance and implementation of laws concerning trade related aspects of labour and environmental issues, including institutional capacity of labour and environmental administrations.

ARTICLE 10.4

Contact Points

The Parties shall exchange names and addresses of designated contact points for matters pertaining to cooperation.

CHAPTER 11

INSTITUTIONAL PROVISIONS

ARTICLE 11.1

Joint Committee

1. The Parties hereby establish the EFTA-Central America Joint Committee (hereinafter referred to as the "Joint Committee") comprising representatives of each Party at the ministerial level with responsibility for trade-related matters, in accordance with the Parties' respective legal frames, their designees or at a senior official level selected for this purpose.

2. The Joint Committee shall:

(a) supervise and review the implementation of this Agreement;

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

(c) oversee the further elaboration of this Agreement;

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

(e) seek to resolve disputes that may arise regarding the interpretation or application of this Agreement;

(f) establish its own rules of procedure; and

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

3. The Joint Committee may:

(a) modify, in fulfilment of the Agreement's objectives: Appendices 1-5 to Annex I, Annexes III, IV, V, IX, X, XI, XII, XIII, XIV, Annexes XV, XVI, XVIII, and Annex XX;

(b) modify Annexes I, VII and VIII subject to the fulfilment of the internal legal requirements of each Party; and

(c) except as otherwise provided for in this Article, consider and propose to the Parties any amendments to the rights and obligations under this Agreement, including new annexes and appendices to all Chapters of this Agreement, subject to the fulfilment of the internal legal requirements of each Party.

4. Each Party shall implement, in accordance with its applicable legal procedures, any modification referred to in paragraph 3(a) within such period as the Joint Committee decides.[12]

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

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

7. The Joint Committee shall take decisions and make recommendations by consensus. The Joint Committee can also adopt decisions and make recommendations regarding issues related only to one or more Central American States and one or more EFTA States. The vote shall in such cases only be taken among the Parties concerned. Decisions or recommendations adopted by the Joint Committee in accordance with this paragraph, shall only apply to those Parties that adopted the decision or recommendation.

8. The Joint Committee shall meet within one year of the entry into force of this Agreement. Thereafter, it shall meet whenever necessary but normally every two years. Its meetings shall be chaired jointly by one of the EFTA States and by one of the Central American States. Unless otherwise decided by the Parties, sessions of the Joint Committee shall be held alternatively in the territory of an EFTA State and a Central American State, or by any technological means available.

9. Each Party may request at any time, through a notice in writing to the other Parties, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days of receipt of the request, unless the Parties agree otherwise.

10. The Joint Committee shall establish in its decisions the appropriate provisions for its entry into force. If the domestic legislation of a Party so permits and if decided by the Joint Committee, said Party may apply a decision of the Joint Committee provisionally until such decision enters into force for that Party.

ARTICLE 11.2

Contact Points

1. Each Party shall designate, within 60 days of the date of entry into force of this Agreement, a contact point to facilitate communication between the Parties.

2. On the request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

[12] In the case of Costa Rica, Annex XXI applies.

CHAPTER 12

DISPUTE SETTLEMENT

ARTICLE 12.1

Scope and Coverage

1. Unless otherwise specified in this Agreement, the provisions of this Chapter shall apply with respect to the avoidance or settlement of any disputes concerning the interpretation or application of this Agreement.

2. Disputes regarding the same matter arising under both this Agreement and the WTO Agreement may be settled in either *forum* at the discretion of the complaining Party.[13] The *forum* thus selected shall be used to the exclusion of the other.

3. For the purposes of paragraph 2, dispute settlement procedures under the WTO Agreement are deemed to be selected by a Party's request for the establishment of a panel under Article 6 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, whereas dispute settlement procedures under this Agreement are deemed to be selected upon a request for arbitration pursuant to paragraph 1 of Article 12.4.

4. Before a Party initiates dispute settlement proceedings under the WTO Agreement against another Party, that Party shall notify in writing all other Parties of its intention.

ARTICLE 12.2

Good Offices, Conciliation or Mediation

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

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

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

ARTICLE 12.3

Consultations

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

2. A Party may request in writing consultations with another Party if it considers that a measure or other matter is inconsistent with this Agreement, and shall set out the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis for the complaint. The Party requesting consultations shall at the same time notify the other Parties in writing of the request. The Party to which the request is made shall reply to the request within 10 days from the date of receipt.

3. Consultations shall commence within 30 days from the date of receipt of the request for consultations. Consultations on urgent matters, including those on perishable goods, shall commence within 15 days from the date of receipt of the request for consultations. If the Party to which the request is made does not reply within 10 days or does not enter into consultations within 30 days from the date of receipt of the request for consultations, or within 15 days for urgent matters, the Party making the request is entitled to request the establishment of an arbitration panel in accordance with Article 12.4.

