

Text of the Canada–Ukraine Free trade agreement – Preamble

*Canada and Ukraine , hereinafter referred to as “the Parties”,
resolved to:*

*Strengthen the special bonds of friendship and cooperation between
their peoples;*

*Contribute to the harmonious development and expansion of world
and regional trade and to provide a catalyst to broader international
cooperation;*

*Build on their respective rights and obligations under the wto
agreement and other multilateral and bilateral instruments of
cooperation;*

*Create an expanded and secure market for the goods and services
produced in their territories, as well as promote new employment
opportunities and improved working conditions and living standards
in their respective territories;*

Reduce distortions to trade;

*Establish clear, transparent and mutually advantageous rules to
govern their trade;*

Ensure a predictable commercial framework for business planning and investment;

Enhance the competitiveness of their firms in global markets;

Undertake each of the preceding in a manner that is consistent with environmental protection and conservation;

Enhance and enforce environmental laws and regulations, and strengthen cooperation on environmental matters;

Protect, enhance and enforce basic workers' rights, and strengthen cooperation on labour matters and build on their respective international commitments on labour matters;

Promote sustainable development;

Encourage enterprises operating within their territory or subject to their jurisdiction to respect internationally recognized corporate social responsibility standards and principles and pursue best practices;

Promote broad-based economic development in order to reduce poverty;

Preserve their flexibility to safeguard the public welfare;

and

Recalling the Agreement between the Government of Canada and the Government of Ukraine for the promotion and protection of investments, done at Ottawa on 24 October 1994;

Recognizing that the promotion and the protection of investments of investors of a party in the territory of the other party will be conducive to the stimulation of mutually beneficial business activity;

Recognizing that states must maintain the ability to preserve, develop and implement their cultural policies for the purpose of strengthening cultural diversity, given the essential role that cultural goods and services play in the identity and diversity of societies and the lives of natural persons; and

Affirming their commitment to respect the values and principles of democracy and to promote and protect human rights and fundamental freedoms as identified in the Universal Declaration of Human Rights.

Have agreed as follows:

Chapter 1: General provisions and definitions

Section A – General provisions

Article 1.1: Establishment of the Free Trade Area

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

Article 1.2: Relation to Other Agreements

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

2. In the event of any inconsistency between this Agreement and the agreements referred to in paragraph 1, this Agreement prevails, except as otherwise provided in this Agreement.

3. The WTO Agreement exclusively governs the rights and obligations of the Parties regarding subsidies and the application of anti-dumping and countervailing measures, including the settlement of any disputes about those matters.

Article 1.3: Relation to Environmental and Conservation Agreements

In the event of an inconsistency between an obligation in this Agreement and an obligation of a Party under an agreement listed in Annex 1-A (Multilateral Environment Agreements), the obligation in the agreement under Annex 1-A prevails provided that the measure taken is necessary to comply with that obligation, and is not applied

in a manner that would constitute, where the same conditions prevail, arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Article 1.4: Extent of Obligations

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take reasonable measures that may be available to it to ensure observance of the provisions of this Agreement, except as otherwise provided in this Agreement, by the sub-national governments and authorities within its territory and, in addition, in the case of Ukraine, local self-government bodies of oblasts.

Article 1.5: Reference to Other Agreements

When this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include related footnotes, interpretative notes and explanatory notes. Unless the reference affirms existing rights, those references also include any successor agreements to which the Parties are party or amendments binding on the Parties.

Section B – General Definitions

Article 1.6: Definitions of General Application

1. For the purposes of this Agreement, unless otherwise specified:

citizen means a natural person who is a citizen of a Party under its legislation;

Joint Commission means the Joint Commission established under Article 16.1 (Joint Commission);

Coordinators means the Agreement Coordinators established under Article 16.2 (Agreement Coordinators);

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

- (a) a charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) an anti-dumping or countervailing duty that is applied pursuant to a Party's law;
- (c) a fee or other charge imposed consistently with Article VIII of the GATT 1994; or

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

Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

days means calendar days;

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

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

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

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

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

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

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

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

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

national means a natural person who is a citizen or is a permanent resident of a Party;

originating means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of Origin);

permanent resident means a natural person who is a permanent resident of a Party under its applicable legislation;

person means a natural person or an enterprise;

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

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

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

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

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

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

tariff elimination schedule means Annex 2-B (National Treatment and Market Access-Tariff Elimination);

territory means:

- (i) the land territory, air space, internal waters and territorial sea of the Party;
- (ii) the exclusive economic zone of the Party, as determined by its domestic law, consistent with Part V of UNCLOS; and
- (iii) the continental shelf of the Party, as determined by its law, consistent with Part VI of UNCLOS;

UNCLOS means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;

WTO means the World Trade Organization;

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

2. For the purposes of this Agreement, a word in the singular includes that word in the plural, except where otherwise indicated.

Article 1.7: Country-specific Definitions

For the purposes of this Agreement, unless otherwise specified:

national government means:

- (a) with respect to Canada, the Government of Canada; and
- (b) with respect to Ukraine, the Government of Ukraine.

sub-national government means:

- (a) with respect of Canada, provincial, territorial, or local governments; and
- (b) with respect to Ukraine, local executive power bodies of oblasts, the autonomous Republic of Crimea and cities with special status.

Annex 1-A: Multilateral Environmental Agreements

List of Multilateral Environmental Agreements both Parties are party to for the purposes of Article 1.3:

- (a) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on 3 March 1973.
- (b) The Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on 16 September 1987.
- (c) The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, done at Basel on 22 March 1989.
- (d) The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998.
- (e) The Stockholm Convention on Persistent Organic Pollutants, done at Stockholm on 22 May 2001.

Chapter 2: National treatment and market access

Article 2.1: Definitions

For the purposes of this Chapter:

Agreement on Agriculture means the Agreement on Agriculture, contained in Annex-1A of the WTO Agreement;

agricultural good means a product listed in Annex 1 of the Agreement on Agriculture;

export subsidy means an export subsidy as defined in Article 1(e) of the Agreement on Agriculture.

Article 2.2: Scope and Coverage

This Chapter applies to trade in goods of a Party except as otherwise provided in this Agreement.

Section A – National Treatment

Article 2.3 National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, and to this end Article III of the GATT 1994 is incorporated into and made part of this Agreement.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a sub-national government, treatment no less favourable than the most favourable treatment accorded by that

sub-national government to a like, directly competitive or substitutable good, as the case may be, of the Party of which it forms a part.

3. This Article does not apply to a measure set out in Annex 2-A (Exceptions to Articles 2.3 and 2.5).

Section B – Tariffs

Article 2.4: Tariff Elimination on Imports

1. Except as otherwise provided in this Agreement, a Party may not increase an existing customs duty, or adopt a customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule to Annex 2-B (Tariff Elimination).

3. During the tariff elimination process, each Party shall apply to originating goods traded between the Parties the lesser of the customs duties resulting from a comparison between the rate established in accordance with the Schedule to Annex 2-B (Tariff Elimination) and the applied most-favoured-nation (MFN) rate.

4. At the request of a Party, the Parties shall discuss accelerating the elimination of customs duties set out in their Schedules to Annex 2-B

or incorporating into a Party's Schedule a good that is not subject to tariff elimination. An agreement between the Parties to accelerate the elimination of a customs duty on a good or to include a good in a Party's Schedule to Annex 2-B shall supersede a duty rate or staging category determined pursuant to a Schedule for that good when approved by each Party in accordance with its applicable internal procedures.

5. For greater certainty, a Party may:

- (a) modify a tariff outside this Agreement on a good for which no tariff preference is claimed under this Agreement;
- (b) increase a customs duty to the level established in its Schedule to Annex 2-B following a unilateral reduction;
- (c) maintain or increase a customs duty as authorized by this Agreement, the Dispute Settlement Body of the WTO or any agreement under the WTO Agreement; or
- (d) create a new tariff line more specific than the subheading level, provided that the Party does not impose customs duties on a good classified under that new tariff line greater than the rate of customs duty applicable to the good under the Party's Schedule to Annex 2-B before the new tariff line was created.

Section C – Non-Tariff Measures

Article 2.5: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, a Party may not adopt or maintain a prohibition or restriction on the importation of a good of the other Party or on the exportation or sale for export of a good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994, and to this end Article XI of the GATT 1994 is incorporated into and made a part of this Agreement.

2. The rights and obligations of the GATT 1994 incorporated by paragraph 1 prohibit:

- (a) an export price requirement in a circumstance in which another form of restriction is prohibited; and
- (b) an import price requirement, except as permitted in enforcement of countervailing and antidumping orders and undertakings.

3. If a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, this Agreement does not prevent the Party from:

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

- (b) requiring as a condition of export of a good of the Party to the territory of the other Party that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

4. If a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, at the request of the other Party, the Parties shall discuss with a view to avoiding undue interference with or distortion of pricing, marketing or distribution arrangements in the other Party.

5. This Article does not apply to a measure set out in Annex 2-A (Exceptions to Articles 2.3 and 2.5).

Article 2.6: Customs User Fees and Similar Charges

1. A Party shall not adopt or maintain a fee or charge imposed on or in connection with importation of a good of the other Party, except in accordance with Article VIII of the GATT 1994, and to this end Article VIII of the GATT 1994 is incorporated into and made part of this Agreement.

2. Paragraph 1 does not prevent a Party from imposing a customs duty or a charge set out in paragraphs (a), (b), or (d) of the definition of “customs duty” in Article 1.6 (Definitions of General Application).

Article 2.7: Balance-of Payments Exception

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, the Understanding on the Balance-of-Payments Provisions of the GATT 1994 and the Declaration on Trade Measures Taken for Balance of Payments Purposes, adopt a trade restrictive measure, which shall be of limited duration and non-discriminatory and shall not go beyond what is necessary to remedy the balance-of-payments situation.
3. Before adopting a measure pursuant to paragraph 2, the Party shall notify the other Party.
4. The Party adopting the measure shall immediately consult the other Party and shall make every effort to hold such consultations before adopting the measure.
5. A measure under this Article shall not impair the relative benefits accorded to the other Party under this Agreement.
6. For greater certainty, the balance-of-payments exception contained in this Article applies only to balance-of-payments measures imposed on trade in goods.

Article 2.8: Customs Valuation

The Customs Valuation Agreement governs the customs valuation rules applied by the Parties to their reciprocal trade. A Party shall not make use, in its reciprocal trade, of the options and reservations permitted under Article 20 and paragraphs 2, 3 and 4 of Annex III of the Customs Valuation Agreement.

Article 2.9: Customs Duties on Exports

For greater certainty, each Party may apply export duties, in accordance with their rights and obligations under the WTO.

Article 2.10: Agriculture Export Subsidies

A Party shall not adopt or maintain an export subsidy on an agricultural good that is exported, or incorporated in a product that is exported, to the territory of the other Party after the other Party has, immediately or after the transitional period, fully eliminated the tariff, on that agricultural good in accordance with Annex 2-B.

Article 2.11: Special Safeguard on Agricultural Goods

A Party may not apply duties under Article V of the WTO Agreement on Agriculture on goods of the other Party that are subject to tariff elimination under Annex 2-B, including its tariff schedule.

Article 2.12: Distilled Spirits

A Party may not adopt or maintain a measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with distilled spirits of the Party.

Section D – Institutional Provisions

Article 2.13: Committee on Trade in Goods and Rules of Origin

1. The Parties hereby establish a Committee on Trade in Goods and Rules of Origin, composed of government representatives of each Party.

2. The Committee shall meet at the request of a Party or the Joint Commission to consider any matter arising under this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation) or Chapter 5 (Emergency Action) but not less than once every two years from the date of entry into force of this Agreement, unless otherwise decided by the Parties.

3. The Committee's functions shall include:

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

- (b) promptly addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring those matters to the Joint Commission for its consideration;
- (c) recommending to the Joint Commission a modification of or addition to this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Emergency Action), or any other provision of this Agreement related to the Harmonized System; and
- (d) considering any other matter referred to it by a Party relating to the implementation and administration by the Parties of this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation) or Chapter 5 (Emergency Action).

4. The Parties hereby establish a Sub-Committee on Agriculture that shall:

- (a) except as otherwise provided in this Chapter, meet within 60 days of a request by a Party;
- (b) provide a forum for the Parties to discuss issues resulting from the implementation of this Agreement for agricultural goods;
- (c) refer to the Committee any matter under sub-paragraph (b) on which it has been unable to reach an understanding; and

- (d) report to the Committee for its consideration an understanding under this paragraph.

5. At the request of a Party, the Parties shall convene a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, or regulation of transportation, as appropriate, for the purpose of addressing issues related to movement of goods through the Parties' ports of entry.

Annex 2-A: Exceptions to Articles 2.3 and 2.5

Canadian Measures

Articles 2.3 and 2.5 do not apply to:

- (a) a measure, including that measure's continuation, prompt renewal or amendment, in respect of the following:
 - (i) the export of logs of all species;
 - (ii) the export of unprocessed fish pursuant to applicable provincial legislation;
 - (iii) the importation of a goods of the prohibited provisions of tariff items 9897.00.00, 9898.00.00 and 9899.00.00 referred to in the Schedule of the Customs Tariff;

- (iv) Canadian excise duties on absolute alcohol used in manufacturing under the provisions of the Excise Act, 2001, S.C. 2002, c. 22, as amended;
- (v) the use of ships in the coasting trade of Canada;
- (vi) the internal sale and distribution of wine and distilled spirits; or
- (b) an action by Canada authorized by the Dispute Settlement Body of the WTO in a dispute between the Parties under the WTO Agreement.

Annex 2-B: Tariff Elimination

1. As provided in each Party's Schedule attached to this Annex, the following staging categories apply to the elimination or reduction of customs duties by each Party pursuant to Article 2.4(2):

- (a) duties on originating goods shall be eliminated entirely and these goods shall be duty-free on the date this Agreement enters into force and each subsequent year, as follows:
 - (i) for Ukraine, for goods provided for in the items in staging category O in the Schedule of Ukraine, and

- (ii) for Canada, for goods of Chapters 1 through 97 of the Harmonised System that provide for an MFN rate of customs duty and that are not listed in the Schedule of Canada;
- (b) duties on originating goods provided for in the items in staging category 1 in a Party's Schedule shall be eliminated in two equal stages beginning on the date this Agreement enters into force, and these goods shall be duty-free, effective January 1 of year two. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: one-half of the base rate
 - (ii) year two and each subsequent year: duty-free
- (c) duties on originating goods provided for in the items in staging category 3 in a Party's Schedule shall be eliminated in four equal stages beginning on the date this Agreement enters into force, and these goods shall be duty-free, effective January 1 of year four. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: three-quarters of the base rate
 - (ii) year two: one-half of the base rate
 - (iii) year three: one-quarter of the base rate

- (iv) year four and each subsequent year: duty-free
- (d) duties on originating goods provided for in the items in staging category 5 in a Party's Schedule shall be eliminated in six equal stages beginning on the date this Agreement enters into force, and these goods shall be duty-free, effective January 1 of year six. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: five-sixths of the base rate
 - (ii) year two: two-thirds of the base rate
 - (iii) year three: one-half of the base rate
 - (iv) year four: one-third of the base rate
 - (v) year five: one-sixth of the base rate
 - (vi) year six and each subsequent year: duty-free
- (e) duties on originating goods provided for in the items in staging category 7 in a Party's Schedule shall be eliminated in eight equal stages beginning on the date this Agreement enters into force, and these goods shall be duty-free, effective January 1 of year eight. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:

- (i) year one: seven-eighths of the base rate
 - (ii) year two: three-quarters of the base rate
 - (iii) year three: five-eighths of the base rate
 - (iv) year four: one-half of the base rate
 - (v) year five: three-eighths of the base rate
 - (vi) year six: one-quarter of the base rate
 - (vii) year seven: one-eighth of the base rate
 - (viii) year eight and each subsequent year: duty-free
- (f) duties on originating goods provided for in the items in staging category 5A in a Party's Schedule shall be reduced by one-fifth (twenty per cent) of the base-rate in six equal stages beginning on the date this Agreement enters into force, and the rate of customs duty applicable to these goods shall be four-fifths of the base rate, effective January 1 of year six. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: twenty-nine-thirtieths of the base rate
 - (ii) year two: fourteen-fifteenths of the base rate
 - (iii) year three: nine-tenths of the base rate
 - (iv) year four: thirteen-fifteenths of the base rate
 - (v) year five: five-sixths of the base rate

- (vi) year six and each subsequent year: four-fifths of the base rate
- (g) duties on originating goods provided for in the items in staging category 5B in a Party's Schedule shall be reduced by three-tenths (thirty per cent) of the base-rate in six equal stages beginning on the date this Agreement enters into force, and the rate of customs duty applicable to these goods shall be seven-tenths of the base rate, effective January 1 of year six. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: nineteen-twentieths of the base rate
 - (ii) year two: nine-tenths of the base rate
 - (iii) year three: seventeen-twentieths of the base rate
 - (iv) year four: four-fifths of the base rate
 - (v) year five: three-quarters of the base rate
 - (vi) year six and each subsequent year: seven-tenths of the base rate
- (h) duties on originating goods provided for in the items in staging category 5C in a Party's Schedule shall be reduced by one-half (fifty per cent) of the base-rate in six equal stages beginning on the date this Agreement enters into force, and the

rate of customs duty applicable to these goods shall be one-half of the base rate, effective January 1 of year six. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:

- (i) year one: eleven-twelfths of the base rate
 - (ii) year two: five-sixths of the base rate
 - (iii) year three: three-quarters of the base rate
 - (iv) year four: two-thirds of the base rate
 - (v) year five: seven-twelfths of the base rate
 - (vi) year six and each subsequent year: one-half of the base rate
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- (i) duties on originating goods provided for in the items in staging category 7A in a Party's Schedule shall be reduced by one-fifth (twenty per cent) of the base-rate in eight equal stages beginning on the date this Agreement enters into force, and the rate of customs duty applicable to these goods shall be four-fifths of the base rate, effective January 1 of year eight. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: thirty nine-fortieths of the base rate
 - (ii) year two: nineteen-twentieths of the base rate

- (iii) year three: thirty seven-fortieths of the base rate
 - (iv) year four: nine-tenths of the base rate
 - (v) year five: seven-eighths of the base rate
 - (vi) year six: seventeen-twentieths of the base rate
 - (vii) year seven: thirty three-fortieths of the base rate
 - (viii) year eight and each subsequent year: four-fifths of the base rate
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- (j) duties on originating goods provided for in the items in staging category 7B in a Party's Schedule shall be reduced by one-half (fifty per cent) of the base-rate in eight equal stages beginning on the date this Agreement enters into force, and the rate of customs duty applicable to these goods shall be one-half of the base rate, effective January 1 of year eight. For greater certainty, the rate of customs duty as a fraction of the base rate indicated in each Party's Schedule shall be as follows:
 - (i) year one: fifteen-sixteenths of the base rate
 - (ii) year two: seven-eighths of the base rate
 - (iii) year three: thirteen-sixteenths of the base rate
 - (iv) year four: three-quarters of the base rate
 - (v) year five: eleven-sixteenths of the base rate
 - (vi) year six: five-eighths of the base rate

- (vii) year seven: nine-sixteenths of the base rate
- (viii) year eight and each subsequent year: one-half of the base rate
- (k) goods provided for in the items in staging category E in a Party's Schedule are excluded from obligations regarding customs duties.

2. Tariff rate quota for pork:

- (a) Originating goods in the following aggregate quantities and provided for in items listed with the notation "TRQ Pork" in the Schedule of Ukraine shall be duty-free in the years specified below:

Year	Annual Aggregate Quantity (Metric Tonnes, net weight)
1	10,000 MT
2	11,429 MT
3	12,857 MT
4	14,286 MT
5	15,714 MT
6	17,143 MT

<i>Year</i>	<i>Annual Aggregate Quantity (Metric Tonnes, net weight)</i>
<i>7</i>	<i>18,571 MT</i>
<i>8 and each subsequent year</i>	<i>20,000 MT</i>

- *(b) Duties on originating goods entered in aggregate quantities in excess of the aggregate quantities in subparagraph (a) shall be subject to a rate of customs duty no higher than the base rate of duty specified for that item in the Schedule of Ukraine.*
- *(c) Ukraine shall administer this tariff rate quota pursuant to paragraph 3.*
- *(d) Following entry into force of this Agreement, should Ukraine accord to another country more favourable treatment on the tariff items listed in subparagraph (e), at the request of a Party, the Parties shall hold consultations to discuss providing to Canada the treatment accorded to those goods of the other country.*
- *(e) Subparagraphs (a), (b), (c) and (d) shall apply to the following items:*
 - *0203.21.10.00, 0203.21.90.00, 0203.22.11.00,*
 - 0203.22.19.00, 0203.22.90.00, 0203.29.11.00,*
 - 0203.29.13.00, 0203.29.15.00, 0203.29.55.00,*

0203.29.59.00, 0203.29.90.00, 0206.41.00.00,
0206.49.00.00 0209.10.11.00.

3. Administration and implementation of the tariff rate quota:

- (a) Ukraine shall implement and administer its TRQ established under this Annex in accordance with this Agreement, Articles I and XIII of the GATT 1994, and the WTO Agreement on Import Licensing Procedures.
- (b) Ukraine shall ensure that:
 - (i) its procedures for administering its TRQ are transparent, made available to the public, administered in a timely manner, non-discriminatory, responsive to market conditions, and no more administratively burdensome than necessary;
 - (ii) any person of a Party that fulfills Ukraine's legal and administrative requirements shall be eligible to utilize Ukraine's TRQ;
 - (iii) the TRQ is administered exclusively by its national government, and that this administration is not delegated to another person; and,

- (iv) every effort is made to administer its TRQ in a manner that facilitates trade and allows importers to fully utilize it;
- (c) In year one, the applicable annual quantities shall be made available starting on the date this Agreement enters into force until December 31 of the year this Agreement enters into force. From year two and in each subsequent year, the applicable annual quantities shall be made available from January 1 until December 31 of each calendar year.
- (d) All TRQ quantities shall enter Ukraine on a first-come, first-served basis.
- (e) During the course of each year, the administering authority of Ukraine shall publish, in a timely and ongoing fashion on its designated publicly available internet site, administration procedures, utilisation rates, and remaining available quantities for the TRQ established under this Agreement.
- (f) When the actual annual quantities imported under the TRQ reach the annual aggregate quantities of a tariff rate quota in a given year, Ukraine shall publish a notice to this effect on its designated publicly available website within 10 days.

- (g) Canada shall notify Ukraine if any Canadian-issued documentation requirements are established for products exported from Canada under a tariff rate quota pursuant to this Agreement.
- (h) If Ukraine receives notification as pursuant to subparagraph (g), Ukraine shall allow only those products accompanied by that documentation to enter under the applicable TRQ.
- (i) Upon entry into force of this Agreement, each Party shall designate a contact point to facilitate communication on TRQ-related matters and provide the contact point information to the other Party.
- (j) Ukraine shall not condition application for or use of an in-quota quantity under a TRQ on the re-export of an agricultural good or any specified end use.
- (k) Ukraine shall not count non-commercial shipments toward the in-quota aggregate quantity under a TRQ.
- (l) Upon the written request of a Party, the Parties shall, within 30 days, convene a meeting of the Sub-Committee on Agriculture to discuss the administration of a TRQ established under this Agreement in order to arrive at a mutually satisfactory resolution.

4. For the purposes of this Annex and each Party's Schedule:

- (a) the tariff reduction for year one shall take effect on the date of entry into force of this Agreement as provided for in Article 19.5 (Entry into Force). Beginning in year two, each annual stage of tariff reduction shall take effect on January 1 of each year;
- (b) year one means the period of time beginning on the date of entry into force of this Agreement and ending on December 31 of the same calendar year as the date of entry into force;
- (c) year two means the 12-month period beginning January 1 of the calendar year immediately following the date this Agreement enters into force and ending on December 31 of that same calendar year;
- (d) year three means the 12-month period beginning on the second January 1 following the date of entry into force of this Agreement and ending on December 31 of that same calendar year;
- (e) year four means the 12-month period beginning on the third January 1 following the date of entry into force of this Agreement and ending on December 31 of that same calendar year;
- (f) year five means the 12-month period beginning on the fourth January 1 following the date of entry into force of this

Agreement and ending on December 31 of that same calendar year;

- (g) year six means the 12-month period beginning on the fifth January 1 following the date of entry into force of this Agreement and ending on December 31 of that same calendar year;
- (h) year seven means the 12-month period beginning on the sixth January 1 following the date of entry into force of this Agreement and ending on December 31 of that same calendar year; and
- (i) year eight means the 12-month period beginning on the seventh January 1 following the date of entry into force of this Agreement and ending on December 31 of that same calendar year.

5. For Canada, the base rate for determining the interim staged rate of customs duty for an item shall be the MFN rate of customs duty applied on January 1, 2010. For Ukraine, the base rate for determining the interim staged rate of customs duty shall be the MFN rate of customs duty applied on January 1, 2011.

6. For the purpose of the elimination of customs duties in accordance with Article 2.4, interim staged rates of customs duty shall be rounded down at least to the nearest tenth of a percentage point or,

if the customs rate of duty is expressed in monetary units, at least to the nearest 0.001 of the official monetary unit of the Party.

7. For the purpose of this Agreement:

- (a) Canada's Schedule is authentic in the English and French languages; and
- (b) Ukraine's Schedule is authentic in the Ukrainian language

Text of the Canada–Ukraine Free trade agreement – Chapter 3: Rules of origin and origin procedures

Section A – General Provisions

Article 3.1: Definitions

For the purposes of this Chapter:

aquaculture

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

classified

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

customs authority

means any governmental authority that is responsible under the law of a Party for the administration and application of customs legislation;

customs value

means the value as determined in accordance with the Customs Valuation Agreement;

determination of origin

means a determination as to whether a product qualifies as an originating product in accordance with this Chapter;

exporter

means an exporter located in the territory of a Party;

identical originating products

means products that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those products under this Chapter;

importer

means an importer located in the territory of a Party;

material

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

net weight of the non-originating material

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

net weight of the product

means the weight of a product not including the weight of packaging;

producer

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

product

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

production

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

transaction value or ex-works price of the product

means the price paid or payable to the producer of the product at the place where the last production was carried out, and must include the value of

all materials. If there is no price paid or payable or if it does not include the value of all materials, the transaction value or ex-works price of the product:

- (a) must include the value of all materials and the cost of production employed in producing the product, calculated in accordance with generally accepted accounting principles; and
- (b) may include amounts for general expenses and profit to the producer that can be reasonably allocated to the product.

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

value of non-originating materials

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

Section B – Rules of Origin

Article 3.2: General Requirements

1. For the purposes of this Agreement, a product is originating in the Party where the last production took place if, in the territory of a Party or in the territory of both of the Parties in accordance with Article 3.3, it:

- (a) *has been wholly obtained within the meaning of Article 3.4;*

- (b) has been produced exclusively from originating materials, including those materials considered under Article 3.5.2; or
- (c) has undergone sufficient production within the meaning of Article 3.5.

2. Except as provided for in Articles 3.3.3 and 3.3.4, the conditions set out in this Chapter relating to the acquisition of originating status must be fulfilled without interruption in the territory of one or both of the Parties.

Article 3.3: Cumulation of Origin

1. A product that originates in a Party is considered originating in the other Party when used as a material in the production of a product there.

2. An exporter may take into account production carried out on a non-originating material in the other Party for the purposes of determining the originating status of a product.

3. Subject to paragraph 4, where, as permitted by the WTO Agreement, each Party has a free trade agreement with the same non-Party, a material of that non-Party may be taken into consideration by the exporter when determining whether a product is originating under this Agreement.

4. A Party shall give effect to paragraph 3 upon agreement by the Parties on the applicable conditions.

Article 3.4: Wholly Obtained Products

The following shall be considered as wholly obtained in a Party:

- (a) mineral products and other non-living natural resources extracted or taken from the territory of a Party;
- (b) vegetables, plants and plant products harvested or gathered in the territory of a Party;
- (c) live animals born and raised in the territory of a Party;
- (d)
 - (i) products obtained from live animals in the territory of a Party;
 - (ii) products from slaughtered animals born and raised in the territory of Party;
- (e)
 - (i) products obtained by hunting, trapping or fishing conducted in the territory of a Party;
 - (ii) products of aquaculture raised in the territory of Party;

- (f) fish, shellfish and other marine life taken from the sea, seabed, ocean floor or the subsoil outside the territory of the Parties by a vessel registered, recorded or listed with a Party, and entitled to fly its flag;
- (g) products made aboard factory vessels exclusively from products referred to in sub-paragraph 1(f), provided that such factory vessels are registered, recorded or listed with a Party, and entitled to fly its flag;
- (h) mineral products and other non-living natural resources, taken or extracted from the seabed, subsoil or ocean floor of the Area as defined in Article 1(1) of UNCLOS by a Party or a person of a Party, provided that Party or person of a Party has rights to exploit that seabed, subsoil or ocean floor;
- (i) raw materials recovered from used products collected in the territory of a Party, provided that these products are fit only for such recovery;
- (j) components recovered from used products collected in the territory of a Party, provided that these products are fit only for such recovery, when the component is either:
 - (i) incorporated in another product; or

- (ii) further produced resulting in a product with a performance and life expectancy equivalent or similar to those of a new product of the same type; and
- (k) products, at any stage of production, produced in the territory of a Party exclusively from products specified in sub-paragraphs (a) through (j).

Article 3.5: Sufficient Production

1. For the purposes of Article 3.2, a product which is not wholly obtained is considered to have undergone sufficient production when the conditions set out in Annex 3-A are fulfilled.
2. If a non-originating material undergoes sufficient production, the resulting product is considered originating and no account must be taken of the non-originating material contained therein when that product is used in the subsequent production of another product.

Article 3.6: Tolerance

1. Notwithstanding Article 3.5.1, and except as provided in paragraphs 2, 3 and 4, if the non-originating materials used in the production of the product do not fulfil the conditions set out in Annex 3-A, the product may be considered to be an originating product provided that:

- (a) the total value of those non-originating materials does not exceed 10 per cent of the transaction value or ex-works price of the product;
- (b) any of the percentages given in Annex 3-A for the maximum value, volume or weight of non-originating materials are not exceeded through the application of this paragraph; and
- (c) the product satisfies all other applicable requirements of this Chapter.

2. A product of Chapters 50 through 60 of the Harmonized System that does not originate because certain non-originating materials used in the production of the product do not fulfil the requirements set out for that product in Annex 3-A is nonetheless originating if the total weight of all such materials does not exceed 10 per cent of the total weight of that product.

3. For a product of Chapter 61 through 62 of the Harmonized System, the Chapter Note of Chapter 61 or 62, whichever is applicable, shall apply.

4. A product of Chapter 63 of the Harmonized System that does not originate because certain non-originating materials used in the production of the component of the product that determines the tariff classification of that product do not fulfil the requirements set

out for that product in Annex 3-A is nonetheless originating if the total weight of all such materials in that component does not exceed 10 per cent of the total weight of that component.

5. Paragraphs 1 through 4 are subject to Article 3.7(c).

6. Paragraph 1 does not apply to a product wholly obtained in a Party within the meaning of Article 3.4.

Article 3.7: Unit of Classification

For the purposes of this Chapter:

- (a) the tariff classification of a particular product or material is determined according to the Harmonized System;
- (b) if a product composed of a group or assembly of articles or components is classified pursuant to the terms of the Harmonized System under a single heading or subheading, the whole constitutes the particular product; and
- (c) if a shipment consists of a number of identical products classified under the same heading or subheading of the Harmonized System, each product is considered separately.

Article 3.8: Packaging and Packing Materials and Containers

1. If, under Rule 5 of the General Rules for the Interpretation of the Harmonized System, packaging is included with the product for classification purposes, it is considered in determining whether all the non-originating materials used in the production of the product satisfy the requirements set out in Annex 3-A.

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

Article 3.9: Accounting Segregation of Fungible Materials or Products

1.

- (a) If originating and non-originating fungible materials are used in the production of a product, the determination of the origin of the fungible materials need not be made through physical separation and identification of any specific fungible material, but may be determined on the basis of an inventory management system.
- (b) If originating and non-originating fungible products are physically combined or mixed in inventory in a Party before exportation to the other Party, the determination of the origin of the fungible products need not be made through physical separation and identification of any specific fungible product, but

may be determined on the basis of an inventory management system.

2. The inventory management system must:

- (a) ensure that, at any time, no more products receive originating status than would have been the case if the fungible materials or fungible products had been physically segregated;
- (b) specify the quantity of originating and non-originating materials or products, including the dates on which those materials or products were placed in inventory and if required by the applicable rule of origin, the value of those materials or products;
- (c) specify the quantity of products produced using fungible materials, or the quantity of fungible products, that are supplied to customers requiring evidence of origin in a Party for the purposes of obtaining preferential treatment under this Agreement and to customers not requiring such evidence; and
- (d) indicate if an inventory of originating products was available in sufficient quantity to support the declaration of originating status.

3. For the purposes of paragraph 1, fungible materials or fungible products means materials or products that are of the same kind and commercial quality, with the same technical and physical

characteristics, and which cannot be distinguished from one another for origin purposes.

Article 3.10: Accessories, Spare Parts and Tools

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

- (a) taken into account in calculating the value of the relevant non-originating materials when the rule of origin of Annex 3-A applicable to the product contains a percentage for the maximum value of non-originating materials; and
- (b) disregarded in determining whether all the non-originating materials used in the production of the product undergo the applicable change in tariff classification or other requirements set out in Annex 3-A.

Article 3.11: Sets

1. Except as provided in Annex 3-A, a set classified as such as a result of the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System, is originating, provided that:

- (a) all of the set's component products are originating; or
- (b) if the set contains a non-originating component product, the value of the non-originating component products does not exceed 25 per cent of the transaction value or ex-works price of the set.

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

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

Article 3.12: Neutral Elements

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

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools; or
- (d) materials which do not enter and which are not intended to enter into the final composition of the product.

Article 3.13: Transport through a Non-Party

1. A product is not considered originating by reason of having undergone production that satisfies the requirements of Article 3.2 if, subsequent to that production, the product:

- (a) undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition, to transport the product to the territory of a Party; or
- (b) does not remain under customs control while outside the territories of the Parties.

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

Article 3.14: Returned Originating Products

If an originating product exported from a Party to a non-Party is returned, it must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that the returning product:

- (a) is the same as that exported; and

- (b) has not undergone any operation beyond that necessary to preserve it in good condition.

Section C – Origin Procedures

Article 3.15: Proof of Origin

1. Products originating in Ukraine, on importation into Canada, and products originating in Canada, on importation into Ukraine, benefit from preferential tariff treatment of this Agreement on the basis of a declaration (“origin declaration”).
2. The origin declaration is provided on an invoice or any other commercial document that describes the originating product in sufficient detail to enable its identification.
3. The different linguistic versions of the text of the origin declaration are set out in Annex 3-B.

Article 3.16: Obligations Regarding Exportations

1. Each Party shall provide that an origin declaration as referred to in Article 3.15.1 must be completed by an exporter in the territory of a Party of an originating product for the purposes of obtaining preferential tariff treatment for that product in the territory of the other Party.

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

3. Each Party shall require that an origin declaration be completed and signed by the exporter unless otherwise provided by the Parties.

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

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

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

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

Article 3.17: Validity of the Origin Declaration

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

2. An origin declaration which is submitted to the customs authority of the Party of import after the validity period specified in paragraph 1 may be accepted for the purpose of preferential tariff treatment in accordance with the legislation of the Party of import.

Article 3.18: Obligations Regarding Importations

1. Each Party shall provide that, for the purpose of claiming preferential tariff treatment, the importer shall:

- (a) submit the origin declaration to the customs authority of the Party of import as required by and in accordance with the procedures applicable in the Party of import;*
- (b) if required by the customs authority of the Party of import, submit a translation of the origin declaration; and*
- (c) if required by the customs authority of the Party of import, provide for a statement accompanying or forming part of the import declaration, to the effect that the product meets the conditions required for the application of this Agreement.*

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

3. If an importer claims preferential tariff treatment for a product imported from the territory of the other Party, the importing Party

may deny preferential tariff treatment to the product if the importer fails to comply with any requirement under this Chapter.

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

Article 3.19: Proof Related to Transport Through a Non-Party

1. Each Party, through its customs authority, may require an importer to demonstrate that a product for which the importer claims preferential tariff treatment was shipped in accordance with Article 3.13, by providing:

- (a) carrier documents, including bills of lading or waybills, indicating the shipping route and all points of shipment and transshipment prior to the importation of the product; and
- (b) if the product was shipped through or transhipped outside the territories of the Parties, a copy of the customs control documents indicating to that customs authority that the product

remained under customs control while outside the territories of the Parties.

Article 3.20: Importation by Instalments

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

Article 3.21: Exemptions from Origin Declarations

1. A Party may, in conformity with its legislation, waive the requirement to present an origin declaration as referred to in Article 3.18 for low value shipments of originating products from the other Party and for originating products forming part of the personal luggage of a traveller coming from the other Party.

2. A Party may exclude any importation from the provisions of paragraph 1 when the importation is part of a series of importations that may reasonably be considered to have been undertaken or

arranged for the purpose of avoiding the requirements of this Chapter related to origin declarations.

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

Article 3.22: Supporting Documents

The documents referred to in Article 3.16.2 may include documents relating to the following:

- (a) the production processes carried out on the originating product or on materials used in the production of that product;
- (b) the purchase of, the cost of, the value of and the payment for the product;
- (c) the origin of, the purchase of, the cost of, the value of and the payment for all materials, including neutral elements, used in the production of the product; and
- (d) the shipment of the product.

Article 3.23: Preservation of Records

1. Each Party shall require that an exporter that has completed an origin declaration keep a copy of the origin declaration, as well as the supporting documents referred to in Article 3.22, for three years

after the completion of the origin declaration or for a longer period as the Party of export may specify.

2. Each Party shall provide that if an exporter has based an origin declaration on a written statement from the producer, the producer must be required to maintain records in accordance with paragraph 1.

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

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

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

- (a) fails to maintain records or documentation relevant to determining the origin of the product in accordance with the requirements of this Chapter; or
- (b) denies access to those records or documentation.

Article 3.24: Discrepancies and Formal Errors

1. The discovery of slight discrepancies between the statements made in the origin declaration and those made in the documents submitted to the customs authorities for the purpose of carrying out the formalities for importing a product does not, because of that fact, render the origin declaration null and void if it is established that this document corresponds to the product submitted.

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

Article 3.25: Cooperation

1. The Parties shall cooperate in the uniform administration and interpretation of this Chapter and, through their customs authorities, assist each other in verifying the originating status of a product on which an origin declaration is based.

2. For the purpose of facilitating the verifications or assistance referred to in paragraph 1, the customs authorities of the Parties shall provide each other with addresses of the responsible customs authorities.

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

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

5. With respect to products considered originating in accordance with Article 3.3, the Parties may cooperate with a non-Party to develop customs procedures based on the principles of this Chapter.

Article 3.26: Origin Verification

1. For the purpose of ensuring the proper application of this Chapter, the Parties shall assist each other, through their customs authorities, in verifying whether a product is originating and ensuring the accuracy of a claim for preferential tariff treatment.

2. The Parties shall ensure that a request for an origin verification concerning whether a product is originating or whether all other requirements of this Chapter are fulfilled is:

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

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

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

4. If appropriate, the customs authority of the Party of import may request, pursuant to paragraph 3, specific documentation and information from the customs authority of the Party of export.

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

6. The origin verification shall be carried out by the customs authority of the Party of export. For this purpose, the customs authority may, in accordance with its legislation, request documentation, call for any evidence, or visit the premises of an exporter or a producer to review the records referred to in Article 3.22 and observe the facilities used in the production of the product.

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

8. As soon as possible and in any event within 12 months after receiving the request referred to in paragraph 3, the customs

authority of the Party of export shall complete a verification of whether the product is originating, and fulfils the other requirements of this Chapter, and shall:

- (a) provide to the customs authority of the Party of import, by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority, a written report in order for it to determine whether the product is originating or not that contains:
 - (i) the result of the verification,
 - (ii) the description of the product subject to verification and the tariff classification relevant to the application of the rule of origin,
 - (iii) a description and explanation of the production sufficient to support the rationale concerning the originating status of the product,
 - (iv) information on the manner in which the verification was conducted, and
 - (v) if appropriate, supporting documentation; and
- (b) subject to its legislation, notify the exporter of its decision concerning whether the product is originating.

9. The period of time referred to in paragraph 8 may be extended by mutual consent of the customs authorities concerned.

10. Pending the results of an origin verification conducted pursuant to paragraph 8, the customs authority of the Party of import, subject to any precautionary measures it deems necessary, shall offer to release the product to the importer.

11. Where a written report has not been provided in accordance with sub-paragraph 8(a), or where the customs authority of the Party of import is unable to arrive at a conclusion as to whether a product is originating, that customs authority may deny preferential tariff treatment to the product.

12. If there are differences in relation to the verification procedure of this Article or in the interpretation of the rules of origin in determining whether a product qualifies as originating, and these differences cannot be resolved through consultations between the customs authority requesting the verification and the customs authority responsible for performing the verification, the Parties are encouraged to resolve those differences within the Subcommittee on Origin Procedures.

13. This Chapter does not prevent a customs authority of a Party from issuing a determination of origin or an advance ruling relating

to any matter under consideration by the Subcommittee on Origin Procedures, or the Committee on Trade in Goods and Rules of Origin or from taking any other action that it considers necessary, pending a resolution of the matter under this Agreement.

Article 3.27: Review and Appeal

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

- (a) has received a decision on origin in the application of this Chapter; or*
- (b) has received an advance ruling pursuant to Article 3.30.1.*

2. Further to Articles 14.4 (Administrative Proceedings) and 14.5 (Review and Appeal), each Party shall provide that the rights of review and appeal referred to in paragraph 1 include access to at least two levels of appeal or review including at least one judicial or quasi-judicial level.

Article 3.28: Penalties

Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its legislation relating to this Chapter.

Article 3.29: Confidentiality

1. This Chapter does not require a Party to furnish or allow access to business information or to information relating to an identified or identifiable natural person, the disclosure of which would impede law enforcement or would be contrary to that Party's law protecting business information and personal data and privacy.

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

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

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

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

Article 3.30: Advance Rulings Relating to Origin

1. Each Party shall, through its customs authority, provide for the expeditious issuance of written advance rulings, prior to the importation of a product into its territory, on the request of an importer in its territory or an exporter or a producer in the territory of the other Party, concerning whether a product qualifies as an originating product under this Chapter.

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

3. Each Party shall provide that its customs authority:

- (a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;
- (b) issue the ruling within 150 days from the date on which it has obtained all necessary information from the person requesting the advance ruling; and
- (c) provide, to the person requesting the advance ruling, a full explanation of the reasons for the ruling.

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

- (a) a verification of origin;
- (b) a review by, or appeal to, a customs authority; or
- (c) a judicial or quasi-judicial review in the customs authority's territory;

the customs authority, in conformity with its legislation, may decline or postpone the issuance of the ruling.

5. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory of the product for which the ruling was requested on the date of its issuance or at a later date if specified in the ruling.

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

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

- (a) if the ruling is based on an error of fact;
- (b) if there is a change in the material facts or circumstances on which the ruling is based;
- (c) to conform with an amendment of Chapter 2 (National Treatment and Market Access) or this Chapter; or
- (d) to conform with a judicial decision or a change in that Party's law.

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

9. Notwithstanding paragraph 8, the Party issuing the advance ruling may, in conformity with its law, postpone the effective date of a modification or revocation for no more than six months.

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

Article 3.31: The Subcommittee on Origin Procedures

1. The Parties hereby establish a Subcommittee on Origin Procedures, composed of representatives of each Party, to consider any matter arising under Section C – Origin Procedures.

2. The Subcommittee on Origin Procedures shall meet on the request of either Party and endeavour to decide upon:

- (a) the uniform administration and interpretation of the rules of origin, including tariff classification and valuation matters relating to the rules of origin;
- (b) technical, interpretive or administrative matters that may arise under Section C – Origin Procedures; and
- (c) any other matter referred to it by the Committee on Trade in Goods and Rules of Origin.

3. The Subcommittee on Origin Procedures reports to the Committee on Trade in Goods and Rules of Origin.

Annex 3-A: Product-Specific Rules of Origin

See separate [document](#).

Annex 3-B: Text of the Origin Declaration

English Version

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

(Period: from _____ to _____) [Footnote1](#)

The exporter of the products covered by this document declares that, except where otherwise clearly indicated, these products are of ... [Footnote2](#) preferential origin.

..... [Footnote3](#)

(Place and date)

..... [Footnote4](#)

(Signature and printed name of the exporter)

French Version

La déclaration d'origine, dont le libellé suit, doit être remplie conformément aux notes de bas de page. Toutefois, il n'y a pas lieu de reproduire ces notes.

(Période du _____ au _____)

L'exportateur des produits visés par le présent document déclare que,
sauf indication claire du contraire, ces produits ont l'origine
préférentielle....

.....

(Lieu et date)

.....

(Signature et nom en caractères d'imprimerie de l'exportateur)

Ukrainian Version

Декларація про походження, текст якої наведено нижче, має бути
оформлена відповідно до виносок, наданих нижче. Але виноски
відтворювати не потрібно.

(Період: з _____ до _____)

Експортер товарів, на які поширюється цей документ, заявляє,
що за винятком випадків, де чітко зазначено інше, ці товари є
товарами преференційного походження з.

.....

(місце та дата)

.....