4. A Party that considers to have a substantial trade interest in the matter may participate in the consultations on delivery of written notice to the other Parties within seven days of the date of receipt of the request for consultations. The Party shall include in its notice an explanation of its substantial trade interest in the matter.

5. The parties to the dispute shall provide sufficient information to enable a full examination of how the measure or other matter is inconsistent with this Agreement and treat any confidential information exchanged in the course of consultations in the same manner as the Party providing the information.

6. Consultations shall be confidential and without prejudice to the rights of the Parties in any further proceedings.

7. Consultations may be held in person or by any technological means that the parties to the dispute decide. If the consultations are held in person, these should take place in the capital of the Party complained against, unless the parties to the dispute agree otherwise.

8. The parties to the dispute shall inform the other Parties of any mutually agreed resolution of the matter.

ARTICLE 12.4

Establishment of an Arbitration Panel

1. If the consultations referred to in Article 12.3 fail to settle a dispute within 50 days, or 20 days in relation to urgent matters, including those on perishable goods, from the date of the receipt of the request for consultations by the Party complained against, the complaining Party may request the establishment of an arbitration panel by means of a written request to the Party complained against. A copy of this request shall be communicated to the other Parties so that they may determine whether to participate in the arbitration process.

2. The request for the establishment of an arbitration panel shall identify the specific measure or other matter at issue and provide a brief summary of the legal and factual basis of the complaint.

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

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

> "To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 12.4 and to make findings of law and fact together with the reasons, as well as recommendations, if any, for the resolution of the dispute and the implementation of the ruling."

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

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

ARTICLE 12.5

Procedures of the Arbitration Panel

1. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the procedures of the panel shall be governed by the Optional Rules, *mutatis mutandis*.[14]

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

3. The parties to the dispute shall decide on the language of the dispute. If there is no agreement it shall be decided by the arbitration panel. The hearings of the arbitration panel shall be open to the public, unless the parties to the dispute decide otherwise or the arbitral panel decides to close the hearing for the duration of any discussion of confidential information.

4. The location of any hearing of the arbitration panel, if it is held in person, shall be decided by mutual agreement of the parties to the dispute, failing which, it shall be held in The Hague, The Netherlands.

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

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

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

8. Decisions of the arbitration panel shall be taken by a majority of its members. Any member may furnish separate opinions on matters not unanimously agreed. The arbitration panel shall not disclose which members are associated with majority or minority opinions.

9. The costs of arbitration shall be borne by the parties to the dispute in equal shares.

10. Each Party's individual costs, including administration costs and other costs related to the preparation and the carrying out of the proceedings, shall be borne by each Party.

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[14] The following Articles shall not apply: Article 3 (Notice of Arbitration); Article 26 (Interim Measures of Protection); Article 35 (Interpretation of the Award); Article 36 (Correction of the Award); Article 37 (Additional Award) and Article 41 (Deposit of Costs).

11. The arbitration panel shall establish its working schedule allowing the parties to the dispute adequate time to comply with all steps of the proceedings. The working schedule shall establish precise dates and time periods for the submission of all relevant communications, submissions and other documents as well as for any hearings. The arbitration panel may modify its working schedule and promptly notify the parties to the dispute of any such modifications.

12. Notifications shall be submitted as expeditiously as possible to the addressee through diplomatic channels. A copy should be submitted simultaneously to any relevant offices designated and notified by the parties to the dispute.

13. The arbitration panel may rule on its own jurisdiction.

ARTICLE 12.6

Panel Reports

1. The arbitration panel shall normally submit an initial report containing its findings and rulings to the parties to the dispute not later than 90 days from the date of establishment of the arbitration panel. A party to the dispute may submit written comments to the arbitration panel on its initial report within 14 days from the date of receipt of the report. The arbitration panel shall normally present to the parties to the dispute a final report within 30 days from the date of receipt of the initial report.

2. The final report, as well as any report under Articles 12.8 and 12.9, shall be communicated to the parties to the dispute. The reports referred to in this paragraph shall be made public, unless the parties to the dispute decide otherwise.

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

ARTICLE 12.7

Suspension or Termination of Arbitration Panel Proceedings

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

2. A complaining Party may withdraw its complaint at any time before the final report has been issued. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same issue at a later point in time.

3. The parties to the dispute may agree at any time to terminate the proceedings of an arbitration panel established under this Agreement by jointly notifying in writing the chairperson of that arbitration panel.