(підпис та назва експортера друкованими літерами)

Footnotes

Footnote 1

If the legislation of the Party of import provides for an origin declaration to apply to multiple shipments of identical originating products in accordance with Article 3.16.5 of the Canada - Ukraine Free Trade Agreement, the exporter may indicate the period of time for which the origin declaration will apply. The period of time must not exceed 12 months. All importations of the product must occur within the period indicated. If the Party of import does not provide for the application of Article 3.16.5, or a period of time is not applicable, the field must be left blank.

[Return to footnote1referrer](#)

Footnote 2

“Canada/Ukraine” means products qualifying as originating under the rules of origin of the Canada-Ukraine Free Trade Agreement.

[Return to footnote2referrer](#)

Footnote 3

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

[Return to footnote3referrer](#)

Footnote 4

Article 3.16.3 of the Canada - Ukraine Free Trade Agreement provides an exception to the requirement of the exporter's signature. Where the exporter is not required to sign, the exception of signature also implies the exemption of the name of the signatory.

Text of the Canada-Ukraine Free trade agreement – Annex 3-A: Product-specific rules of origin

Introductory Notes to Annex 3-A

1. This Annex sets out the conditions required for a product to be considered originating within the meaning of Article 3.5. In these introductory notes product *x* or tariff provision *x* denotes a specific product or tariff provision, and *x* per cent denotes a specific percentage.

2. The following definitions apply:

- (a) **chapter** means a chapter of the Harmonized System;
- (b) **heading** means any four-digit number, or the first four digits of any number, used in the Harmonized System;
- (c) **section** means a section of the Harmonized System; and
- (d) **subheading** means any six-digit number, or the first six digits of any number, used in the Harmonized System.

3. The product-specific rule of origin, or set of rules of origin, that applies to a product classified in a particular heading, subheading or group of headings or subheadings is set out immediately adjacent to that heading, subheading or group of headings or subheadings.

4. Unless otherwise specified, a requirement of a change in tariff classification or any other condition set out in a product-specific rule of origin applies only to non-originating material.

5. Section, chapter, heading or subheading notes, where applicable, are found at the beginning of each new section, chapter, heading or subheading. These notes must be read in conjunction with the product-specific rules of origin for the applicable section, chapter, heading or subheading and may impose further conditions on, or provide an alternative to, the product-specific rules of origin.

6. Unless otherwise specified, reference to weight in a product-specific rule of origin means the net weight, which is the weight of a material or a product not including the weight of packaging. Article 3.1 includes definitions of “net weight of the non-originating material” and “net weight of the product”.

7. If a product-specific rule of origin requires:

- (a) a change from any other chapter, heading or subheading, or a change to product *x* from any other chapter, heading or subheading, only non-originating material classified in a chapter, heading or subheading other than that of the product may be used in the production of the product;
- (b) a change from within a heading or subheading, or from within any one of these headings or subheadings, non-originating material classified within the heading or subheading may be used in the production of the product, as well as non-originating

material classified in a chapter, heading or subheading other than that of the product;

- (c) a change from any heading or subheading outside a group, only non-originating material classified outside the group of headings or subheadings may be used in the production of the product;
- (d) a change from tariff provision x , whether or not there is also a change from any other chapter, heading or subheading, the value of any non-originating material that satisfies the change in tariff classification specified in the phrase commencing with the words “whether or not” is not considered when calculating the value of non-originating material. If two or more product-specific rules of origin are applicable to a heading, subheading or group of headings or subheadings, the change in tariff classification specified in this phrase reflects the change specified in the first rule of origin;
- (e) that the value of the non-originating materials of tariff provision x does not exceed x per cent of the transaction value or ex-works price of the product, only the value of the non-originating material specified in this rule of origin is considered when calculating the value of non-originating material. The percentage for the maximum value of non-originating

material as set out in this rule of origin may not be exceeded through the use of Article 3.6;

- (f) that the value of the non-originating materials classified in the same tariff provision as the final product does not exceed x per cent of the transaction value or ex-works price of the product, non-originating material classified in a tariff provision other than that of the product may be used in the production of the product. Only the value of the non-originating material classified in the same tariff provision as the final product is considered when calculating the value of non-originating material. The percentage for the maximum value of non-originating material as set out in this rule of origin may not be exceeded through the use of Article 3.6; and
- (g) that the net weight of the non-originating material of tariff classification x used in production does not exceed x per cent of the net weight of the product, the specified non-originating material may be used in the production of the product, provided that it does not exceed the specified percentage of the net weight of the product in accordance with the definition of “net weight of the product”. The percentage for the maximum weight of non-originating material as set out in this rule of origin may not be exceeded through the use of Article 3.6.

8. The product-specific rule of origin represents the minimum amount of production required on non-originating material for the resulting product to achieve originating status. A greater amount of production than that required by the product-specific rule of origin for that product also confers originating status.

9. If a product-specific rule of origin provides that a specified non-originating material may not be used, or that the value, volume or weight of a specified non-originating material cannot exceed a specific threshold, these conditions do not apply to non-originating material classified elsewhere in the Harmonized System.

10. In accordance with Article 3.5, if a material obtains originating status in the territory of a Party and this material is further used in the production of a product for which origin is being determined, no account will be taken of any non-originating material used in the production of that material. This applies whether or not the material has acquired originating status inside the same factory where the product is produced.

11. The product-specific rules of origin set out in this Annex also apply to used products.

Section I

Live animals; animal products

Chapter 1

Live Animals

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>01.01 – 01.06</i>	<i>A change from any other chapter.</i>

Chapter 2

Meat and Edible Meat Offal

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>02.01 – 02.06</i>	<i>A change from any other chapter.</i>
<i>0207.11 – 0207.14</i>	<i>A change from any other chapter, except from fowls of the species <i>Gallus domesticus</i> (chickens) of heading 01.05.</i>
<i>0207.24 –</i>	<i>A change from any other chapter.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>0207.60</i>	
<i>02.08</i>	<i>A change from any other chapter.</i>
<i>02.09</i>	<i>A change to products of fowls of the species Gallus domesticus (chickens) from any other chapter, except from fowls of the species Gallus domesticus (chickens) of heading 01.05; or</i> <i>A change to any other product from any other chapter.</i>
<i>0210.11 – 0210.93</i>	<i>A change from any other chapter.</i>
<i>0210.99</i>	<i>A change to products of fowls of the species Gallus domesticus (chickens) from any other chapter, except from fowls of the species Gallus domesticus (chickens) of heading 01.05; or</i> <i>A change to any other product from any other chapter.</i>

Chapter 3

Fish and Crustaceans, Molluscs and Other Aquatic Invertebrates

Note: Aquaculture products of chapter 3 shall be considered as originating in a Party if they are raised in the territory of that Party from non-originating or originating seedstock such as eggs, fry, fingerlings or larvae.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>03.01 – 03.03</i>	<i>A change from any other chapter.</i>
<i>03.04</i>	<i>A change from any other heading.</i>
<i>0305.10 – 0305.49</i>	<i>A change from any other heading.</i>
<i>0305.51</i>	<i>A change from any other subheading.</i>
<i>0305.59 – 0305.79</i>	<i>A change from any other heading.</i>
<i>0306.11</i>	<i>A change from any other heading.</i>
<i>0306.12</i>	<i>A change from any other subheading.</i>
<i>0306.14 – 0306.17</i>	<i>A change from any other heading.</i>
<i>0306.19</i>	<i>A change from any other subheading, except from subheading 0306.29.</i>
<i>0306.21 – 0306.27</i>	<i>A change to a smoked product from within</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>any one of these subheadings or any other subheading; or</i>
<i>0306.29</i>	<i>A change to any other product from any other heading.</i>
<i>03.07 – 03.08</i>	<i>A change from any other subheading, except from subheading 0306.19.</i> <i>A change to a smoked product from within any one of these headings or any other heading; or</i> <i>A change to any other product from any other heading.</i>

Chapter 4

Dairy Produce; Birds' Eggs; Natural Honey; Edible Products of Animal Origin, Not Elsewhere Specified or Included

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>04.01 – 04.06</i>	<i>A change from any other chapter, except from dairy preparations of subheading 1901.90, containing more than 10 per cent by dry weight of milk solids.</i>
<i>04.07 – 04.10</i>	<i>A change from any other chapter.</i>

Chapter 5

Products of Animal Origin, Not Elsewhere Specified or Included

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>05.01 – 05.11</i>	<i>A change from any other chapter.</i>

Section II

Vegetable products

Note: An agricultural or horticultural good grown in the territory of a Party is originating even if grown from seed, bulbs, rhizomes,

rootstock, cuttings, slips, grafts, shoots, buds or other live parts of plants that are imported from a non-Party.

Chapter 6

Live Trees and Other Plants; Bulbs, Roots and the Like; Cut Flowers and Ornamental Foliage

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>06.01 – 06.04</i>	<i>A change from any other chapter.</i>

Chapter 7

Edible Vegetables and Certain Roots and Tubers

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>07.01 – 07.14</i>	<i>A change from any other chapter.</i>

Chapter 8

Edible Fruits and Nuts; Peel of Citrus Fruit or Melons

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>08.01 – 08.14</i>	<i>A change from any other chapter.</i>

Chapter 9

Coffee, Tea, Maté and Spices

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>0901.11 – 0910.99</i>	<i>A change from within any one of these subheadings or any other subheading.</i>

Chapter 10

Cereals

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>10.01 – 10.08</i>	<i>A change from any other chapter.</i>

Chapter 11

Products of the Milling Industry; Malt; Starches; Inulin; Wheat Gluten

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>11.01 – 11.09</i>	<i>A change from any other chapter.</i>

Chapter 12

*Oil Seeds and Oleaginous Fruits; Miscellaneous Grains, Seeds and Fruit;
Industrial or Medicinal Plants; Straw and Fodder*

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>12.01 – 12.14</i>	<i>A change from any other chapter.</i>

Chapter 13

Lac; Gums, Resins and other Vegetable Saps and Extracts

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>13.01 – 13.02</i>	<i>A change from any other chapter.</i>

Chapter 14

Vegetable Plaiting Materials; Vegetable Products Not Elsewhere Specified or Included

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>14.01 – 14.04</i>	<i>A change from any other chapter.</i>

Section III

Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes

Chapter 15

Animal or Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>15.01 – 15.15</i>	<i>A change from any other chapter.</i>
<i>1516.10</i>	<i>A change to a product obtained entirely from fish or marine mammals from any other</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	heading; or A change to any other product from any other chapter.
1516.20	A change from any other chapter.
15.17 – 15.22	A change from any other chapter.

Section IV

Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes

Chapter 16

Preparations of Meat, of Fish or of Crustaceans, Molluscs or other Aquatic Invertebrates

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
16.01 – 16.02	A change from any other chapter.
16.03 – 16.05	A change from any other

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>heading.</i>

Chapter 17

Sugars and Sugar Confectionary

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>1701.12 – 1701.14</i>	<i>A change from any other chapter.</i>
<i>1701.91 – 1701.99</i>	<i>A change from any other heading.</i>
<i>17.02 – 17.03</i>	<i>A change from any other chapter.</i>
<i>17.04</i>	<i>A change from any other heading.</i>

Chapter 18

Cocoa and Cocoa Preparations

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>18.01 – 18.02</i>	<i>A change from any other heading.</i>
<i>1803.10 – 1803.20</i>	<i>A change from any other subheading.</i>
<i>18.04 – 18.05</i>	<i>A change from any other heading.</i>
<i>1806.10 – 1806.90</i>	<i>A change from any other subheading.</i>

Chapter 19

Preparations of Cereals, Flour, Starch or Milk; Pastrycooks' Products

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>1901.10</i>	<i>A change from any other chapter.</i>
<i>1901.20</i>	<i>A change to mixes and doughs containing more than 25 per cent by dry weight of butterfat, not</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>put up for retail sale, from any other chapter, except from heading 04.01 through 04.06; or</i> <i>A change to any other product from any other chapter.</i>
<i>1901.90</i>	<i>A change to dairy preparations containing more than 10 per cent by dry weight of milk solids from any other chapter, except from heading 04.01 through 04.06; or</i> <i>A change to any other product from any other chapter.</i>
<i>19.02 – 19.04</i>	<i>A change from any other chapter.</i>
<i>19.05</i>	<i>A change from subheading 1901.90 or any other chapter.</i>

Chapter 20

Preparations of Vegetables, Fruit, Nuts or Other Parts of Plants

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>20.01 – 20.06</i>	<i>A change from any other chapter.</i>
<i>20.07 – 20.08</i>	<i>A change from any other heading.</i>
<i>2009.11 – 2009.89</i>	<i>A change from any other heading.</i>
<i>2009.90</i>	<i>A change to mixtures of juices containing cranberry juice, blueberry juice or loganberry juice from any other subheading; or</i> <i>A change to any other product from any other heading.</i>

Chapter 21

Miscellaneous Edible Preparations

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>2101.11</i>	<i>A change from any other chapter.</i>
<i>2101.12</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>2101.20 – 2101.30</i>	<i>A change from any other heading.</i>
<i>2102.10 – 2102.20</i>	<i>A change from any other chapter.</i>
<i>2102.30</i>	<i>A change from any other heading.</i>
<i>2103.10</i>	<i>A change from any other chapter.</i>
<i>2103.20 – 2103.90</i>	<i>A change from subheading 2103.10 or any other heading.</i>
<i>21.04</i>	<i>A change from any other heading.</i>
<i>21.05</i>	<i>A change from any other heading, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 percent by dry weight of milk solids.</i>
<i>2106.10</i>	<i>A change from any other heading.</i>
<i>2106.90</i>	<i>A change to preparations containing more than 10 per cent by dry weight of milk solids from any other</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	heading, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids; or A change to any other product from any other heading.

Chapter 22

Beverages, Spirits and Vinegar

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>22.01</i>	<i>A change from any other heading.</i>
<i>2202.10</i>	<i>A change from any other heading.</i>
<i>2202.90</i>	<i>A change to beverages containing milk from any</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>other heading, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids; or</i> <i>A change to any other product from any other heading.</i>
<i>22.03 – 22.07</i>	<i>A change from any other heading.</i>
<i>2208.20 – 2208.90</i>	<i>A change from within any one of these subheadings or any other subheading, provided that the total alcoholic volume of the non-originating materials does not exceed 10 per cent of the volume of the total alcoholic strength of the product.</i>
<i>22.09</i>	<i>A change from any other heading.</i>

Chapter 23

Residues and Waste from the Food Industries; Prepared Animal Fodder

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>23.01 – 23.02</i>	<i>A change from any other heading.</i>
<i>23.03</i>	<i>A change from any other heading, except from heading 10.05.</i>
<i>23.04 – 23.08</i>	<i>A change from any other heading.</i>
<i>2309.10</i>	<i>A change from any other subheading other than dog or cat food of subheading 2309.90.</i>
<i>2309.90</i>	<i>A change to preparations used in animal feeding containing more than 10 per cent by dry weight of milk solids from within this subheading, except from complete feeds or feed supplements, or any other heading, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids; or</i> <i>A change to any other product from within this subheading, except from complete feeds or feed</i>

Harmonized System Classification (HS2012)	Sufficient production
	supplements, or any other heading.

Chapter 24

Tobacco and Manufactured Tobacco Substitutes

Note: Agricultural and horticultural products grown in the territory of a Party shall be treated as originating in the territory of that Party even if grown from seed, bulbs, rootstock, cuttings, slips, grafts, shoots, buds or other live parts of plants imported from a non-Party.

Harmonized System Classification (HS2012)	Sufficient production
24.01 – 24.03	A change from any other heading.

Section V

Mineral products

Chapter 25

Salt; Sulphur; Earths and Stone; Plastering Materials; Lime and Cement

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>25.01 – 25.03</i>	<i>A change from any other heading.</i>
<i>2504.10 – 2504.90</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>25.05 – 25.14</i>	<i>A change from any other heading.</i>
<i>2515.11 – 2516.90</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>25.17</i>	<i>A change from any other heading.</i>
<i>2518.10 – 2520.20</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>25.21 – 25.23</i>	<i>A change from any other heading.</i>
<i>2524.10 – 2525.30</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>25.26 – 25.29</i>	<i>A change from any other heading.</i>
<i>2530.10 – 2530.90</i>	<i>A change from within any one of these subheadings or any other subheading.</i>

Ores, Slag and Ash

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>26.01 – 26.21</i>	<i>A change from any other heading.</i>

Chapter 27

Mineral Fuels, Mineral Oils and Products of Their Distillation; Bituminous Substances; Mineral Waxes

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>27.01 – 27.16</i>	<i>A change from within any one of these headings or any other heading.</i>

Section VI

Products of the chemical or allied industries

Chapter 28

Inorganic Chemicals; Organic or Inorganic Compounds of Precious Metals, of Rare-Earth Metals, of Radioactive Elements or of Isotopes

Note 1: A product of this chapter is an originating product if it is the result of any one of the following:

- *(a) an applicable change in tariff classification specified in the rules of origin of this chapter;*
- *(b) a chemical reaction as described in Note 2 below; or*
- *(c) purification as described in Note 3 below.*

Note 2: Chemical Reaction

A product of this chapter shall be treated as an originating product if it is the result of a chemical reaction.

For the purposes of this chapter, a “chemical reaction” is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds or by altering the spatial arrangement of atoms in a molecule.

The following are not considered to be chemical reactions for the purposes of determining whether a product is originating:

- *(a) dissolution in water or in another solvent;*
- *(b) the elimination of solvents, including solvent water; or*
- *(c) the addition or elimination of water of crystallization.*

Note 3: Purification

A product of this chapter that is subject to purification shall be treated as an originating product provided that the purification occurs in the territory of one or both of the Parties and results in the elimination of not less than 80 per cent of the impurities.

Note 4: Separation Prohibition

A product that meets the applicable change in tariff classification in the territory of one or both of the Parties as a result of the separation of one or more materials from a man-made mixture shall not be treated as an originating product unless the isolated material underwent a chemical reaction in the territory or one or both of the Parties.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>2801.10 – 2853.00</i>	<i>A change from any other subheading; or A change from within any one of these subheadings, whether or not there is also A change from any other subheading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 20</i>

Harmonized System Classification (HS2012)	Sufficient production
	per cent of the transaction value or ex-works price of the product.

Chapter 29

Organic Chemicals

Note 1: A product of this chapter is an originating product if it is the result of any one of the following:

- (a) an applicable change in tariff classification specified in the rules of origin of this chapter;
- (b) a chemical reaction as described in Note 2 below; or
- (c) purification as described in Note 3 below.

Note 2: Chemical Reaction

A product of this chapter shall be treated as an originating product if it is the result of a chemical reaction.

For the purposes of this chapter, a “chemical reaction” is a process (including a biochemical process) that results in a molecule with a new

structure by breaking intramolecular bonds and by forming new intramolecular bonds or by altering the spatial arrangement of atoms in a molecule.

The following are not considered to be chemical reactions for the purposes of determining whether a product is originating:

- (a) dissolution in water or in another solvent;
- (b) the elimination of solvents, including solvent water; or
- (c) the addition or elimination of water of crystallization.

Note 3: Purification

A product of this chapter that is subject to purification shall be treated as an originating product provided that the purification occurs in the territory of one or both of the Parties and results in the elimination of not less than 80 per cent of the impurities.

Note 4: Separation Prohibition

A product that meets the applicable change in tariff classification in the territory of one or both of the Parties as a result of the separation of one or more materials from a man-made mixture shall not be treated as an originating product unless the isolated material underwent a chemical reaction in the territory of one or both of the Parties.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>2901.10 – 2942.00</i>	<i>A change from any other subheading; or A change from within any one of these subheadings, whether or not there is also A change from any other subheading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>

Chapter 30

Pharmaceutical Products

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3001.20 – 3005.90</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>3006.10 – 3006.60</i>	<i>A change from within any one of these</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>subheadings or any other subheading.</i>
<i>3006.70 – 3006.92</i>	<i>A change from any other subheading.</i>

Chapter 31

Fertilisers

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>31.01</i>	<i>A change from within this heading or any other heading.</i>
<i>31.02</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3103.10 – 3105.90</i>	<i>A change from within any one of these subheadings or any other subheading.</i>

Chapter 32

*Tanning or Dyeing Extracts; Tannins and Their Derivatives; Dyes,
Pigments and Other Colouring Matter; Paints and Varnishes; Putty and
Other Mastics; Inks*

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3201.10 – 3210.00</i>	<i>A change from within any of these subheadings or any other subheading.</i>
<i>32.11 – 32.12</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other</i>

Harmonized System Classification (HS2012)	Sufficient production
	heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.
3213.10	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.
3213.90	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>32.14 – 32.15</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>

Chapter 33

Essential Oils and Resinoids; Perfumery, Cosmetic or Toilet Preparations

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3301.12 – 3302.90</i>	<i>A change from any other subheading; or</i> <i>A change from within any one of these subheadings, whether or not there is also a change from any other subheading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>33.03 – 33.07</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>

Chapter 34

Soap, Organic Surface-Active Agents, Washing Preparations, Lubricating Preparations, Artificial Waxes, Prepared Waxes, Polishing or Scouring Preparations, Candles and Similar Articles, Modelling Pastes, “Dental Waxes” and Dental Preparations with a Basis of Plaster

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3401.11 – 3401.20</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>3401.30</i>	<i>A change from any other heading, except from subheading 3402.90; or A change from within this heading, whether or not there is also a change from any other heading, except</i>

Harmonized System Classification (HS2012)	Sufficient production
	subheading 3402.90, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.
3402.11 – 3402.19	A change from any other subheading; or A change from within any one of these subheadings, whether or not there is also a change from any other subheading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.
3402.20	A change from any other subheading, except from subheading 3402.90.
3402.90	A change from any other subheading; or A change from within this subheading, whether or

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>not there is also a change from any other subheading, provided that the value of the non-originating materials of this subheading does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>3403.11 – 3405.90</i>	<i>A change from any other subheading.</i>
<i>34.06</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>34.07</i>	<i>A change from any other heading: or A change from within this heading, whether or not</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	there is also a change from any other heading, provided that: • (a) at least one of the component products of the set is originating, and • (b) the value of the non-originating component products of heading 34.07 does not exceed 25 per cent of the transaction value or ex-works price of the set.

Chapter 35

Albuminoidal Substances; Modified Starches; Glues; Enzymes

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3501.10 –</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3501.90</i>	
<i>3502.11 – 3502.19</i>	<i>A change from any subheading outside that group.</i>
<i>3502.20 – 3502.90</i>	<i>A change from any other subheading.</i>
<i>35.03 – 35.04</i>	<i>A change from any other heading.</i>
<i>3505.10</i>	<i>A change from any other heading.</i>
<i>3505.20</i>	<i>A change from any other heading; or A change from subheading 3505.10, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 3505.10 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>35.06</i>	<i>A change from any other heading.</i>
<i>3507.10 –</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>3507.90</i>	

Chapter 36

Explosives; Pyrotechnic Products; Matches; Pyrophoric Alloys; Certain Combustible Preparations

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>36.01 – 36.06</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the</i>

Harmonized System Classification (HS2012)	Sufficient production
	product.

Chapter 37

Photographic or Cinematographic Goods

Harmonized System Classification (HS2012)	Sufficient production
37.01	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.
37.02	A change from any other heading, except from

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>heading 37.01.</i>
<i>37.03 – 37.06</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>3707.10 – 3707.90</i>	<i>A change from any other subheading.</i>

Chapter 38

Miscellaneous Chemical Products

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>38.01 – 38.02</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>38.03</i>	<i>A change from within this heading or any other heading.</i>
<i>38.04</i>	<i>A change from any other heading.</i>
<i>3805.10</i>	<i>A change to purified sulphate turpentine from any other subheading, or from raw spirits of sulphate turpentine as a result of purification by distillation;</i> <i>or</i> <i>A change to any other product of subheading</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>3805.10 from any other subheading.</i>
<i>3805.90</i>	<i>A change from any other subheading.</i>
<i>3806.10 – 3806.90</i>	<i>A change from any other subheading.</i>
<i>38.07</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>3808.50 – 3808.99</i>	<i>A change from any other subheading.</i>
<i>3809.10</i>	<i>A change from any other subheading.</i>
<i>3809.91 – 3809.93</i>	<i>A change from any other heading; or</i>

Harmonized System Classification (HS2012)	Sufficient production
	A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.
38.10	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.
3811.11 – 3811.90	A change from any other subheading.
38.12	A change from any other heading; or

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>38.13 – 38.14</i>	<i>A change from any other heading.</i>
<i>3815.11 – 3815.90</i>	<i>A change from any other subheading.</i>
<i>38.16 – 38.19</i>	<i>A change from any other heading.</i>
<i>38.20</i>	<i>A change from any other heading, except from subheading 2905.31 or 2905.49; or</i> <i>A change from subheading 2905.31 or 2905.49, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 2905.31</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>or 2905.49 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>38.21 – 38.22</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 20 per cent of the transaction value or ex-works price of the product.</i>
<i>3823.11 – 3823.70</i>	<i>A change from any other subheading.</i>
<i>38.24</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>38.25-38.26</i>	<i>A change from any other heading.</i>

Section VII

Plastics and articles thereof; rubber and articles thereof

Chapter 39

Plastics and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>39.01 – 39.15</i>	<i>A change from any other heading; or A change from within any one of these headings,</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the net weight of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the net weight of the product.
<i>39.16 – 39.26</i>	<i>A change from any other heading.</i>

Chapter 40

Rubber and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>40.01 – 40.11</i>	<i>A change from any other heading.</i>
<i>4012.11 – 4012.19</i>	<i>A change from any other subheading.</i>
<i>4012.20 – 4012.90</i>	<i>A change from any other heading.</i>
<i>40.13 – 40.16</i>	<i>A change from any other heading.</i>
<i>40.17</i>	<i>A change from within this heading or any other heading.</i>

Section VIII

Raw hides and skins, leather, furskins and articles thereof; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)

Chapter 41

Raw Hides and Skins (Other Than Furskins) and Leather

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>41.01 – 41.03</i>	<i>A change from any other heading.</i>
<i>4104.11 – 4104.19</i>	<i>A change from any other heading.</i>
<i>4104.41 – 4104.49</i>	<i>A change from any other subheading.</i>
<i>4105.10</i>	<i>A change from any other heading.</i>
<i>4105.30</i>	<i>A change from any other subheading.</i>
<i>4106.21</i>	<i>A change from any other heading.</i>
<i>4106.22</i>	<i>A change from any other subheading.</i>
<i>4106.31</i>	<i>A change from any other heading.</i>
<i>4106.32</i>	<i>A change from any other subheading.</i>
<i>4106.40</i>	<i>A change from within this subheading or any other subheading.</i>
<i>4106.91</i>	<i>A change from any other heading.</i>
<i>4106.92</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
41.07	<i>A change from any other heading, except from heading 41.04; or</i> <i>A change from heading 41.04, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 41.04 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
41.12 – 41.15	<i>A change from any other heading.</i>

Chapter 42

Articles of Leather; Saddlery and Harness; Travel Goods, Handbags and Similar Containers; Articles of Animal Gut (Other Than Silk-Worm Gut)

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
42.01 – 42.06	<i>A change from any other heading.</i>

Chapter 43

Furskins and Artificial Fur; Manufactures Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
43.01	A change from any other heading.
4302.11 – 4302.30	A change from any other subheading.
43.03 – 43.04	A change from any other heading.

Section IX

Wood and articles of wood; wood charcoal; cork and articles of cork; manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork

Chapter 44

Wood and Articles of Wood; Wood Charcoal

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
44.01 – 44.21	A change from any other heading.

Chapter 45

Cork and Articles of Cork

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
45.01 – 45.04	A change from any other heading.

Chapter 46

Manufactures of Straw, of Esparto or of Other Plaiting Materials;

Basketware and Wickerwork

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
46.01 – 46.02	A change from any other heading.

Section X

Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard; paper and paperboard and articles thereof

Chapter 47

Pulp of Wood or of Other Fibrous Cellulosic Material; Recovered (Waste and Scrap) Paper or Paperboard

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>47.01 – 47.07</i>	<i>A change from any other heading.</i>

Chapter 48

Paper and Paperboard; Articles of Paper Pulp, of Paper or of Paperboard

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>48.01 – 48.09</i>	<i>A change from any other heading.</i>
<i>4810.13 – 4811.90</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification</i> <i>(HS2012)</i>	<i>Sufficient production</i>
48.12 – 48.23	A change from any other heading.

Chapter 49

Printed Books, Newspapers, Pictures and Other Products of the Printing Industry; Manuscripts, Typescripts and Plans

<i>Harmonized System Classification</i> <i>(HS2012)</i>	<i>Sufficient production</i>
49.01 – 49.11	A change from any other heading.

Section XI

Textiles and textile articles

Chapter 50

Silk

<i>Harmonized System Classification</i> <i>(HS2012)</i>	<i>Sufficient production</i>
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>50.01 – 50.03</i>	<i>A change from any other chapter.</i>
<i>50.04 – 50.06</i>	<i>A change from any heading outside that group.</i>
<i>50.07</i>	<i>A change from any other heading.</i>

Chapter 51

Wool, Fine or Coarse Animal Hair; Horsehair Yarn and Woven Fabric

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>5101.11 – 5101.30</i>	<i>A change from any other subheading.</i>
<i>51.02</i>	<i>A change from any other heading.</i>
<i>5103.10 – 5103.30</i>	<i>A change from any other subheading.</i>
<i>51.04 – 51.05</i>	<i>A change from any other heading.</i>
<i>51.06 – 51.10</i>	<i>A change from any heading outside that group.</i>

<i>Harmonized System Classification</i> <i>(HS2012)</i>	<i>Sufficient production</i>
<i>51.11 – 51.13</i>	<i>A change from any other heading.</i>

Chapter 52

Cotton

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>52.01 – 52.03</i>	<i>A change from any other heading.</i>
<i>52.04 – 52.07</i>	<i>A change from heading 52.01 through 52.03 or any other chapter, except from heading 54.01 through 54.05.</i>
<i>52.08 – 52.12</i>	<i>A change from any other heading.</i>

Chapter 53

Other Vegetable Textile Fibres; Paper Yarn and Woven Fabrics of Paper Yarn

<i>Harmonized System Classification</i> <i>(HS2012)</i>	<i>Sufficient production</i>
<i>53.01 – 53.05</i>	<i>A change from any other chapter.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>53.06 – 53.08</i>	<i>A change from any heading outside that group.</i>
<i>53.09 – 53.11</i>	<i>A change from any other heading.</i>

Chapter 54

Man-Made Filaments; Strip and the Like of Man-Made Textile Materials

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>54.01 – 54.06</i>	<i>A change from any other chapter.</i>
<i>54.07 – 54.08</i>	<i>A change from any other heading.</i>

Chapter 55

Man-Made Staple Fibres

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>55.01 – 55.07</i>	<i>A change from any other chapter.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>55.08 – 55.11</i>	<i>A change from any other heading, except from heading 54.01 through 54.06.</i>
<i>55.12</i>	<i>A change from any other heading.</i>
<i>55.13</i>	<i>A change from any other heading, except from heading 55.14.</i>
<i>55.14</i>	<i>A change from any other heading, except from heading 55.13.</i>
<i>55.15 – 55.16</i>	<i>A change from any other heading.</i>

Chapter 56

Wadding, Felt and Nonwovens; Special Yarns; Twine, Cordage, Ropes and Cables and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>56.01 – 56.03</i>	<i>A change from any other heading.</i>
<i>56.04 – 56.06</i>	<i>A change from any other heading, except from yarn of heading 51.06 through 51.10, 52.04</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	through 52.07, 54.01 through 54.06 or 55.09 through 55.11.
56.07	A change from any other heading, except from yarn of heading 52.04 through 52.07, 54.01 through 54.06 or 55.09 through 55.11.
56.08	A change from any other heading.
56.09	A change from any other heading, except from yarn of heading 51.06 through 51.10, 52.04 through 52.07, 54.01 through 54.06 or 55.09 through 55.11.

Chapter 57

Carpets and Other Textile Floor Coverings

Note: For products of this chapter jute fabric may be used as a backing.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>57.01 – 57.05</i>	<i>A change from any other chapter.</i>

Chapter 58

Special Woven Fabrics; Tufted Textile Fabrics; Lace; Tapestries;

Trimmings; Embroidery

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>58.01 – 58.05</i>	<i>A change from any other heading.</i>
<i>58.06</i>	<i>A change from any other heading, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16 or 58.01 through 58.03.</i>
<i>58.07</i>	<i>A change from any other heading, except from fabric or nonwovens of heading 51.11 through</i>

Harmonized System Classification (HS2012)	Sufficient production
	51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 56.02 through 56.03, 58.01 through 58.03 or 58.06.
5808.10	A change from any other heading, except from yarn of heading 51.06 through 51.10, 52.04 through 52.07, 53.06 through 53.08, 54.01 through 54.06, 55.08 through 55.11 or 56.04 through 56.06.
5808.90	A change to ornamental trimmings in the piece, without embroidery, other than knitted or crocheted, from any other heading, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16 or 58.01 through 58.03; or A change to tassels, pompons and similar articles

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>from any other heading.</i>
<i>58.09 – 58.10</i>	<i>A change from any other heading.</i>
<i>58.11</i>	<i>A change from any other heading, except from nonwovens of heading 56.01 through 56.03.</i>

Chapter 59

Impregnated, Coated, Covered or Laminated Textile Fabrics; Textile Articles of a Kind Suitable for Industrial Use

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>59.01</i>	<i>A change from any other chapter.</i>
<i>59.02</i>	<i>A change from any other heading.</i>
<i>59.03</i>	<i>A change from any other chapter, except from fabric, braids or ornamental trimmings of heading</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 58.03, 58.06, 58.08 or 60.02 through 60.06.</i>
<i>59.04 – 59.06</i>	<i>A change from any other chapter.</i>
<i>59.07</i>	<i>A change from any other chapter, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 58.03, 58.06, 58.08 or 60.02 through 60.06.</i>
<i>59.08 – 59.09</i>	<i>A change from any other chapter.</i>
<i>59.10</i>	<i>A change from any other heading.</i>
<i>59.11</i>	<i>A change from any other chapter, except from fabric or nonwovens of heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16,</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>56.02 through 56.03, 58.03, 58.06, 58.08 or 60.02 through 60.06.</i>

Chapter 60

Knitted or Crocheted Fabrics

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>60.01 – 60.06</i>	<i>A change from any other heading.</i>

Chapter 61

Articles of Apparel and Clothing Accessories, Knitted or Crocheted

Note: For the purposes of determining the origin of a product of this chapter, the rule applicable to that product shall apply only to the component that determines the tariff classification of the product and that component must satisfy the tariff change requirements set out in the rule for that product.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>61.01 – 61.17</i>	<i>A change from any other chapter, provided that the product is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or both of the Parties; or</i> <i>A change to a product knit to shape, for which no sewing or other assembly is required, from any other chapter.</i>

Chapter 62

Articles of Apparel and Clothing Accessories, Not Knitted or Crocheted

Note: For the purposes of determining the origin of a product of this chapter, the rule applicable to that product shall apply only to the component that determines the tariff classification of the product and that component must satisfy the tariff change requirements set out in the rule for that product.

Harmonized System Classification (HS2012)	Sufficient production
62.01 – 62.12	A change from any other chapter, provided that the product is both cut and sewn or otherwise assembled in the territory of one or both of the Parties.
62.13 – 62.14	A change to embroidered products from unembroidered fabric, provided that: • (a) the product is cut and sewn or otherwise assembled in the territory of one or both of the Parties, and • (b) the value of the non-originating, unembroidered fabric does not exceed 40 per cent of the transaction value or ex-works price of the product; or A change to any other product from any other chapter, except from heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>55.16, and chapter 58 and 60, provided the product is cut and sewn or otherwise assembled in the territory of one or both of the Parties.</i>
<i>62.15 – 62.17</i>	<i>A change from any other chapter, provided that the product is both cut and sewn or otherwise assembled in the territory of one or both of the Parties.</i>

Chapter 63

Other Made Up Textile Articles; Sets; Worn Clothing and Worn Textile Articles; Rags

Note: For the purposes of determining the origin of a product of this chapter, the rule applicable to that product shall apply only to the component that determines the tariff classification of the product and that component must satisfy the tariff change requirements set out in the rule for that product.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>63.01 – 63.05</i>	<i>A change from any other chapter, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 58.01 through 58.03, 59.03 or 60.01 through 60.06.</i>
<i>63.06</i>	<i>A change from any other chapter, provided that the product is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or both of the Parties.</i>
<i>6307.10</i>	<i>A change from any other chapter, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 58.01 through 58.03 or 60.01 through 60.06.</i>
<i>6307.20</i>	<i>A change from any other chapter, provided that the product is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or both of</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>the Parties.</i>
<i>6307.90</i>	<i>A change from any other chapter, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 58.01 through 58.03, 58.11 or 60.01 through 60.06.</i>
<i>63.08</i>	<i>A change from any other chapter, provided that either the fabric or the yarn meets the tariff shift rule that would be applicable if the fabric or yarn were classified alone.</i>
<i>63.09</i>	<i>A change from any other heading.</i>
<i>63.10</i>	<i>A change to new rags from any other chapter, except from fabric of heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 58.01 through 58.02 or 60.01 through 60.06; or</i>

Harmonized System Classification (HS2012)	Sufficient production
	A change to products other than new rags from any other heading; or No required change in tariff classification provided that the products other than new rags were last collected and packed for shipment in a Party.

Section XII

Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith; artificial flowers; articles of human hair

Chapter 64

Footwear, Gaiters and the Like; Parts of Such Articles

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>64.01 – 64.05</i>	<i>A change from any other heading, except from heading 64.06; or</i> <i>A change from heading 64.06, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 64.06 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>64.06</i>	<i>A change from any other heading.</i>

Chapter 65

Headgear and Parts Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>65.01 – 65.07</i>	<i>A change from any other heading.</i>

Chapter 66

*Umbrellas, Sun Umbrellas, Walking-Sticks, Seat-Sticks, Whips,
Riding-Crops and Parts Thereof*

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>66.01 – 66.03</i>	<i>A change from any other heading.</i>

Chapter 67

*Prepared Feathers and Down and Articles Made of Feathers or of Down;
Artificial Flowers; Articles of Human Hair*

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>67.01</i>	<i>A change to articles of feather or down from within this heading or any other heading; or A change to any other product of heading 67.01 from any other heading.</i>
<i>67.02 – 67.04</i>	<i>A change from any other heading.</i>

Section XIII

Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware

Chapter 68

Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>68.01 – 68.02</i>	<i>A change from any other heading.</i>
<i>68.03</i>	<i>A change from within this heading or any other heading.</i>
<i>68.04 – 68.11</i>	<i>A change from any other heading.</i>
<i>6812.80 – 6812.99</i>	<i>A change from any other subheading.</i>
<i>68.13</i>	<i>A change from any other heading.</i>
<i>6814.10 – 6814.90</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>68.15</i>	<i>A change from any other heading.</i>

Chapter 69

Ceramic Products

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>69.01 – 69.14</i>	<i>A change from any other heading.</i>

Chapter 70

Glass and Glassware

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>70.01 – 70.05</i>	<i>A change from any other heading.</i>
<i>70.06</i>	<i>A change from within this heading or any other heading.</i>
<i>70.07 – 70.08</i>	<i>A change from any other heading.</i>
<i>7009.10</i>	<i>A change from any other subheading.</i>
<i>7009.91 – 7009.92</i>	<i>A change from any other heading.</i>
<i>70.10</i>	<i>A change from any other heading; or A change to cut glassware from uncut glassware of</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>heading 70.10, whether or not there is also a change from any other heading, provided that the value of the non-originating uncut glassware does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>70.11</i>	<i>A change from any other heading.</i>
<i>70.13</i>	<i>A change from any other heading; or A change to cut glassware from uncut glassware of heading 70.13, whether or not there is also a change from any other heading, provided that the value of the non-originating uncut glassware does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>70.14 – 70.18</i>	<i>A change from any other heading.</i>
<i>7019.11 – 7019.40</i>	<i>A change from any other heading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>7019.51</i>	<i>A change from any other subheading, except from subheading 7019.52 through 7019.59.</i>
<i>7019.52 – 7019.90</i>	<i>A change from any other subheading.</i>
<i>70.20</i>	<i>A change from any other heading.</i>

Section XIV

Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitations jewellery; coin

Chapter 71

Natural or Cultured Pearls, Precious or Semi-Precious Stones, Precious Metals, Metals Clad with Precious Metal, and Articles Thereof; Imitation Jewellery; Coin

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
71.01	<i>A change from any other heading.</i>
7102.10	<i>A change from any other heading.</i>
7102.21 – 7102.39	<i>A change from any other subheading, except from subheading 7102.10.</i>
7103.10 – 7104.90	<i>A change from any other subheading.</i>
71.05	<i>A change from any other heading.</i>
7106.10 – 7106.92	<i>A change from any other subheading; or A change from within any one of these subheadings, whether or not there is also a change from another subheading, provided that the non-originating materials classified in the same subheading as the final product undergo electrolytic, thermal or chemical separation or alloying.</i>
71.07	<i>A change from within this heading or any other heading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
7108.11 – 7108.20	<i>A change from any other subheading; or</i> <i>A change from within any one of these subheadings, whether or not there is also a change from another subheading, provided that the non-originating materials classified in the same subheading as the final product undergo electrolytic, thermal or chemical separation or alloying.</i>
71.09	<i>A change from within this heading or any other heading.</i>
7110.11 – 7110.49	<i>A change from any other subheading; or</i> <i>A change from within any one of these subheadings, whether or not there is also a change from another subheading, provided that the non-originating materials classified in the same subheading as the final product undergo electrolytic, thermal or chemical separation or alloying.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>71.11</i>	<i>A change from within this heading or any other heading.</i>
<i>71.12 – 71.15</i>	<i>A change from any other heading.</i>
<i>71.16 – 71.17</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>71.18</i>	<i>A change from any other heading.</i>

Section XV

Base metals and articles of base metal

Chapter 72

Iron and Steel

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>72.01 – 72.07</i>	<i>A change from any other heading.</i>
<i>72.08 – 72.17</i>	<i>A change from any heading outside this group.</i>
<i>72.18</i>	<i>A change from any other heading.</i>
<i>72.19 – 72.23</i>	<i>A change from any heading outside this group.</i>
<i>72.24</i>	<i>A change from any other heading.</i>
<i>72.25 – 72.29</i>	<i>A change from any heading outside this group.</i>

Chapter 73

Articles of Iron or Steel

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>73.01 – 73.03</i>	<i>A change from any other heading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>7304.11 – 7304.39</i>	<i>A change from any other heading.</i>
<i>7304.41</i>	<i>A change from any other subheading.</i>
<i>7304.49 – 7304.90</i>	<i>A change from any other heading.</i>
<i>73.05 – 73.06</i>	<i>A change from any other heading.</i>
<i>7307.11 – 7307.19</i>	<i>A change from any other heading.</i>
<i>7307.21 – 7307.29</i>	<i>A change from any other heading, except from forged blanks of heading 72.07; or</i> <i>A change from forged blanks of heading 72.07, whether or not there is also a change from any other heading, provided that the value of the non-originating forged blanks of heading 72.07 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>7307.91 – 7307.99</i>	<i>A change from any other heading.</i>
<i>73.08</i>	<i>A change from any other heading, except from subheading 7301.20; or</i> <i>A change from subheading 7301.20, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 7301.20 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>73.09 – 73.14</i>	<i>A change from any other heading.</i>
<i>73.15</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>of the transaction value or ex-works price of the product.</i>
<i>73.16 – 73.20</i>	<i>A change from any other heading.</i>
<i>73.21</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>73.22 – 73.23</i>	<i>A change from any other heading.</i>
<i>73.24</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>of the transaction value or ex-works price of the product.</i>
<i>73.25 – 73.26</i>	<i>A change from any other heading.</i>

Chapter 74

Copper and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>74.01 – 74.02</i>	<i>A change from any other heading.</i>
<i>7403.11 – 7403.29</i>	<i>A change from any other subheading.</i>
<i>74.04 – 74.19</i>	<i>A change from any other heading.</i>

Chapter 75

Nickel and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>75.01 – 75.08</i>	<i>A change from any other heading.</i>

Chapter 76

Aluminium and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>7601.10 – 7601.20</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>76.02 – 76.06</i>	<i>A change from any other heading.</i>
<i>76.07</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>of the transaction value or ex-works price of the product.</i>
<i>76.08 – 76.16</i>	<i>A change from any other heading.</i>

Chapter 78

Lead and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>7801.10</i>	<i>A change from any other subheading.</i>
<i>7801.91 – 7801.99</i>	<i>A change from any other heading.</i>
<i>78.02 – 78.06</i>	<i>A change from any other heading.</i>

Chapter 79

Zinc and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>79.01 – 79.07</i>	<i>A change from any other heading.</i>

Chapter 80

Tin and Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>80.01 – 80.07</i>	<i>A change from any other heading.</i>

Chapter 81

Other Base Metals; Cermets; Articles Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>8101.10 – 8113.00</i>	<i>A change from any other subheading.</i>

Chapter 82

*Tools, Implements, Cutlery, Spoons and Forks, of Base Metal; Parts
Thereof of Base Metal*

Note: Handles of base metal used in the production of a product of this chapter shall be disregarded in determining the origin of that product.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>82.01 – 82.04</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8205.10 – 8205.70</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, except from subheading 8205.90, whether or not there is also a change from any other heading, provided that the</i>