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

ARTICLE 12.8

Implementation of the Final Report

1. The Party complained against shall promptly comply with the ruling in the final report. If it is impracticable to comply immediately, the parties to the dispute shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement within 30 days from the date of the issuance of the final report, either party to the dispute may request the original arbitration panel to determine the length of the reasonable period of time, in light of the particular circumstances of the case. The ruling of the arbitration panel shall normally be given within 40 days from the date of receipt of that request.

2. The Party complained against shall notify the other party to the dispute of the measure adopted in order to comply with the ruling in the final report, as well as provide a detailed description of how the measure ensures compliance sufficient to allow the other party to the dispute to assess the measure.

3. In case of disagreement as to the existence of a measure complying with the ruling in the final report or to the consistency of that measure with the ruling, such disagreement shall be decided by the same arbitration panel upon the request of either party to the dispute before compensation can be sought or suspension of benefits can be applied in accordance with Article 12.9. The ruling of the arbitration panel shall normally be rendered within 60 days from the date of receipt of the request.

ARTICLE 12.9

Compensation and Suspension of Benefits

1. If the Party complained against does not comply with a ruling of the arbitration panel referred to in Article 12.8, or notifies the complaining Party that it does not intend to comply with the final report that Party shall, if so requested by the complaining Party, enter into consultations with a view to agreeing on mutually acceptable compensation. If no such agreement has been reached within 20 days from receipt of the request, the complaining Party shall be entitled to suspend the application of benefits granted under this Agreement but only equivalent to those affected by the measure or matter that the arbitration panel has found to be inconsistent with this Agreement.

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

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

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

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

ARTICLE 12.10

Other Provisions

1. Whenever possible, the arbitration panel referred to in Articles 12.8 and 12.9 shall comprise the same arbitrators who issued the final report. If a member of the original arbitration panel is unavailable, the appointment of a replacement arbitrator shall be conducted in accordance with the selection procedure for the original arbitrator.

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

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

CHAPTER 13

FINAL PROVISIONS

ARTICLE 13.1

Fulfilment of Obligations

The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement.

ARTICLE 13.2

Annexes and Appendices

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

ARTICLE 13.3

Amendments

1. The Parties may agree on any amendment to this Agreement.

2. Amendments regarding issues related only to one or more Central American States and one or more EFTA States shall be agreed upon by the Parties concerned only.

3. Notwithstanding modifications referred to in Article 11.1, the Joint Committee may submit to the Parties, recommendations regarding amendments to this Agreement for ratification, acceptance or approval in accordance with their respective domestic legal procedures.

4. Unless otherwise agreed, amendments shall enter into force 60 days following the date on which at least one Central American State and at least one EFTA State have deposited their instrument of ratification, acceptance or approval with the Depositary. In relation to Parties depositing such instruments after the entry into force of the amendment, the amendment shall enter into force 60 days following the deposit of its instrument.

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

ARTICLE 13.4

Accession

1. Any state, becoming a Member of EFTA or any Member of the Central American Economic Integration Sub-System, may accede to this Agreement, provided that the Joint Committee approves its accession, on terms and conditions to be agreed upon by the Parties and following approval in accordance with their respective domestic legal procedures. The instrument of accession shall be deposited with the Depositary.

2. In relation to an acceding state, this Agreement shall enter into force 60 days after the deposit of its instrument of accession, or the approval of the terms of accession by the existing Parties, whichever is later.

ARTICLE 13.5

Withdrawal and Expiration

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

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

3. If all EFTA States or all Central American States withdraw from this Agreement, it shall be terminated as of the date when the withdrawal has taken effect, according to this Article, for all EFTA States or all Central American States.

ARTICLE 13.6

Entry into Force

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

2. If its respective legal requirements permit, a Party may apply this Agreement provisionally. Provisional application of this Agreement under this paragraph shall be notified to the Depositary.

3. This Agreement shall enter into force 60 days after the date on which at least one Central American State and at least one EFTA State have deposited their instrument of ratification, acceptance or approval with the Depositary.

4. In relation to a Party depositing its instrument of ratification, acceptance or approval after this Agreement has entered into force, the Agreement shall enter into force 60 days following the deposit of its instrument.

ARTICLE 13.7

Unilateral Reservations

This Agreement shall not be subject to unilateral reservations.

ARTICLE 13.8

Depositary

The Government of Norway shall act as Depositary.

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

Done at Trondheim, this 24th day of June 2013, in two originals, one in the English language and one in the Spanish language, both texts being equally authentic. In case of divergence, the English text shall prevail. The originals shall be deposited with the Depositary, who shall transmit certified copies to all the Parties.

For Iceland

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For the Republic of Costa Rica

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For the Principality of Liechtenstein

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For the Republic of Panama

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For the Kingdom of Norway

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For the Swiss Confederation

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