Harmonized System Classification (HS2012)	Sufficient production
	value of the non-originating materials of this heading, other than subheading 8205.90, does not exceed 50 per cent of the transaction value or ex-works price of the product.
8205.90	A change from any other heading; or A change to anvils, portable forges, hand or pedal-operated grinding wheels from within this heading, except from a set of subheading 8205.90, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading, other than a set of subheading 8205.90, does not exceed 50 per cent of the transaction value or ex-works price of the product; or A change to a set from any other product of this heading, whether or not there is also A change from any other heading, provided that the value of the

Harmonized System Classification (HS2012)	Sufficient production
	non-originating component products of this heading does not exceed 25 per cent of the transaction value or ex-works price of the set.
82.06	A change from any other heading, except from heading 82.02 through 82.05; or A change from heading 82.02 through 82.05, whether or not there is also a change from any other heading, provided that the value of the non-originating component products of heading 82.02 through 82.05 does not exceed 25 per cent of the transaction value or ex-works price of the set.
8207.13	A change from any other heading, except from heading 82.09; or A change from subheading 8207.19 or heading 82.09, whether or not there is also a change from any other heading, provided that the value of the

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>non-originating materials of subheading 8207.19 or heading 82.09 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8207.19 – 8207.90</i>	<i>A change from any other heading; or A change from within any one of these subheadings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>82.08 – 82.10</i>	<i>A change from any other heading.</i>
<i>8211.10</i>	<i>A change from any other heading; or A change from subheading 8211.91 through 8211.95, whether or not there is also a change from any other heading, provided that the value of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>non-originating component products of subheading 8211.91 through 8211.93 does not exceed 25 per cent of the transaction value or ex-works price of the set.</i>
<i>8211.91 – 8211.93</i>	<i>A change from any other heading; or A change from subheading 8211.94 through 8211.95, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 8211.94 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8211.94 – 8211.95</i>	<i>A change from any other heading.</i>
<i>82.12 – 82.13</i>	<i>A change from any other heading.</i>
<i>8214.10</i>	<i>A change from any other heading.</i>
<i>8214.20</i>	<i>A change from any other heading; or</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>A change to a set of subheading 8214.20 from within this subheading, whether or not there is also a change from any other heading, provided that the value of the non-originating component products of subheading 8214.20 does not exceed 25 per cent of the transaction value or ex-works price of the set.</i>
<i>8214.90</i>	<i>A change from any other heading.</i>
<i>8215.10 – 8215.20</i>	<i>A change from any other heading; or A change from subheading 8215.91 through 8215.99, whether or not there is also a change from any other heading, provided that the value of the non-originating component products of heading 8215.91 through 8215.99 does not exceed 25 per cent of the transaction value or ex-works price of the set.</i>
<i>8215.91 –</i>	<i>A change from any other heading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
8215.99	

Chapter 83

Miscellaneous Articles of Base Metal

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
8301.10 – 8301.50	<i>A change from any other heading; or</i> <i>A change from subheading 8301.60, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 8301.60 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
8301.60 –	<i>A change from any other heading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>8301.70</i>	
<i>8302.10 – 8302.30</i>	<i>A change from any other heading.</i>
<i>8302.41</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8302.42 – 8302.50</i>	<i>A change from any other heading.</i>
<i>8302.60</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>83.03 – 83.04</i>	<i>A change from any other heading.</i>
<i>83.05</i>	<i>A change from any other heading; or A change from subheading 8305.90, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 8305.90 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>83.06</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>of the transaction value or ex-works price of the product.</i>
<i>83.07</i>	<i>A change from any other heading.</i>
<i>83.08</i>	<i>A change from any other heading; or A change from subheading 8308.90, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 8308.90 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>83.09 – 83.10</i>	<i>A change from any other heading.</i>
<i>83.11</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent</i>

Harmonized System Classification (HS2012)	Sufficient production of the transaction value or ex-works price of the product.
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Section XVI

Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

Chapter 84

Nuclear Reactors, Boilers, Machinery and Mechanical Appliances; Parts Thereof

Harmonized System Classification (HS2012)	Sufficient production
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>84.01 – 84.12</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8413.11 – 8413.82</i>	<i>A change from any other subheading.</i>
<i>8413.91 – 8413.92</i>	<i>A change from any other heading.</i>
<i>84.14 – 84.15</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8416.10 – 8417.90</i>	<i>A change from any other subheading.</i>
<i>84.18 – 84.22</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8423.10 – 8426.99</i>	<i>A change from any other subheading.</i>

Harmonized System Classification (HS2012)	Sufficient production
84.27	A change from any other heading, except from heading 84.31; or A change from heading 84.31, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 84.31 does not exceed 50 per cent of the transaction value or ex-works price of the product.
8428.10 – 8430.69	A change from any other subheading.
84.31	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>8432.10 – 8442.50</i>	<i>A change from any other subheading.</i>
<i>84.43</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8444.00 – 8449.00</i>	<i>A change from any other subheading.</i>
<i>84.50 – 84.52</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8453.10 – 8454.90</i>	<i>A change from any other subheading.</i>
<i>84.55</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>84.56 – 84.65</i>	<i>A change from any other heading, except from heading 84.66; or A change from within any one of these headings or heading 84.66, whether or not there is also a change</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product or heading 84.66 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>84.66</i>	<i>A change from any other heading.</i>
<i>84.67 – 84.68</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8469.00 – 8472.90</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
84.73	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
8474.10 – 8479.90	<i>A change from any other subheading.</i>
84.80 – 84.83	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>product.</i>
<i>84.84</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>84.86</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8487.10 –</i>	<i>A change from any other subheading.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
8487.90	

Chapter 85

Electrical Machinery and Equipment and Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
85.01 – 85.02	<i>A change from any other heading, except from heading 85.03; or</i> <i>A change from within any one of these headings or heading 85.03, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product or heading 85.03 does</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>85.03 – 85.16</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8517.11 – 8517.62</i>	<i>A change from any other subheading.</i>
<i>8517.69 – 8517.70</i>	<i>A change from any other heading; or A change from within heading 85.17, whether or not there is also a change from any other heading, provided that the value of the non-originating</i>

Harmonized System Classification (HS2012)	Sufficient production
	materials of heading 85.17 does not exceed 50 per cent of the transaction value or ex-works price of the product.
85.18	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.
85.19 – 85.21	A change from any other heading, except heading 85.22; or A change from 85.22, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in heading 85.22 does not exceed 50 per cent of the

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>transaction value or ex-works price of the product.</i>
<i>85.22</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>85.23</i>	<i>A change from any other heading.</i>
<i>85.25 – 85.28</i>	<i>A change from any other heading, except from heading 85.29; or</i> <i>A change from heading 85.29, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 85.29 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>85.29</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8530.10 – 8530.90</i>	<i>A change from any other subheading.</i>
<i>85.31</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>8532.10 – 8534.00</i>	<i>A change from any other subheading.</i>
<i>85.35 – 85.37</i>	<i>A change from any other heading, except from heading 85.38; or</i> <i>A change from heading 85.38, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in heading 85.38 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>85.38 – 85.48</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>cent of the transaction value or ex-works price of the product.</i>

Section XVII

Vehicles, aircraft, vessels and associated transport equipment

Chapter 86

Railway or Tramway Locomotives, Rolling-Stock and Parts Thereof;

Railway or Tramway Track Fixtures and Fittings and Parts Thereof;

*Mechanical (Including Electro-Mechanical) Traffic Signalling Equipment
of all Kinds*

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>86.01 – 86.06</i>	<i>A change from any other heading, except from</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	heading 86.07; or A change from heading 86.07, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 86.07 does not exceed 50 per cent of the transaction value or ex-works price of the product.
86.07	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.
86.08 – 86.09	A change from any other heading.

Chapter 87

Vehicles Other Than Railway or Tramway Rolling-Stock, and Parts and Accessories Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>87.01 – 87.02</i>	<i>A change from any heading outside that group.</i>
<i>87.03 – 87.04</i>	<i>A change from any heading outside that group, except from heading 87.06; or</i> <i>A change from heading 87.06, whether or not there is also a change from any other heading outside that group, provided that the value of the non-originating materials of heading 87.06 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>87.05 – 87.07</i>	<i>A change from any other heading.</i>
<i>8708.10 – 8708.99</i>	<i>A change from any other subheading; or</i> <i>A change from within any one of these subheadings, whether or not there is also a change from any other subheading, provided that the value of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>non-originating materials of that subheading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>8709.11 – 8709.19</i>	<i>A change from any other heading; or A change from subheading 8709.90, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 8709.90 does not exceed 65 per cent of the transaction value or ex-works price of the product.</i>
<i>8709.90</i>	<i>A change from any other heading.</i>
<i>87.10</i>	<i>A change from any other heading.</i>
<i>87.11 – 87.12</i>	<i>A change from any other heading, except from heading 87.14; or A change from heading 87.14, whether or not there is also a change from any other heading, provided</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>that the value of the non-originating materials of subheading 87.14 does not exceed 65 per cent of the transaction value or ex-works price of the product.</i>
<i>87.13 – 87.15</i>	<i>A change from any other heading.</i>
<i>8716.10 – 8716.80</i>	<i>A change from any other heading; or A change from subheading 8716.90, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 8716.90 does not exceed 65 per cent of the transaction value or ex-works price of the product.</i>
<i>8716.90</i>	<i>A change from any other heading.</i>

Chapter 88

Aircraft, Spacecraft, and Parts Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>88.01</i>	<i>A change from any other heading.</i>
<i>88.02 – 88.05</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

Chapter 89

Ships, Boats and Floating Structures

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>89.01 – 89.06</i>	<i>A change from any other chapter; or A change from within this chapter, whether or not there is also a change from any other chapter, provided that the value of the non-originating materials of chapter 89 does not exceed 40 per cent of the transaction value or ex-works price of the product.</i>
<i>89.07 – 89.08</i>	<i>A change from any other heading.</i>

Section XVIII

Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; clocks and watches; musical instruments; parts and accessories thereof

Chapter 90

*Optical, Photographic, Cinematographic, Measuring, Checking, Precision,
Medical or Surgical Instruments and Apparatus; Parts and Accessories
Thereof*

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>90.01</i>	<i>A change from any other heading.</i>
<i>90.02</i>	<i>A change from any other heading, except from heading 90.01; or</i> <i>A change from within this heading or heading 90.01, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading or heading 90.01 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>90.03 – 90.33</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

Chapter 91

Clocks and Watches and Parts Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>91.01 – 91.07</i>	<i>A change from any other heading, except from heading 91.08 through 91.14; or</i> <i>A change from heading 91.08 through 91.14, whether or not there is also a change from any other heading, provided that the value of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>non-originating materials of heading 91.08 through 91.14 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>91.08 – 91.14</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

Chapter 92

Musical Instruments; Parts and Accessories of Such Articles

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>92.01 – 92.08</i>	<i>A change from any other heading, except from heading 92.09; or</i> <i>A change from heading 92.09, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 92.09 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>92.09</i>	<i>A change from any other heading; or</i> <i>A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

Section XIX

Arms and ammunition; parts and accessories thereof

Chapter 93

Arms and Ammunition; Parts and Accessories Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>93.01 – 93.04</i>	<i>A change from any other heading, except from heading 93.05; or A change from heading 93.05, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of heading 93.05 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>93.05 – 93.07</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same</i>

Harmonized System Classification (HS2012)	Sufficient production
	heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.

Section XX

Miscellaneous manufactured articles

Chapter 94

Furniture; Bedding, Mattresses, Mattress Supports, Cushions and Similar
Stuffed Furnishings; Lamps and Lighting Fittings, Not Elsewhere
Specified or Included; Illuminated Signs, Illuminated Name-Plates and
the Like; Prefabricated Buildings

Harmonized System Classification (HS2012)	Sufficient production
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<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>94.01 – 94.06</i>	<i>A change from any other heading; or</i> <i>A change from within any one of these headings, whether or not there is also A change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

Chapter 95

Toys, Games and Sports Requisites; Parts and Accessories Thereof

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>95.03 – 95.05</i>	<i>A change from any other heading; or</i>

Harmonized System Classification (HS2012)	Sufficient production
	A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.
9506.11 – 9506.29	A change from any other heading; or A change from within any one of these subheadings or any other subheading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.
9506.31	A change from any other heading; or

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>A change from subheading 9506.39, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of subheading 9506.39 does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>9506.32 – 9506.99</i>	<i>A change from any other heading; or A change from within any one of these subheadings or any other subheading, whether or not there is also a change from any other subheading, provided that the value of the non-originating materials classified in the same subheading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>95.07 – 95.08</i>	<i>A change from any other heading.</i>

Chapter 96

Miscellaneous Manufactured Articles

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>9601.10 – 9602.00</i>	<i>A change from within any one of these subheadings or any other subheading.</i>
<i>96.03 – 96.04</i>	<i>A change from any other heading.</i>
<i>96.05</i>	<i>A change from any other heading, provided that the value of the non originating component products does not exceed 25 per cent of the transaction value or ex-works price of the set.</i>
<i>96.06 – 96.07</i>	<i>A change from any other heading; or A change from within any one of these headings, whether or not there is also a change from any other heading, provided that the value of the non-originating materials classified in the same heading as the final product does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>

Harmonized System Classification (HS2012)	Sufficient production
9608.10 – 9608.40	A change from any other heading; or A change from within this heading, except from subheading 9608.50, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading, other than subheading 9608.50, does not exceed 50 per cent of the transaction value or ex-works price of the product.
9608.50	A change from any other heading; or A change from subheading 9608.10 through 9608.40 or 9608.60 through 9608.99, whether or not there is also a change from any other heading, provided that the value of the non-originating component products of subheading 9608.10 through 9608.40 or 9608.60 through 9608.99 does not exceed 25 per cent of the transaction value

Harmonized System Classification (HS2012)	Sufficient production
	or ex-works price of the set.
9608.60 – 9608.99	A change from any other heading; or A change from within this heading, except from subheading 9608.50, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading, other than subheading 9608.50, does not exceed 50 per cent of the transaction value or ex-works price of the product.
96.09	A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>96.10 – 96.12</i>	<i>A change from any other heading.</i>
<i>96.13</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.</i>
<i>96.14</i>	<i>A change from within this heading or any other heading.</i>
<i>96.15</i>	<i>A change from any other heading; or A change from within this heading, whether or not there is also a change from any other heading, provided that the value of the non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the</i>

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
	<i>product.</i>
<i>96.16 – 96.19</i>	<i>A change from any other heading.</i>

Section XXI

Works of art, collectors' pieces and antiques

Chapter 97

Works of Art, Collectors' Pieces and Antiques

<i>Harmonized System Classification (HS2012)</i>	<i>Sufficient production</i>
<i>97.01 – 97.06</i>	<i>A change from any other heading.</i>

Text of the Canada–Ukraine Free trade agreement – Chapter 4: Trade facilitation

Article 4.1: Objectives, Principles, and General Provisions

- 1. The Parties acknowledge the importance of customs and trade facilitation matters in the evolving global trading environment.*
- 2. The Parties shall, to the extent possible, cooperate and exchange information, including information on best practices, to promote the application of and compliance with the trade facilitation measures in this Agreement.*
- 3. Each Party shall ensure that its measures to facilitate trade do not hinder mechanisms to protect a person through effective enforcement of and compliance with its law.*
- 4. Each Party shall ensure that its import, export and transit requirements and procedures are no more administratively burdensome or trade restrictive than necessary to achieve a legitimate objective.*
- 5. Each Party shall use existing international trade and customs instruments and standards as a basis for its import, export and transit requirements and procedures, unless they would be an inappropriate or ineffective means for the fulfilment of the legitimate objective pursued.*

Article 4.2: Transparency

- 1. Each Party shall publish or otherwise make available, including electronically, its legislation, judicial decisions and administrative policies relating to import or export requirements.*
- 2. Each Party shall endeavour to make public, including on the internet, proposed regulations and administrative policies relating to customs matters and to provide interested persons an opportunity to comment prior to their adoption.*
- 3. Each Party shall designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters and make available, including on the internet, information concerning the procedures for making these inquiries.*

Article 4.3: Release of Goods

- 1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties and reduce costs for importers and exporters. Each Party shall ensure that its procedures:*
 - (a) allow for the release of goods within a period of time no longer than that required to ensure compliance with its law;*

- (b) require the submission of more extensive information through post-entry accounting and verifications, as appropriate;
- (c) allow goods, and to the extent possible controlled or regulated goods, to be released at the first point of arrival;
- (d) allow, to the extent possible, for the expeditious release of goods in need of emergency clearance;
- (e) allow an importer or its agent to remove goods from customs control prior to the final determination and payment of customs duties, taxes, and fees. Before releasing the goods, a Party may require that an importer provide sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument. The guarantee shall be limited to an amount calculated to ensure compliance with a Party's requirements for customs duties, taxes and fees, and shall not represent an indirect protection of domestic products or taxation of imports for fiscal purposes; and
- (f) provide for, in accordance with its law, simplified documentation requirements for the entry of low-value goods as determined by each Party.

2. Each Party shall adopt or maintain separate customs procedures for the expedited release of express shipments. These procedures shall:

- (a) when applicable, use the World Customs Organization (WCO), *Guidelines for the Immediate Release of Consignments by Customs*, as amended;
- (b) to the extent possible or if applicable, provide for advance electronic submission and processing of information before physical arrival of express shipments to enable their release upon arrival;
- (c) to the extent possible, provide for clearance of certain goods with a minimum of documentation;
- (d) not be limited by a maximum weight; and
- (e) provide for, in accordance with a Party's legislation, simplified documentation requirements for the entry of low-value goods as determined by that Party.

3. Each Party shall ensure, to the extent possible, that its authorities and agencies involved in border and other import and export controls cooperate and coordinate to facilitate trade by, among other things, converging import and export data and documentation requirements and establishing a single location for one-time documentation and physical verification of consignments.

4. Each Party shall ensure, to the extent possible, that its import and export requirements are coordinated to facilitate trade, regardless of

whether these requirements are administered by an agency or on behalf of that agency by the customs authority.

Article 4.4: Customs Valuation

The Customs Valuation Agreement governs customs valuation applied to reciprocal trade between the Parties.

Article 4.5: Fees and Charges

Each Party shall publish or otherwise make available information on fees and charges imposed by its customs authority, including electronically. This information shall include the applicable fees and charges, the specific reason for the fee or charge, the responsible authority, and when and how payment is to be made. A Party shall not impose new or amended fees and charges until it publishes or otherwise makes available this information.

Article 4.6: Risk Management

1. Each Party shall base its examination, release, and post-entry verification procedures on risk assessment principles, rather than requiring each shipment offered for entry to be examined in a comprehensive manner for compliance with import requirements.

2. Each Party shall adopt and apply its import, export and transit requirements and procedures for goods on the basis of risk management principles that focus compliance measures on transactions that merit attention.

3. Paragraphs 1 and 2 do not preclude a Party from conducting a quality control and compliance review that may require more extensive examinations.

Article 4.7: Automation

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

2. Each Party shall:

- (a) endeavour to make available electronically customs forms that are required for the import or export of goods;
- (b) allow, subject to its law, those customs forms to be submitted in electronic format; and
- (c) if possible, provide for the electronic exchange of information with its trading community through its customs authority.

3. Each Party shall endeavour to:

- (a) develop or maintain fully interconnected single window systems to facilitate a single electronic submission of information required by customs and non-customs legislation for cross-border movements of goods; and
- (b) develop a set of data elements and processes in accordance with the WCO Data Model and related WCO recommendations and guidelines.

4. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, taking account of the work at the WCO, in order to facilitate trade between the Parties.

Article 4.8: Advance Rulings for Tariff Classification

1. Subject to Chapter 3 (Rules of Origin and Origin Procedures), a Party shall issue a written ruling prior to an importation in response to a written request by an importer in its territory, exporter or producer in the territory of the other Party, or their respective representatives.

2. A Party shall issue these rulings for tariff classification or rate of customs duty, except with respect to any form of surtax or surcharge, applicable upon importation.

3. For the purposes of paragraph 1, the issuance of advance rulings shall be administered in the same manner as the procedures set out in Article 3.30 (Advance Rulings relating to Origin).

Article 4.9: Review and Appeal

1. Each Party shall ensure that an administrative action or official decision taken in respect of the import of goods is promptly reviewable by judicial, arbitral, or administrative tribunals or through administrative procedures.

2. The tribunal or official conducting the review referred to in paragraph 1 shall be independent of the official or office issuing the decision and shall have the competence to maintain, modify or reverse the determination, in accordance with the Party's law.

3. Before requiring a person to seek redress at a more formal or judicial level, each Party shall provide for an administrative level of appeal or review that is independent of the official or, if applicable, the office responsible for the original action or decision.

4. Each Party shall grant a person that has received an advance ruling pursuant to Article 4.8 (Advance Rulings for Tariff Classification) substantially the same right of review and appeal of determinations of

advance rulings by its customs authority that the Party provides to importers in its territory.

Article 4.10: Penalties

Each Party shall ensure that its customs legislation provides that any penalty imposed for a breach of customs legislation or procedures is proportionate and non-discriminatory and, in its application, does not result in unwarranted delays.

Article 4.11: Confidentiality

1. Each Party shall, in accordance with its law:

- (a) treat as strictly confidential information obtained under this Chapter that is by its nature confidential or that is provided on a confidential basis; and*
- (b) protect that information from disclosure that could prejudice the competitive position of the person providing the information.*

2. If the Party receiving or obtaining the information referred to in paragraph 1 is required by its law to disclose this information, that Party shall notify the Party or person who provided the information.

3. Each Party shall ensure that information collected under this Chapter shall only be used for purposes related to the administration and enforcement of customs matters, except with the permission of the Party or person that provided the information.

4. A Party may allow information collected under this Chapter to be used in administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs-related legislation implementing this Chapter. A Party shall notify the Party or person that provided the information in advance of such use.

Article 4.12: Cooperation

1. The Parties shall continue to cooperate in international fora, such as the WCO, to achieve mutually-recognised goals, including those set out in the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade.

2. The Parties shall develop a technical cooperation program in customs matters under jointly decided terms as to the scope, timing and cost of cooperative measures.

3. The Parties shall cooperate:

- (a) in the enforcement of their respective customs-related legislation implementing this Agreement;

- (b) to the extent practicable and for purposes of facilitating the flow of trade between them, in customs matters such as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade and the standardization of data elements;
- (c) to the extent practicable, to harmonize customs laboratories' methods and the exchange of information and personnel between the customs laboratories;
- (d) in the development of effective mechanisms for communicating with the trade and business communities; and
- (e) in such other matters as the Parties may decide.

4. If a Party has reasonable grounds to suspect that an offence related to a fraudulent claim for preferential tariff treatment pursuant to this Agreement has occurred, it may request the other Party to provide information pertaining to the offence, including:

- (a) the name and address of persons and companies relevant to the investigation of the offence;
- (b) shipping information relevant to the offence;
- (c) customs clearance and accounting records or equivalent records for goods or materials imported into the territory of the other Party;

- (d) information related to the sourcing of materials, including indirect materials used in the production of goods exported from the territory of the other Party; and
- (e) information related to production capacity of an exporter or producer who has exported goods to the territory of the other Party.

5. If a Party makes a request pursuant to paragraph 4, it shall:

- (a) make its request in writing;
- (b) specify the grounds for suspicion of a fraudulent claim for preferential tariff treatment pursuant to this Agreement and the purposes for which the information is sought; and
- (c) identify the requested information with sufficient specificity for the other Party to locate and provide the information.

6. Following the receipt of a request for information pursuant to paragraphs 4 and 5, a Party shall provide relevant information subject to its law.

7. Officials of a Party may, with the consent of the other Party, contact or visit an exporter, supplier or producer in the territory of the other Party in order to obtain information to further an

investigation related to a suspected fraudulent claim for preferential tariff treatment made pursuant to this Agreement.

8. Each Party shall, when possible on its own initiative, provide the other Party with information relating to fraudulent claims for preferential tariff treatment made pursuant to this Agreement.

9. Nothing in this Chapter shall be construed to require a Party to furnish or to allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting personal privacy.

10. If a Party declines or postpones sharing the information requested by the other Party pursuant to this Article, the Party shall provide reasons to the other Party.

Article 4.13: Future Work Program

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties shall, as appropriate, identify and submit for consideration by the Joint Commission new measures aimed at facilitating trade between the Parties.

2. The Parties shall regularly review relevant international initiatives on trade facilitation, including the Compendium of Trade Facilitation Recommendations, developed by the United Nations Conference on

Trade and Development and the United Nations Economic Commission for Europe, to identify areas in which further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

Text of the Canada–Ukraine Free trade agreement – Chapter 5: Emergency action and trade remedies

Section A – Definitions

Article 5.1: Definitions

For the purposes of this Chapter:

Agreement on Safeguards means the WTO Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;

Anti-Dumping Agreement means the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

competent investigating authority means:

- *(a) in the case of Canada, the Canadian International Trade Tribunal, or its successor; and*

- (b) in the case of Ukraine, the Ministry of Economic Development and Trade, or its successor;

domestic industry means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating in the territory of a Party or those whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

emergency action means an emergency action described in Article 5.3;

SCM Agreement means the *WTO Agreement on Subsidies and Countervailing Measures*, contained in Annex 1A to the WTO Agreement;

serious injury means a significant overall impairment of a domestic industry;

substantial cause means a cause that is important and not less important than any other cause;

threat of serious injury means serious injury that is clearly imminent based on facts and not based on allegation, conjecture or remote possibility; and

transition period means the 7-year period beginning on the entry into force of this Agreement, except where the tariff elimination for the good against which the action is taken occurs over a longer period of time, in which case the transition period is the period of the staged tariff elimination for that good.

Section B – Emergency Action

Article 5.2: Article XIX of the GATT 1994 and the Agreement on Safeguards

1. Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards, which exclusively govern global safeguard actions including the resolution of a dispute with respect to those matters.

2. A Party shall not adopt or maintain, with respect to the same good, at the same time:

- (a) an emergency action; and
- (b) a measure under Article XIX of the GATT 1994 and the Agreement on Safeguards.

Article 5.3: Bilateral Emergency Actions

1. A Party may adopt an emergency action described in paragraph 2:

- (a) only during the transition period; and
- (b) if as a result of the reduction or elimination of a duty pursuant to this Agreement, an originating good is being imported into the Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good.

2. If the conditions set out in paragraph 1 and Article 5.4 and 5.5 are met, a Party may, to the extent necessary to prevent or remedy serious injury, or threat of serious injury:

- (a) suspend the further reduction of a rate of duty provided for under this Agreement on the good; or
- (b) increase the rate of duty on the good to a level not exceeding the lesser of:
 - (i) the most-favoured-nation (MFN) applied rate of customs duty in effect at the time the emergency action is taken, and
 - (ii) the base rate of customs duty as provided in the Party's schedule to Annex 2-B (Tariff Elimination); or

- (c) in the case of a customs duty applied to a good on a seasonal basis, increase the rate of customs duty to a level not to exceed the lesser of:
 - (i) the MFN applied rate of customs duty on the good in effect for the corresponding season immediately preceding the date of application of an emergency action, or
 - (ii) the MFN applied rate of customs duty on the good in effect for the corresponding season immediately preceding the date of entry into force of this Agreement, or
 - (iii) the base rate of customs duty provided for in the Party's schedule to Annex 2-B (Tariff Elimination).

3. Any emergency action shall be adopted no later than one year after the date the proceeding is instituted.

Article 5.4: Notification and Discussions

1. A Party shall, in writing, promptly notify and invite the other Party for discussions with respect to:

- (a) initiating an emergency action proceeding;
- (b) making a finding of serious injury or threat of serious injury under the conditions set out in Article 5.3.1; or
- (c) applying an emergency action.

2. A Party shall, without delay, provide the other Party with a copy of the public version of any notice or any report by a competent investigating authority issued in connection with matters notified pursuant to paragraph 1.

3. If a Party accepts an invitation for discussions made pursuant to paragraph 1, the Parties shall discuss the notification under paragraph 1, or the public version of a document issued by a competent investigating authority in connection with the emergency action proceeding.

Article 5.5: Standards for Emergency Actions

1. A Party shall not maintain an emergency action:

- (a) to an extent or for a period that exceeds what is necessary to prevent or remedy serious injury and facilitate adjustment;
- (b) for a period exceeding three years; or
- (c) beyond the expiration of the transition period.

2. A Party shall not apply an emergency action against an originating good more than once.

3. In order to facilitate adjustment in a situation where the expected duration of an emergency action is greater than one year, the Party

taking the action shall progressively liberalize the emergency action at annual intervals during the period of application.

4. On the termination of an emergency action, a Party shall set the rate of customs duty at the rate that would have been in effect but for the action according to the Party's Schedule to Annex 2-B (Tariff Elimination) for the staged elimination of the customs duty.

5. A Party taking an emergency action under Article 5.3 shall provide to the exporting Party mutually agreed trade liberalizing compensation in the form of concessions with substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties are unable to agree on compensation, the Party whose goods are subject to the action may take tariff action with trade effects substantially equivalent to the emergency action taken under Article 5.3. The Party taking the tariff action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects and, in any event, only while the emergency action under Article 5.3 is in effect.

Article 5.6: Administration of Emergency Action Proceedings

1. Each Party shall ensure the consistent, impartial and reasonable administration of its legislation, decisions and rulings governing emergency action proceedings.

2. Each Party shall entrust determinations of serious injury, or threat of serious injury, in an emergency action proceeding, to a competent investigating authority. Each Party shall:

- (a) ensure that those determinations are subject to review by judicial or administrative tribunals, to the extent provided by the Party's legislation;
- (b) ensure that negative injury determinations are not modified, except through a review referred to in sub-paragraph (a); and
- (c) provide its competent investigating authority with the necessary resources to enable it to fulfill its duties.

3. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures for emergency action proceedings in accordance with the requirements set out in paragraph 4.

4. A Party shall apply an emergency action only following an investigation by the Party's competent investigating authority in accordance with Articles 3 and 4.2 of the Agreement on Safeguards. To this end, Articles 3 and 4.2 of the Agreement on Safeguards are incorporated into and made part of this Agreement.

Article 5.7: Dispute Settlement in Emergency Action Matters

1. A Party shall not request the establishment of a panel under Article 17.7 (Establishment of a Panel) regarding a proposed emergency action.

2. A Party may request the establishment of a panel under Article 17.7 (Establishment of a Panel) regarding an actual emergency action.

Section C – Anti-Dumping and Countervailing Measures

Article 5.8: Relation to Other Agreements

1. Each Party shall apply anti-dumping and countervailing measures in accordance with Article VI of the GATT 1994, the Anti-Dumping Agreement and the SCM Agreement.

2. This Section is not subject to Chapter 17 (Dispute Settlement).

Article 5.9: Transparency

1. A Party shall ensure, after an imposition of provisional measures, and in any case, before a final determination is made, full and meaningful disclosure of all essential facts under consideration which form the basis for the decision whether to apply final measures. This

is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement.

2. Provided that it does not unnecessarily delay the conduct of the investigation, each interested party in an anti-dumping or countervailing investigation^{Footnote 1} shall be granted a full opportunity to defend its interests.

Footnotes

Footnote 1

For the purpose of this Article, “interested parties” are defined as per Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.

Text of the Canada–Ukraine Free trade agreement – Chapter 6: Sanitary and phytosanitary measures

Article 6.1: Relation to other Agreements

- 1. The Parties affirm their rights and obligations under the SPS Agreement.*
- 2. The Parties shall use the WTO dispute settlement procedures for any formal disputes regarding sanitary and phytosanitary measures.*

Article 6.2: Scope and Coverage

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

Article 6.3: Sanitary and Phytosanitary Contact Points

1. On the entry into force of this Agreement, each Party shall designate a Contact Point to facilitate communication on sanitary and phytosanitary trade-related matters and share the Contact Point information with the other Party.

2. The Contact Point is responsible for communications relating to sanitary and phytosanitary issue prevention and resolution.

Article 6.4: Sanitary and Phytosanitary Issue Prevention and Resolution

1. The Parties shall work expeditiously to resolve any specific sanitary or phytosanitary trade-related matters. The Parties shall give priority to resolving sanitary and phytosanitary issues through discussion between regulatory officials.

2. The Parties shall avail themselves of every means to prevent and resolve issues, including the use of technology (such as teleconference or videoconference) and opportunities that may arise at international forums.

3. At the request of a Contact Point, the Parties shall meet as soon as possible to resolve any specific sanitary or phytosanitary trade-related matters. Unless the Parties decide otherwise, they shall meet within 45 days of the request, through the use of technology (such as teleconference or videoconference) or in person.

Text of the Canada–Ukraine Free trade agreement – Chapter 7: Technical barriers to trade

Article 7.1: Definitions

For the purposes of this Chapter:

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

TBT Committee means the WTO Committee on Technical Barriers and Trade.

Article 7.2: WTO Agreement on Technical Barriers to Trade

The TBT Agreement, excluding Articles 10, 11, 12, 13, 14.1, 14.4 and 15, is hereby incorporated into and made part of this Agreement, mutatis mutandis.

Article 7.3: Scope

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

2. This Chapter does not apply to:

- (a) a purchasing specification prepared by a governmental body for production or consumption requirements of a governmental body; or
- (b) a sanitary or phytosanitary measure as defined in Annex A of the SPS Agreement.

Article 7.4: Joint Cooperation

1. The Parties shall endeavour to strengthen their cooperation in the areas of standards, technical regulations, accreditation, conformity assessment procedures, and metrology in order to facilitate trade between the Parties.

2. Further to paragraph 1, the Parties shall endeavour to identify, develop and promote bilateral initiatives regarding standards, technical regulations, accreditation, conformity assessment

procedures and metrology that are appropriate for particular issues or sectors. These initiatives may include:

- (a) regulatory or technical cooperation programs directed at reaching effective and full compliance with the obligations of this Chapter and the TBT Agreement;
- (b) initiatives to develop common views on good regulatory practices, such as transparency and the use of equivalency and regulatory impact assessment; and
- (c) the use of mechanisms to facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party's territory.

3. A Party shall give consideration to a reasonable sector-specific proposal made by the other Party for further cooperation under this Chapter.

Article 7.5: International Standards

1. Each Party shall use relevant international standards, guides and recommendations as a basis for their technical regulations and conformity assessment procedures in accordance with Articles 2.4 and 5.4 of the TBT Agreement.

2. Each Party shall determine whether an international standard, guide or recommendation exists within the meaning of Articles 2 or 5 or Annex 3 of the TBT Agreement, based on whether the standard, guide or recommendation in question was developed by a standardizing body that observes the principles set out in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995, G/TBT/1/Rev.9, as may be revised, issued by the TBT Committee.

Article 7.6: Conformity Assessment

1. The Parties shall cooperate by encouraging their respective conformity assessment bodies, including accreditation bodies, to participate in cooperation arrangements that promote the mutual acceptance of conformity assessment results.
2. Each Party shall recognize conformity assessment bodies located in the territory of the other Party on conditions no less favorable than those that it applies for the recognition of conformity assessment bodies in its own territory. A Party shall not require conformity assessment bodies located in the territory of the other Party to establish a legal or physical presence in its own territory or that a separate agreement be concluded between the Parties as a

pre-condition for the recognition of the other Party's conformity assessment bodies.

3. Notwithstanding paragraph 2, each Party shall consider a request to develop and implement the mutual recognition of conformity assessment bodies with respect to radio and terminal telecommunications equipment.

4. If a Party recognizes an accreditation body established in the territory of the other Party as competent to accredit conformity assessment bodies as having the competence to assess conformity with the Party's technical regulations, the Party shall apply for the recognition of those conformity assessment bodies, on conditions that are no less favourable than those applied for the recognition of its accredited conformity assessment body located in the territory of the Party.

5. Each Party is encouraged to recognize as competent to accredit conformity assessment bodies an accreditation body established in the territory of the other Party that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement; a signatory to the International Accreditation Forum Multilateral Recognition Agreement; or a signatory to, and for

relevant accreditation scopes covered under, the European Accreditation Multilateral/Bilateral Agreement.

6. With respect to paragraph 4, each Party recognizes that it may apply additional procedures to verify the competence of an accredited conformity assessment body if:

- (a) the Party applies conditions for the recognition of conformity assessment bodies that supplement international standards , including conditions with respect to the accreditation of those bodies; and
- (b) the Party requires assurance that a conformity assessment body is technically capable to assess whether products fulfill the requirements of a particular standard or technical regulation.

7. Each Party shall take reasonable measures to ensure that accreditation bodies established in its territory accredit conformity assessment bodies established in the territory of the other Party under conditions no less favourable than the conditions applied to conformity assessment bodies located in its territory. A Party may not take measures that limit or discourage the ability of accreditation bodies established in its territory from accrediting conformity assessment bodies established in the territory of the other Party,

under conditions no less favourable than those applied to the accreditation of conformity assessment bodies in its own territory.

8. Each Party shall accept the results of conformity assessment procedures conducted by conformity assessment bodies located in the other Party's territory, which have been recognized by the other Party, under conditions no less favourable than those conditions applied to the acceptance of the results of conformity assessment procedures conducted by recognized conformity assessment bodies in its territory.

9. The Parties shall exchange, no later than upon the entry into force of this Agreement, information on their respective conditions for the recognition of conformity assessment bodies, including applicable accreditation requirements and procedures that a conformity assessment body must fulfill to apply for recognition.

10. If a Party recognizes a conformity assessment body in the territory of the other Party, it shall promptly inform the other Party that it recognizes that conformity assessment body and of the scope of the body's accreditation.

11. Nothing in this agreement prevents each Party from retaining the powers established under their respective domestic laws to take all permissible measures with respect to products that may compromise

the health or safety of persons in its respective territory, or which otherwise fail to conform to their respective technical regulations.

12. If a Party does not accept the results of a conformity assessment procedure conducted by a recognized conformity assessment body in the territory of the other Party, it shall, on the request of the other Party, provide the reasons for its decision.

13. Nothing in this Chapter prevents a Party from undertaking conformity assessment in relation to specific products solely by government bodies that are located in its territory, subject to the Parties' obligations under the TBT Agreement.

Article 7.7: Transparency

1. The obligations in this Article supplement those set out in Chapter 14 (Transparency). In the event of an inconsistency between this Article and the obligations in Chapter 14 this Article prevails.

2. Each Party shall ensure that transparency procedures regarding the development of technical regulations and conformity assessment procedures allow interested persons to participate at an early appropriate stage, when amendments may be introduced and comments may be taken into account, unless urgent problems of safety, health, environmental protection or national security arise or

threaten to arise. If a consultation process for the development of technical regulations and conformity assessment procedures is open to the public, a Party shall permit persons of the other Party to participate on terms no less favourable than those accorded to its own persons.

3. Each Party shall recommend that standardization bodies in its territory observe paragraph 2 in the consultation processes for the development of standards or voluntary conformity assessment procedures.

4. Each Party shall allow a period of at least 60 days following its notification to the WTO's Central Registry of Notifications of proposed technical regulations and conformity assessment procedures for the public and the other Party to provide written comments, unless urgent problems of safety, health, environmental protection or national security arise or threaten to arise.

5. At the time a Party submits its notification of technical regulations and conformity assessment procedures to the WTO Central Registry of Notifications in accordance with the TBT Agreement, it shall include an electronic link to, or a copy of, the full text of the document.

6. Each Party shall, at the request of the other Party, provide its responses or a summary of its responses, to significant comments it receives.

7. Each Party, at the request of the other Party, shall provide information regarding the objectives of, and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

8. If a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall explain its decision at the request of the other Party. The Parties recognize that it may be necessary to develop common views, methods, and procedures to facilitate the use of equivalency.

9. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are published on official websites that are publicly available without charge.

10. If a Party, at a port of entry, detains a good imported from the territory of the other Party on the basis that the good may not comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention of the good.

11. Any information that is provided at the request of a Party under this Chapter shall be provided in print or electronically within a

reasonable period of time. The Party receiving the request shall endeavour to respond to the request within 60 days.

Article 7.8: Contact Points

1. The Contact Points are:

- (a) in the case of Canada, the Department of Foreign Affairs, Trade and Development, or its successor; and
- (b) in the case of Ukraine, Ministry of Economic Development and Trade of Ukraine, or its successor.

2. The Contact Points are responsible for communications related to matters that arise under this Chapter. Those communications include:

- (a) the implementation and administration of this Chapter;
- (b) issues related to the development, adoption or application of standards, technical regulations, or conformity assessment procedures, under this Chapter or the TBT Agreement;
- (c) the exchange of information on standards, technical regulations, or conformity assessment procedures;
- (d) the exchange of information pursuant to Article 7.6.9 (Conformity Assessment) and to Articles 7.7.6 through 7.7.8 and Article 7.7.11 (Transparency); and
- (e) joint cooperation by the Parties, pursuant to Article 7.4.

3. A Contact Point is responsible for communication with the relevant institutions and persons in its territory as necessary to carry out its functions. The Contact Points may communicate in writing, electronically, by video-conferencing, or other means decided by the Parties.

Annex 7-A: Icewine

A Party shall permit wine to be labeled as “Icewine”, “ice wine”, “ice-wine” or a similar variation of these terms, only if the wine is made exclusively from grapes naturally frozen on the vine.

Text of the Canada–Ukraine Free trade agreement – Chapter 8: Electronic commerce

Article 8.1: Definitions

For the purposes of this Chapter:

delivered electronically means delivered through telecommunications, alone or in conjunction with other information and communication technologies; and

telecommunications means the transmission and reception of signals by any electromagnetic means.

Article 8.2: Customs Duties on Products Delivered Electronically

1. A Party shall not apply a customs duty, fee or charge on a product delivered electronically.

2. For greater certainty, paragraph 1 does not preclude a Party from imposing internal taxes or other internal charges on products delivered electronically, provided that such taxes or charges are imposed in a manner consistent with this Agreement.

Article 8.3: Relation to Other Chapters

In the event of an inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter prevails to the extent of the inconsistency.

Text of the Canada–Ukraine Free trade agreement – Chapter 9: Competition policy, monopolies and state enterprises

Article 9.1: Definitions

For the purposes of this Chapter:

designate means a decision by a Party to establish, authorize, or expand the scope of a monopoly to cover an additional good or service, after the date of entry into force of this Agreement;

government monopoly means a monopoly owned or controlled through ownership interests by the national government of a Party or by another such monopoly;

in accordance with commercial considerations means consistent with normal business practices of a privately held enterprise in the relevant business sector or industry;

market means the geographic and product market for a good or service;

monopoly means an entity, designated by a Party, including a consortium or government agency, that in any relevant market in the territory of a Party is the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

non-discriminatory treatment means the better of national treatment or most-favoured-nation treatment as set out in the relevant provisions of this Agreement; and

state enterprise means an enterprise owned or controlled through ownership interests by a Party, except as set out in Annex 9-A.

Article 9.2: Competition Policy

1. For the purposes of this Article, “anti-competitive business conduct” means anti-competitive agreements, concerted practices or arrangements by competitors, anti-competitive practices by an enterprise that is dominant in a market, and mergers with substantial anti-competitive effects.

2. The Parties recognize that anti-competitive business conduct has the potential to distort the proper functioning of markets and therefore agree that anti-competitive business conduct is incompatible with the proper functioning of this Agreement in so far as it may affect trade between the Parties.

3. Each Party shall adopt or maintain measures to proscribe anti-competitive business conduct and take appropriate action with respect to that conduct. To this end, the Parties shall, upon request of a Party, discuss the effectiveness of measures undertaken by each Party. In its request, the requesting Party shall indicate how the matter affects trade between the Parties.

4. The measures each Party adopts or maintains to proscribe anti-competitive business conduct and the enforcement actions it takes pursuant to those measures shall be consistent with principles of transparency, non-discrimination and procedural fairness. Exclusions

from these measures shall be transparent. Each Party shall make available to the other Party public information concerning such exclusions provided under its competition legislation.

5. The Parties recognize the importance of cooperation, with the aim of putting an end to anti-competitive business conduct and its adverse effects on trade. The Parties may conduct such cooperation through their competent authorities. Cooperation shall, as necessary, include communication of information between the Parties unless such communication is confidential under the legislation of the Party providing the information.

6. Each Party shall maintain its independence in developing and enforcing its competition law.

7. This Article is not subject to any form of dispute settlement under this Agreement.

Article 9.3: Monopolies

1. This Agreement does not prevent a Party from maintaining or designating a monopoly.

2. If a Party intends to designate a monopoly and the designation may affect the interests of a person of the other Party, the designating

Party shall, whenever possible, provide prior written notification of the designation to the other Party.

3. Each Party shall ensure that a privately owned monopoly that it designates or a government monopoly that it maintains or designates:

- (a) acts in a manner that is consistent with the Party's obligations under this Agreement whenever the monopoly exercises regulatory, administrative, or other governmental authority that the Party has delegated to it in connection with the monopoly good or service, such as the power to grant an import or export licence, approve a commercial transaction, or impose a quota, fee or other charge;
- (b) acts solely in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market, including with regard to price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, except to comply with the terms of its designation that are consistent with subparagraph (c) or (d);
- (c) provides non-discriminatory treatment in its purchase or sale of the monopoly good or service in the relevant market; and
- (d) does not use its monopoly position to directly or indirectly engage in anti-competitive practices in a non-monopolized

market in its territory that adversely affects the other Party, including through the monopoly's dealings with its parent, its subsidiary or an enterprise with common ownership.

4. Paragraph 3 does not apply to procurement by a governmental agency of a good or service for governmental purposes and not with a view to commercial resale or with a view to use in the production of a good or the provision of a service for commercial sale.

5. For greater certainty, "purchase or sale of the monopoly good or service in the relevant market" in paragraph 3 refers to the sale of the designated monopoly good or service in the case of a designated monopoly supplier and to the purchase of the designated monopoly good or service in the case of a designated monopoly buyer.

Article 9.4: State Enterprises

1. This Agreement does not prevent a Party from maintaining or establishing a state enterprise.

2. Each Party shall ensure that a state enterprise that it maintains or establishes acts in a manner that is consistent with the Party's obligations whenever the enterprise exercises a regulatory, administrative or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant a licence,

approve a commercial transaction or impose a quota, fee or other charge.

3. Each Party shall ensure that a state enterprise that it maintains or establishes accords non-discriminatory treatment in the sale of the state enterprise's good or service to an enterprise in the Party's territory that is owned or controlled, directly or indirectly, by the other Party, or a national or enterprise of the other Party.

Annex 9-A: Country-Specific Definitions of State Enterprises

For the purposes of Article 9.4.3 "state enterprise", with respect to Canada, means a Crown corporation within the meaning of the *Financial Administration Act*, R.S.C., 1985, c. F-11 (Canada), a Crown corporation within the meaning of comparable provincial legislation or an equivalent entity that is incorporated under other applicable provincial legislation.

Text of the Canada–Ukraine Free trade agreement – Chapter 10: Government procurement

Article 10.1: Definitions

For the purposes of this Chapter:

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;

construction service means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC);

days means calendar days;

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;

in writing or written means any worded or numbered expression that can be read, reproduced and later communicated. It may include electronically transmitted and stored information;

limited tendering means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

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

multi-use list means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

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;

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

open tendering means a procurement method whereby all interested suppliers may submit a tender;

procuring entity means an entity covered under Annex10-1 or10-2 of a Party's Market Access Schedule for this Chapter;

qualified supplier means a supplier that a procuring entity recognizes as having satisfied the conditions for participation;

selective tendering means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

services includes construction services, unless otherwise specified;

standard means a document approved by a recognized body that provides for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, service, process or production method;

supplier means a person or group of persons that provides or could provide goods or services; and

technical specification means a requirement that:

- (i) lays down the characteristics of a good or a service to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or
- (ii) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or a service.

Article 10.2: Scope and Coverage

Application of this Chapter

1. This Chapter applies to any measure regarding covered procurement, whether or not it is conducted exclusively or partially by electronic means.

2. For the purposes of this Chapter, covered procurement means procurement for governmental purposes:

- (a) of a good, a service or any combination thereof:
 - (i) as specified in each Party's Annexes to its Market Access Schedule for this Chapter; and
 - (ii) not procured with a view to commercial sale or resale, or for use in the production or supply of a good or a service for commercial sale
- (b) by any contractual means, including: purchase; lease; and rental or hire purchase, with or without an option to buy;
- (c) for which the value, as estimated in accordance with paragraphs 6 through 8, equals or exceeds the relevant threshold specified in a Party's Annexes to its Market Access Schedule for this Chapter, at the time of publication of a notice in accordance with Article 10.7;
- (d) by a procuring entity; and

- (e) that is not otherwise excluded from coverage in paragraph 3 or a Party's Annexes to this Chapter.

3. Unless otherwise provided in a Party's Annexes to its Market Access Schedule for this Chapter, this Chapter does not apply to:

- (a) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;
- (b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees and fiscal incentives;
- (c) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;
- (d) public employment contracts;
- (e) procurement conducted:
 - (i) for the specific purpose of providing international assistance, including development aid;
 - (ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or

relating to the joint implementation by the signatory countries of a project; or

- (iii) under the particular procedure or condition of an international organization, or funded by international grants, loans or other assistance if the applicable procedure or condition would be inconsistent with this Chapter.

4. Each Party shall specify the following information in its Annexes to its Market Access Schedule for this Chapter:

- (a) in Annex10-1, the central government entities whose procurement is covered by this Chapter;
 - (b) in Annex10-2, all other entities whose procurement is covered by this Chapter;
 - (c) in Annex 10-3, the goods covered by this Chapter;
 - (d) in Annex10-4, the services, other than construction services, covered by this Chapter;
 - (e) in Annex10-5, the construction services covered by this Chapter;
 - (f) in Annex10-6, any General Notes;
 - (g) in Annex 10-7-, the threshold adjustment formulas;
 - (h) in Annex 10-8, the extended transparency commitments;
- and

- (i) in Annex 10-9, the means of publication used for this Chapter.

5. If a procuring entity, in the context of covered procurement, requires a person not covered under a Party's Annexes to its Market Access Schedule for this Chapter to procure in accordance with particular requirements, Article 10.5 shall apply, as applicable and with such changes as may be necessary, to such requirements.

Valuation

6. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:

- (a) neither divide a procurement into separate procurements nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Chapter; and
- (b) include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:
 - (i) premiums, fees, commissions and interest; and

- (ii) if the procurement provides for the possibility of options, the total value of such options.

7. If an individual requirement for a procurement results in the award of more than one contract, or in the award of contracts in separate parts (recurring contracts), the calculation of the estimated maximum total value shall be based on:

- (a) the value of recurring contracts of the same type of good or service awarded during the preceding 12 months or the procuring entity's preceding fiscal year, adjusted, where possible, to take into account anticipated changes in the quantity or value of the good or service being procured over the following 12 months; or
- (b) the estimated value of recurring contracts of the same type of good or service to be awarded during the 12 months following the initial contract award or the procuring entity's fiscal year.

8. In the case of procurement by lease, rental or hire purchase of a good or a service, or procurement for which a total price is not specified, the basis for valuation shall be:

- (a) in the case of a fixed-term contract:
 - (i) if the term of the contract is 12 months or less, the total estimated maximum value for its duration; or

- (ii) if the term of the contract exceeds 12 months, the total estimated maximum value, including any estimated residual value;
- (b) if the contract is for an indefinite period, the estimated monthly instalment multiplied by 48; and
- (c) if it is not certain whether the contract is to be a fixed-term contract, subparagraph(b) shall be used.

Article 10.3: Relationship with the Revised Agreement on Government Procurement

1. At any time during which both Parties to this Agreement are also Party to the Annex to the Protocol Amending the Agreement on Government Procurement (GPA), the operation of Articles 10.1, 10.2 and 10.4 to 10.18 is suspended and the GPA, with the exception of Articles V, XVI(4) to XVI(6), XIX, XX, XXI, XXII, is hereby incorporated into and made part of this Agreement, as applicable and with such changes as may be necessary as long as the Parties are also Parties to the GPA. The provisions of the GPA incorporated into this Chapter shall apply to the Parties' Annexes to their Market Access Schedule for this Chapter.

2. Any amendments to the provisions of the GPA that are incorporated into this Chapter pursuant to paragraph 1 are incorporated into this Agreement, except as agreed by the Parties.

Article 10.4: Security and General Exceptions

1. Nothing in this Chapter shall be construed to prevent a Party from taking any action or from not disclosing any information that it considers necessary for the protection of its essential security interests relating to procurement:

- (a) of arms, ammunition or war materials;
- (b) indispensable for national security; or
- (c) indispensable for national defence purposes.

2. Subject to the requirement that these measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures:

- (a) necessary to protect public morals, order or safety;
- (b) necessary to protect human, animal or plant life or health;
- (c) necessary to protect intellectual property; or

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

Article 10.5: General Principles

Non-Discrimination

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering these goods or services, treatment no less favourable than the treatment the Party, including its procuring entities, accords to its own 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 the degree of foreign affiliation or ownership; or
- (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

Use of Electronic Means

3. If conducting covered procurement by electronic means, a procuring entity shall:

- (a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and
- (b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

Conduct of Procurement

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

- (a) is consistent with this Chapter, using methods such as open tendering, selective tendering and limited tendering;
- (b) avoids conflicts of interest; and
- (c) prevents corrupt practices.

Rules of Origin

5. For the purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the

other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

Offsets

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

Measures Not Specific to Procurement

7. Paragraphs 1 and 2 shall not apply to: customs duties and charges of any kind imposed on, or in connection with, importation; the method of levying such duties and charges; other import regulations or formalities and measures affecting trade in services other than measures governing covered procurement.

Article 10.6: Information on the Procurement System

1. Each Party shall:

- (a) promptly publish any law, regulation, judicial decision, administrative ruling of general application, standard contract clause mandated by law or regulation and incorporated by reference in notices or tender documentation and procedure

regarding covered procurement, and any modifications thereof, in an officially designated electronic or paper medium that is widely disseminated and remains readily accessible to the public; and

- (b) provide an explanation thereof to the other Party, on request.

2. Each Party shall list, in Annex 10-9 of its Market Access Schedule:

- (a) the electronic or paper media in which the Party publishes the information described in paragraph 1;
- (b) the electronic or paper media in which the Party publishes the notices required by Articles 10.7, 10.9.7 and 10.16.2; and
- (c) the website address or addresses where the Party publishes procurement statistics.

3. Each Party shall promptly notify the Joint Commission of any modification to the Party's information listed in Annex 10-9.

Article 10.7: Notices

Notice of Intended Procurement

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement in the appropriate paper or electronic medium listed in Annex 10-9, except in the circumstances described in Article 10.13. This medium shall be widely disseminated and those

notices shall remain readily accessible to the public, at least until expiration of the time-period indicated in the notice.

2. The notices of intended procurement shall:

- (a) for procuring entities covered under Annex 10-1, be accessible by electronic means free of charge through a single point of access, for at least any minimum period of time specified in Annex 10-9; and
- (b) for procuring entities covered under Annex 10-2, if accessible by electronic means, be provided, at least, through links in a gateway electronic site that is accessible free of charge.

Parties, including their procuring entities covered under Annex 10-2, are encouraged to publish their notices by electronic means free of charge through a single point of access.

3. Except as otherwise provided in this Chapter, each notice of intended procurement shall include:

- (a) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any;

- (b) a description of the procurement, including the nature and the quantity of the goods or services to be procured or, if the quantity is not known, the estimated quantity;
- (c) for recurring contracts, an estimate, if possible, of the timing of subsequent notices of intended procurement;
- (d) a description of any options;
- (e) the time-frame for delivery of goods or services or the duration of the contract;
- (f) the procurement method that will be used and whether it will involve negotiation or electronic auction;
- (g) if applicable, the address and any final date for the submission of requests for participation in the procurement;
- (h) the address and the final date for the submission of tenders;
- (i) the language or languages in which tenders or requests for participation may be submitted, if they may be submitted in a language other than an official language of the Party of the procuring entity;
- (j) a list and brief description of any conditions for participation of suppliers, including any requirements for specific documents or certifications to be provided by suppliers in connection therewith, unless such requirements are included in tender documentation

that is made available to all interested suppliers at the same time as the notice of intended procurement;

- (k) if, pursuant to Article 10.9, a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, if applicable, any limitation on the number of suppliers that will be permitted to tender; and
- (l) an indication that the procurement is covered by this Chapter.

Summary Notice

4. For each case of intended procurement, a procuring entity shall publish a summary notice that is readily accessible, at the same time as the publication of the notice of intended procurement, in one or more of the following languages: Ukrainian, English or French. The summary notice shall contain at least the following information:

- (a) the subject-matter of the procurement;
- (b) the final date for the submission of tenders or, if applicable, any final date for the submission of requests for participation in the procurement or for inclusion on a multi-use list; and
- (c) the address from which documents relating to the procurement may be requested.

Notice of Planned Procurement

5. Procuring entities are encouraged to publish in the appropriate paper or electronic medium listed in Annex 10-9 as early as possible in each fiscal year a notice regarding their future procurement plans (notice of planned procurement). The notice of planned procurement should include the subject-matter of the procurement and the planned date of the publication of the notice of intended procurement.

6. A procuring entity covered under Annex 10-2 may use a notice of planned procurement as a notice of intended procurement provided that the notice of planned procurement includes as much of the information referred to in paragraph 3 as is available to the entity and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

Article 10.8: Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In establishing the conditions for participation, a procuring entity:

- (a) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a Party; and
- (b) may require relevant prior experience if essential to meet the requirements of the procurement.

3. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:

- (a) shall evaluate the financial capacity and the commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity; and
- (b) shall base its evaluation on the conditions that the procuring entity has specified in advance in notices or tender documentation.

4. If there is supporting evidence, a procuring entity may exclude a supplier from participating in a procurement on grounds such as:

- (a) bankruptcy;
- (b) false declarations;

- (c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;
- (d) final judgments in respect of serious crimes or other serious offences;
- (e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or
- (f) failure to pay taxes.

Article 10.9: Qualification of Suppliers

Registration Systems and Qualification Procedures

1.A procuring entity may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.

2. Each Party shall ensure that:

- (a) its procuring entities make efforts to minimize differences in their qualification procedures; and
- (b) if its procuring entities maintain registration systems, the entities make efforts to minimize differences in their registration systems.

3. A procuring entity shall not adopt or apply a registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.

Selective Tendering

4. If a procuring entity intends to use selective tendering, the entity shall:

- (a) include in the notice of intended procurement at least the information specified in Article 10.7.3(a), (b), (f), (g), (j), (k) and (l) and invite suppliers to submit a request for participation; and
- (b) provide, by the commencement of the time-period for tendering, at least the information in Article 10.7.3(c), (d), (e), (h) and (i) to the qualified suppliers that it notifies as specified in Article 10.11.3(b).

5. A procuring entity shall allow all qualified suppliers to participate in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.

6. If the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 4, a procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers selected in accordance with paragraph 5.

Multi-Use Lists

7. A procuring entity may maintain a multi-use list of suppliers, provided that a notice inviting interested suppliers to apply for inclusion on the list is:

- (a) published annually; and
- (b) if published by electronic means, made available continuously, in the appropriate medium listed in Annex 10-9.

8. The notice provided for in paragraph 7 shall include:

- (a) a description of the goods or services, or categories thereof, for which the list may be used;
- (b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;

- (c) the name and address of the procuring entity and other information necessary to contact the entity and obtain all relevant documents relating to the list;
- (d) the period of validity of the list and the means for its renewal or termination, or where the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list; and
- (e) an indication that the list may be used for procurement covered by this Chapter.

9. Notwithstanding paragraph 7, if a multi-use list will be valid for three years or less, a procuring entity may publish the notice referred to in paragraph 7 only once, at the beginning of the period of validity of the list, provided that the notice:

- (a) states the period of validity and that further notices will not be published; and
- (b) is published by electronic means and is made available continuously during the period of its validity.

10. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

11. If a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all required documents, within the time-period provided for in Article 10.11.2, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, in exceptional cases, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time-period allowed for the submission of tenders.

Procuring Entities of Annex 10-2

12. A procuring entity covered under Annex 10-2 may use a notice inviting suppliers to apply for inclusion on a multi-use list as a notice of intended procurement, provided that:

- (a) the notice is published in accordance with paragraph 7 and includes the information required under paragraph 8, as much of the information required under 10.7.3 as is available and a statement that it constitutes a notice of intended procurement or that only the suppliers on the multi-use list will receive further notices of procurement covered by the multi-use list; and

- (b) the entity promptly provides to suppliers that have expressed an interest in a given procurement to the entity, sufficient information to permit them to assess their interest in the procurement, including all remaining information required in Article 10.7.3, to the extent such information is available.

13. A procuring entity covered under Annex 10-2 may allow a supplier that has applied for inclusion on a multi-use list in accordance with paragraph 10 to tender in a given procurement, if there is sufficient time for the procuring entity to examine whether the supplier satisfies the conditions for participation.

Information on Procuring Entity Decisions

14. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement or application for inclusion on a multi-use list of the procuring entity's decision with respect to the request or application.

15. If a procuring entity rejects a supplier's request for participation in a procurement or application for inclusion on a multi-use list, ceases to recognize a supplier as qualified, or removes a supplier from a multi-use list, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

Article 10.10: Technical Specifications and Tender Documentation

Technical Specifications

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

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

- (a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and
- (b) base the technical specification on international standards, where such exist; otherwise, on national technical regulations, recognized national standards or building codes.

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

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

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

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

Tender Documentation

7. A procuring entity shall make available to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already

provided in the notice of intended procurement, this documentation shall include a complete description of:

- (a) the procurement, including the nature and the quantity of the goods or services to be procured or, if the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings or instructional materials;*
- (b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection with the conditions for participation;*
- (c) all evaluation criteria the entity will apply in the awarding of the contract, and, except where price is the sole criterion, the relative importance of those criteria;*
- (d) if the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;*
- (e) if the procuring entity will hold an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;*

- (f) if there will be a public opening of tenders, the date, time and place for the opening and, if appropriate, the persons authorized to be present;
- (g) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, such as whether on paper or by electronic means; and
- (h) any dates for the delivery of goods or the supply of services.

8. In establishing any date for the delivery of goods or the supply of services being procured, a procuring entity shall take into account such factors as the complexity of the procurement, the extent of subcontracting anticipated and the realistic time required for production, de-stocking and transport of goods from the point of supply or for supply of services.

9. The evaluation criteria set out in the notice of intended procurement or tender documentation may include, among others, price and other cost factors, quality, technical merit, environmental characteristics and terms of delivery.

10. A procuring entity shall promptly:

- (a) make available tender documentation to ensure that interested suppliers have sufficient time to submit responsive tenders;

- (b) provide, on request, the tender documentation to any interested supplier; and
- (c) reply to any reasonable request for relevant information by any interested or participating supplier, provided that such information does not give that supplier an advantage over other suppliers.

Modifications

11. If, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of intended procurement or tender documentation provided to participating suppliers, or amends or re-issues a notice or tender documentation, it shall transmit in writing all such modifications, or the amended or re-issued notice or tender documentation:

- (a) to all suppliers that are participating at the time of the modification, amendment or re-issuance, where such suppliers are known to the entity, and in all other cases, in the same manner as the original information was made available; and
- (b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

Article 10.11: Time-Periods

General

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as:

- (a) the nature and complexity of the procurement;
- (b) the extent of subcontracting anticipated; and
- (c) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points where electronic means are not used.

These time-periods, including any extension of the time-periods, shall be the same for all interested or participating suppliers.

Deadlines

2. A procuring entity that uses selective tendering shall establish that the final date for the submission of requests for participation shall not, in principle, be less than 25days from the date of publication of the notice of intended procurement. If a state of urgency duly substantiated by the procuring entity renders this time-period impracticable, the time-period may be reduced to not less than 10days.

3. Except as provided for in paragraphs 4, 5, 7 and 8 a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:

- (a) in the case of open tendering, the notice of intended procurement is published; or
- (b) in the case of selective tendering, the entity notifies suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

4. A procuring entity may reduce the time-period for tendering established in accordance with paragraph 3 to not less than 10 days where:

- (a) the procuring entity has published a notice of planned procurement as described in Article 10.7.5 at least 40 days and not more than 12 months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:
 - (i) a description of the procurement;
 - (ii) the approximate final dates for the submission of tenders or requests for participation;

- (iii) a statement that interested suppliers should express their interest in the procurement to the procuring entity;
 - (iv) the address from which documents relating to the procurement may be obtained; and
 - (v) as much of the information that is required for the notice of intended procurement under Article 10.7.3, as is available;
- (b) the procuring entity, for contracts of a recurring nature, indicates in an initial notice of intended procurement that subsequent notices will provide time-periods for tendering based on this paragraph ;or
 - (c) a state of urgency duly substantiated by the procuring entity renders the time-period for tendering established in accordance with paragraph 3 impracticable.

5. A procuring entity may reduce the time-period for tendering established in accordance with paragraph 3 by five days for each one of the following circumstances:

- (a) the notice of intended procurement is published by electronic means;

- (b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and
- (c) the entity accepts tenders by electronic means.

6. The use of paragraph 5, in conjunction with paragraph 4, shall in no case result in the reduction of the time-period for tendering established in accordance with paragraph 3 to less than 10 days from the date on which the notice of intended procurement is published.

7. Notwithstanding any other provision in this Article, if a procuring entity purchases commercial goods or services, or any combination thereof, it may reduce the time-period for tendering established in accordance with paragraph 3 to not less than 13 days, provided that it publishes by electronic means, at the same time, both the notice of intended procurement and the tender documentation. In addition, if the entity accepts tenders for commercial goods or services by electronic means, it may reduce the time-period established in accordance with paragraph 3 to not less than 10 days.

8. If a procuring entity covered under Annex 10-2 has selected all or a limited number of qualified suppliers, the time-period for tendering may be fixed by mutual agreement between the procuring entity and

the selected suppliers. In the absence of agreement, the period shall not be less than 10 days.

Article 10.12: Negotiation

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

- (a) if the entity has indicated its intent to conduct negotiations in the notice of intended procurement; or*
- (b) if it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or tender documentation.*

2. A procuring entity shall:

- (a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or tender documentation; and*
- (b) if negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.*

Article 10.13: Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, a procuring entity may use limited tendering and may choose not to apply Articles 10.7 through 10.9, paragraphs 7 through 11 of Article 10.10, Articles 10.11, 10.12, 10.14 and 10.15 only under any of the following circumstances:

- (a) if:
 - (i) no tenders were submitted or no suppliers requested participation;
 - (ii) no tenders that conform to the essential requirements of the tender documentation were submitted;
 - (iii) no suppliers satisfied the conditions for participation;
or
 - (iv) the tenders submitted have been collusive, provided that the requirements of the tender documentation are not substantially modified;

- (b) if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
 - (i) the requirement is for a work of art;
 - (ii) the protection of patents, copyrights or other exclusive rights; or
 - (iii) due to an absence of competition for technical reasons;
- (c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:
 - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and
 - (ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;
- (d) only when necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the

goods or services could not be obtained in time using open tendering or selective tendering;

- *(e) for goods purchased on a commodity market;*
- *(f) if a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;*
- *(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers; or*
- *(h) if a contract is awarded to a winner of a design contest provided that:*
 - *(i) the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular*

relating to the publication of a notice of intended procurement;
and

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

2. A procuring entity shall prepare a report in writing on each contract awarded under paragraph1. 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 paragraph1 that justified the use of limited tendering.

Article10.14: Electronic Auctions

If 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 if 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 10.15: Treatment of Tenders and Awarding of Contracts

Treatment of Tenders

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process, and the confidentiality of tenders.
2. A procuring entity shall not penalize any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.
3. If a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

Awarding of Contracts

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

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

- (a) the most advantageous tender; or
- (b) if price is the sole criterion, the lowest price.

6. If a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

7. A procuring entity shall not use options, cancel a procurement or modify awarded contracts in a manner that circumvents the obligations under this Chapter.

Article 10.16: Transparency of Procurement Information

Information Provided to Suppliers

1. A procuring entity shall promptly inform participating suppliers of the entity's contract award decisions and, on the request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article 10.17, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.

Publication of Award Information

2. In accordance with domestic legislation, a procuring entity shall publish a notice in the appropriate paper or electronic medium listed in Annex 10-9 promptly after the award of each contract covered by this Chapter. If the entity publishes the notice only in an electronic medium, the information shall remain readily accessible for a reasonable period of time. The notice shall include at least the following information:

- (a) a description of the goods or services procured;
- (b) the name and address of the procuring entity;
- (c) the name and address of the successful supplier;

- (d) the value of the successful tender or the highest and lowest offers taken into account in the award of the contract;
- (e) the date of award; and
- (f) the type of procurement method used, and in cases where limited tendering was used in accordance with Article 10.13, a description of the circumstances justifying the use of limited tendering.

Maintenance of Documentation, Reports and Electronic Traceability

3. Each procuring entity shall, for a period of at least three years from the date it awards a contract, maintain:

- (a) the documentation and reports of tendering procedures and contract awards relating to covered procurement, including the reports required under Article 10.13; and
- (b) data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.

Article 10.17: Disclosure of Information

Provision of Information to Parties

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

including information on the characteristics and relative advantages of the successful tender. In cases where release of the information would prejudice competition in future tenders, the Party that receives the information shall not disclose it to any supplier, except after consulting with, and obtaining the consent of, the Party that provided the information.

Non-Disclosure of Information

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities and review bodies, to disclose confidential information if 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 10.18: Domestic Review Procedures

1. Each Party shall provide a timely, effective, transparent and non-discriminatory administrative or judicial review procedure through which a supplier may challenge:

- (a) a breach of the Chapter; or
- (b) if the supplier does not have a right to challenge directly a breach of the Chapter under the domestic law of a Party, a failure to comply with a Party's measures implementing this Chapter,

arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made generally available.

2. In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure as referred to in paragraph 1, the Party of the procuring entity conducting the procurement shall encourage the entity and the supplier to seek resolution of the complaint through consultations. The entity shall accord impartial and timely consideration to any such complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or its right to seek corrective measures under the administrative or judicial review procedure.

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

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

5. If a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

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

- (a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;
- (b) the participants to the proceedings (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) corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or

both, if a review body has determined that there has been a breach or a failure as referred to in paragraph 1.

Article 10.19: Modifications and rectifications to coverage

1. A Party may modify an Annex to this Chapter.
2. When a Party modifies an Annex to this Chapter, the Party shall:
 - (a) notify the other Party in writing; and
 - (b) include in the notification a proposal of appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification.
3. Notwithstanding paragraph 2(b), a Party is not required to provide compensatory adjustments if:
 - (a) the modification in question is a minor adjustment or rectification of a purely formal nature; or
 - (b) the proposed modification covers an entity over which the Party has effectively eliminated its control or influence.
4. If the other Party disputes that:
 - (a) an adjustment proposed under paragraph 2(b) is adequate to maintain a comparable level of mutually decided coverage;

- (b) the proposed modification is a minor adjustment or a rectification under paragraph 3(a); or
- (c) the proposed modification covers an entity over which the Party has effectively eliminated its control or influence under paragraph 3(b),

it shall object in writing within 30 days of receipt of the notification referred to in paragraph 2(a) or be deemed to have accepted the adjustment or proposed modification, including for the purposes of Chapter 17 (Dispute Settlement).

Chapter 11: Intellectual property

Article 11.1: Objectives

The objectives of this Chapter are to:

- (a) maintain a balance between the rights of intellectual property right holders and the legitimate interests of intellectual property users with regard to intellectual property;
- (b) facilitate international trade and economic, social and cultural development through the dissemination of ideas, technology and creative works; and
- (c) facilitate the enforcement of intellectual property rights with a view, among other things, to eliminating trade in goods infringing intellectual property rights.

Article 11.2: Affirmation of International Agreements

1. The Parties affirm their rights and obligations under the WTO *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS Agreement) and other intellectual property agreements to which both Parties are party.
2. The Parties confirm that the TRIPS Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public

health and, in particular, to promote access to medicines for all. In this regard, the Parties affirm the right to fully avail themselves of the flexibilities established in the TRIPS Agreement, including those related to the protection of public health and in particular the promotion of access to medicines for all. The Parties take note of the WTO's General Council Decision on the *Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health* of 30 August 2003 and the *Protocol amending the TRIPS Agreement* adopted 6 December 2005.

Article 11.3: Protection of Geographical Indications

1. This Article concerns the protection in each of the Parties of geographical indications of wines and spirits originating in the territory of the other Party.
2. Part A of Annex I contains geographical indications originating and protected in Canada. The terms listed in Part A of Annex I are eligible for registration as protected geographical indications in Ukraine.
3. Part B of Annex I contains geographical indications originating and protected in Ukraine. The terms listed in Part B of Annex I are eligible for registration as protected geographical indications in Canada.
4. In order to secure protection, the authorities responsible for particular geographical indications in each Party shall apply for registration for protection in the territory of the other Party, in accordance with the procedures and requirements prescribed by the law of the other Party. The protection by each Party of these geographical indications shall be in accordance with Articles 22 through 24 of the TRIPS Agreement and subject to the exceptions provided in Article 24 of the TRIPS Agreement.
5. Each Party may adopt or maintain procedures that provide for the cancellation of the protection afforded to a geographical indication within its territory.
6. If a geographical indication of a Party listed in Annex I ceases to be protected in the territory of its place of origin or falls into disuse in that place, that Party shall notify the other Party and request cancellation of the registration.
7. In accordance with the procedure established in paragraph 9, the Joint Commission established under Article 16.1 (Joint Commission) may amend Annex I by removing a geographical indication of a wine or spirit which has ceased to be protected, or has fallen into disuse in Canada from Part A, or a geographical indication of a wine and spirit which has ceased to be protected, or has fallen into disuse in Ukraine from Part B.
8. In accordance with the procedure established in paragraph 9, the Joint Commission may amend Annex I by adding a geographical indication of a wine or

spirit originating and protected in Canada to Part A, and a geographical indication of a wine or a spirit originating and protected in Ukraine to Part B.

9. The Joint Commission, when exercising its powers of paragraph 7 or 8, shall act by consensus and on a recommendation by the Committee on Intellectual Property established under Article 11.12.

Article 11.4: Enforcement of Intellectual Property Rights

1. Each Party shall ensure that enforcement procedures are available under its legislation so as to permit effective action against any act of infringement of intellectual property rights^{[Footnote1](#)}, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

Article 11.5: Criminal Procedures

Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include either imprisonment or monetary fines or both, sufficient to provide a deterrent, consistent with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and any materials or implements the predominant use of which has been in the commission of the offence. Each Party may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular when they are committed wilfully and on a commercial scale.

Article 11.6: Camcording

1. Each Party shall provide for criminal procedures and penalties to be applied in accordance with that Party's laws and regulations for the unauthorised copying of a cinematographic work, or any part thereof, from a performance in a movie theatre.

2. For an offence specified in paragraph 1, each Party shall provide penalties that include imprisonment as well as monetary fines^{[Footnote2](#)} sufficiently high to provide

a deterrent against future acts of infringement, consistent with the level of penalties applied for crimes of a corresponding gravity.

Article 11.7: Special Measures Against Copyright Infringers on the Internet or other Digital Networks

1. Each Party's civil and criminal enforcement procedures shall apply to infringement of copyright or related rights on the Internet or other digital networks, which may include the unlawful use of means of widespread distribution for infringing purposes.
2. A Party may provide its competent authorities, in accordance with its law, with the authority to order an online service provider to disclose expeditiously to a right holder information sufficient to identify a subscriber whose account was allegedly used for infringement, if that right holder has filed a legally sufficient claim for copyright or related rights infringement, and if that information is being sought for the purpose of protecting or enforcing those rights.
3. Each Party shall endeavour to promote cooperative efforts within the business community to effectively address copyright or related rights infringement while preserving legitimate competition and, consistent with that Party's domestic law, preserving fundamental principles such as freedom of expression, fair process, and privacy.
4. Each Party shall adopt or maintain measures to curtail copyright and related right infringement on the Internet or other digital network.
5. Each Party shall implement the procedures referred to in this Article in a manner that avoids the creation of barriers to legitimate activity, including electronic commerce and, consistent with that Party's law, preserves fundamental principles such as freedom of expression, fair process, and privacy.[Footnote3](#)

Article 11.8: Special Requirements Related to Border Measures

1. For the purposes of this Article, goods infringing an intellectual property right mean counterfeit trademark goods or pirated copyright goods as defined in footnote 14 of Article 51 of the TRIPS Agreement.[Footnote4](#)
2. Each Party shall permit its competent authorities to request that right holder supply relevant information to assist in taking the border measures referred to in

this Article. A Party may also allow a right holder to supply relevant information to its competent authorities.

3. Each Party shall adopt or maintain procedures with respect to import and export shipments^{Footnote5} under which its competent authorities may act upon their own initiative to suspend the release of, or to detain, goods suspected of infringing an intellectual property right.

4. Each Party shall adopt or maintain procedures with respect to import and export shipments under which a right holder may request the competent authorities of the Party providing the procedures to suspend the release of, or to detain, goods suspected of infringing an intellectual property right.

5. Each Party may provide that, if the applicant has abused the procedures described in this Article or if there is due cause, that Party's competent authorities have the authority to deny, suspend, or void the application.

6. Each Party shall adopt or maintain procedures by which its competent authorities may determine, within a reasonable period of time after the initiation of the procedures described in paragraph 3 or 4, if the goods suspected of infringing an intellectual property right infringe an intellectual property right.

7. Each Party may exclude from the application of this Article small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.

Article 11.9: Cooperation on Enforcement of Intellectual Property Rights

1. The Parties recognize the challenges related to the enforcement of intellectual property rights, particularly in trans-border contexts. The Parties shall endeavour to cooperate, as appropriate, to stem the economic and social costs of trade-mark counterfeiting and copyright piracy in accordance with each Party's law.

2. Each Party shall endeavour to encourage the development of expertise for the enforcement of intellectual property rights. The Parties shall also endeavour to exchange information and share best practices in areas of mutual interest relating to the enforcement of intellectual property rights in accordance with each Party's domestic law.

3. The Parties' respective competent authorities may cooperate, as appropriate, to better identify and target the inspection of shipments suspected of containing certain counterfeit trademark or pirated copyright, and, in doing so, endeavour to:

- (a) share information on innovative approaches that may be developed to provide greater analytical targeting of shipments that could contain counterfeit or pirated goods; and

- (b) share information and intelligence regarding shipments of suspected counterfeit trademark or pirated copyright goods in appropriate cases.

Article 11.10: Other Areas of Cooperation

Recognizing the growing importance of intellectual property rights in promoting innovation, social, economic, and cultural development, as well as economic competitiveness in a knowledge based economy, the Parties endeavour to cooperate, subject to availability of resources, in the field of intellectual property in areas of mutual interest.

Article 11.11: Designation of Contact Points

Each Party shall designate a Contact Point to facilitate communications between the Parties on intellectual property, and shall notify the other Party of the Contact Point and any changes to the Contact Point.

Article 11.12: Committee on Intellectual Property

1. The Parties hereby establish a Committee on Intellectual Property (Committee) composed of representatives of each Party with expertise in intellectual property.
2. The Committee shall be co-chaired by a representative of each Party.
3. The Committee shall:
 - (a) discuss topics relevant to the protection and enforcement of intellectual property rights covered by this Chapter, and any other relevant issue as mutually decided by the Parties;
 - (b) provide a forum for consultations pursuant to Article 11.15;
 - (c) oversee the Parties' cooperation under this Chapter; and
 - (d) make any recommendation to the Joint Commission established under Article 16.1 (Joint Commission) to amend Annex I pursuant to Article 11.3.9.
4. The Parties shall endeavour to increase opportunities for cooperation in the field of intellectual property. This cooperation may include:
 - (a) promoting the development of contacts among the Parties' respective competent authorities that have an interest in the field of intellectual property;
 - (b) exchanging information on:
 - (i) each Party's legislation, procedures, policies, activities, and experiences in the field of intellectual property,

- (ii) the implementation of intellectual property systems aimed at promoting the efficient registration of intellectual property rights, and
- (iii) appropriate initiatives to promote public awareness of intellectual property rights.

5. With the exception of consultations pursuant to Article 11.15, the Committee shall meet as mutually decided by the Parties. Committee meetings may be held in person, by videoconference, by telephone, or by other means.

Article 11.13: Transparency

With the aim of making the protection and enforcement of intellectual property rights transparent, each Party shall ensure that its laws, regulations, and procedures concerning intellectual property rights are published or otherwise made available in a manner that enables the other Party or any interested person to become acquainted with them.

Article 11.14: Disclosure of Information

This Chapter does not require a Party to disclose information that would impede law enforcement, be contrary to its law, or that is exempt from disclosure under its law.

Article 11.15: Consultations

1. Either Party may request consultations with the other Party regarding any actual or proposed measure, or any other matter which that Party considers might negatively affect intellectual property interests.

2. Upon a request pursuant to paragraph 1, the Parties shall consult each other within the framework of the Committee established under Article 11.12 to consider ways of reaching a mutually satisfactory solution. In doing so, each Party shall:

- (a) endeavour to provide sufficient information to enable a full examination of the matter; and
- (b) maintain the confidentiality of the information provided by the other Party in the course of consultations.

3. Consultations within the framework of the Committee shall be conducted within 60 days following the request for consultations.

4. If the Parties are unable to reach a mutually satisfactory solution pursuant to the consultations under paragraph 2, either Party may refer the matter to the Joint Commission established under Article 16.1 (Joint Commission).

Article 11.16: Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 17 (Dispute Settlement) for any matter arising under this Chapter.

Annex I – List of Wines and Spirits Eligible for Protection as Geographical Indications in the Territory of the Parties

Part A – Geographical Indications of Canada

(a) For wines:

- BC Gulf Islands
- Beamsville Bench
- British Columbia
- Creek Shores
- Fraser Valley
- Four Mile Creek
- Lake Erie North Shore
- Lincoln Lakeshore
- Niagara Escarpment
- Niagara Lakeshore
- Niagara Peninsula
- Niagara River
- Niagara-on-the-Lake
- Okanagan Valley
- Ontario
- Ontario Icewine
- Prince Edward County
- Similkameen Valley
- Short Hills Bench
- St. David's Bench
- Twenty Mile Bench
- Vancouver Island
- Vinemount Ridge

(b) For Spirits

- Canadian Rye Whisky

- Canadian Whisky

Part B – Geographical Indications of Ukraine

(a) For wines:

- Tavriya
- Sonyachna dolyna
- Novyisvit
- Meganom
- Magarach
- Zolota Balka
- Balaklava

(b) For spirits:

- Tavriya

Footnotes

Footnote 1

For the purposes of this Chapter, intellectual property rights refer to all categories of intellectual property rights that are the subject of Sections 1 through 7 of Part II of the TRIPS Agreement.

[Return to footnote1referrer](#)

Footnote 2

For greater certainty, there is no obligation for a Party to provide for the possibility of imprisonment and monetary fines to be imposed in parallel.

[Return to footnote2referrer](#)

Footnote 3

For instance, the procedures in this Article are without prejudice to a Party's law, adopting or maintaining a regime providing for limitations on the liability of, or on the remedies available against, online service providers while preserving the legitimate interests of right holders.

[Return to footnote3referrer](#)

Footnote 4

Footnote 14 of the TRIPS Agreement contains the following definitions:

- (a) “counterfeit trademark goods” shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation;
- (b) “pirated copyright goods” shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.

Footnote 5

For greater certainty, reference to “import and export shipments” referenced in this Article need not include shipments moving “in-transit”.

Chapter 12: Environment

Article 12.1: Definitions

1. For the purposes of this Chapter:

Committee means the Committee on the Environment established by Article 12.16;

environmental laws means any statute or regulation of a Party or provisions thereof, including legally binding instruments thereunder,

the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

- (a) the prevention, abatement or control of the release, discharge or emission of pollutants or environmental contaminants;*
- (b) the management of chemicals and waste and the dissemination of information related thereto; or*
- (c) the conservation and protection of wild flora or wild fauna, including endangered species, their habitat and specially protected natural areas;*

but does not include any statute or regulation, or any provision thereof, directly related to worker health and safety, and does not include any statute or regulation, or any provision thereof, of which the primary purpose is managing the commercial harvest or exploitation, or subsistence or aboriginal harvesting, of natural resources;

province means a province of Canada, and includes Yukon, the Northwest Territories and Nunavut; and

Review Panel means a panel established pursuant to 12.21.9.

2. For the purposes of this Chapter, a Party has not failed to “effectively enforce its environmental laws” in a particular case if the action or inaction in question by an agency or official of that Party:

- (a) reflects a reasonable exercise of their discretion in respect of investigatory, prosecutorial, regulatory or compliance matters; or
- (b) results from a *bona fide* decision to allocate resources to enforcement in respect of other environmental matters determined to have a higher priority.

Article 12.2: Context and Objectives

1. The Parties recognize that each Party has sovereign rights to conserve and protect its environment and sustainably manage its natural resources. They affirm their environmental obligations under their law, as well as their international obligations under multilateral environmental agreements to which they are a party.

2. The Parties further recognize the mutual supportiveness between trade and environmental policies and the need to implement this Agreement in a manner consistent with environmental protection and conservation.

Article 12.3: Levels of Protection

Recognizing the right of each Party to set its own environmental priorities, to establish its own levels of environmental protection and to adopt or modify its environmental laws and policies accordingly, each Party shall strive to ensure that those laws and policies provide for and encourage high levels of environmental protection and shall strive to continue to improve them and their underlying levels of protection.

Article 12.4: Compliance With and Enforcement of Environmental Laws

- 1. A Party shall not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner that affects trade or investment between the Parties.*
- 2. Each Party shall ensure that violations of its environmental laws can be remedied or sanctioned under its law through judicial, quasi-judicial or administrative proceedings.*

Article 12.5: Non-derogation

Each Party recognizes that it is inappropriate to encourage trade or investment by weakening or reducing the level of protection afforded in its environmental laws. Accordingly, a Party shall not waive, or otherwise derogate from, or offer to waive or otherwise derogate from,

its environmental laws, in a manner that weakens or reduces the protections afforded in those laws, to encourage trade or investment.

Article 12.6: Environmental Impact Assessment

1. Each Party shall maintain appropriate procedures for assessing the environmental impacts of proposed projects which may cause significant adverse effects on the environment, with a view to avoiding or minimizing such adverse effects.

2. Each Party shall ensure that its environmental assessment procedures provide for the disclosure of information to the public concerning proposed projects subject to assessment and, in accordance with its law, shall allow for public participation in such procedures.

Article 12.7: Public Awareness

Each Party shall promote public awareness of its environmental legislation by ensuring that relevant information is available to the public, including information about enforcement and compliance procedures.

Article 12.8: Private Access to Remedies

1. Each Party shall ensure that an interested person residing in or established in its territory may request the Party's competent authorities to investigate an alleged violation of its environmental laws and shall give such a request due consideration, in accordance with its law.

2. Each Party shall provide a person with a legally recognized interest in a particular matter under its legislation appropriate access to administrative, quasi-judicial or judicial proceedings for:

- (a) the enforcement of the Party's environmental laws; and
- (b) seeking remedies for a violation of those laws.

Article 12.9: Procedural Guarantees

1. Each Party shall ensure that an administrative, quasi-judicial or judicial proceeding referred to in Article 12.8.2 is fair, equitable and transparent and to this end shall ensure that the proceeding:

- (a) complies with due process of law;
 - (b) is open to the public, except if the administration of justice requires otherwise;
 - (c) entitles the parties to the proceeding to support or defend their respective positions and to present information or evidence;
- and

- (d) is not unnecessarily complicated and does not entail an unreasonable fee or time limit or an unwarranted delay.

2. Each Party shall provide that a final decision on the merits of the case in the proceeding is:

- (a) in writing and, if appropriate, states the reasons on which the decision is based;
- (b) made available without undue delay to the parties in the proceeding and, in accordance with its law, to the public; and
- (c) based on information or evidence presented by the parties to the proceeding.

3. Each Party shall further provide, as appropriate, that parties to the proceeding have the right, in accordance with its law, to seek review and, if warranted, correction or redetermination, of a final decision in the proceeding.

4. Each Party shall ensure that a tribunal that conducts or reviews the proceeding is impartial and independent, and does not have any substantial interest in the outcome of the matter.

Article 12.10: Corporate Social Responsibility

Recognizing the substantial benefits brought by international trade and investment, each Party shall encourage voluntary best practices

of corporate social responsibility by enterprises established in its territory or subject to its jurisdiction, to strengthen coherence between economic and environmental objectives.

Article 12.11: Measures to Enhance Environmental Performance

1. The Parties recognize that flexible, voluntary and incentive-based measures can contribute to the achievement and maintenance of a high level of environmental protection, complementing regulatory measures under environmental laws. In accordance with its law and policy, each Party shall promote the development and use of such measures.

2. In accordance with its law and policy, each Party shall promote the development, establishment, maintenance or improvement of performance goals and standards used in measuring environmental performance.

Article 12.12: National Contact Point

Each Party shall designate an official within the appropriate agency or ministry to serve as its National Contact Point and inform each other of this designation.

Article 12.13: Public Information and Accountability

1. An interested person residing in or established in the territory of either Party may submit a written question to either Party through its National Contact Point, indicating that the question is being submitted pursuant to this Article regarding a Party's obligations under this Chapter.

2. The Party receiving the question shall acknowledge the question in writing, forward the question to the appropriate authority and provide a response in a timely manner.

3. If an interested person submits a question to a Party that relates to the obligations of the other Party, the Party that receives the question shall, in a timely manner, provide to the other Party a copy of the question and its response referring the question to the other Party.

4. Each Party shall, in a timely manner, make publicly available all of the questions it receives and its responses to those questions.

Article 12.14: Party-to-Party Information Exchange

A Party may notify the other Party of, and provide to that Party, any credible information regarding a possible violation of, or failure to

effectively enforce its environmental laws. This information shall be specific and sufficient to allow the other Party to inquire into the matter. The notified Party shall take appropriate steps to make inquiries, in accordance with its law, and to respond to the other Party.

Article 12.15: Cooperative Activities

1. The Parties recognize that cooperation is an effective way to achieve the objectives and fulfill the obligations of this Chapter. Accordingly, and subject to the availability of resources, the Parties may develop programs of cooperative activities based on their respective priorities.
2. Each Party may involve the public, interested stakeholders and any other entity that the Party deems appropriate in activities undertaken pursuant to this Article.
3. The Parties shall strive to strengthen their cooperation on environmental issues in other bilateral, regional and multilateral forums in which they participate.

Article 12.16: Committee on the Environment

1. The Parties hereby establish a Committee on the Environment (Committee), composed of senior representatives of each Party. The Committee shall:

- (a) oversee and review the implementation of this Chapter, including any cooperative activity undertaken by the Parties;
- (b) discuss any matter of common interest; and
- (c) perform any other function the Parties may decide.

2. The Committee shall meet for the first time no later than one year following the entry into force of this Agreement and subsequently as mutually decided.

3. Canada shall notify the Committee of any declaration provided to Ukraine under paragraph 1 of Annex 12-B.

4. The Committee shall prepare a summary record of each meeting unless the Committee decides otherwise. The Committee may prepare reports and recommendations on any activity or action related to the implementation of this Chapter. A copy of these reports and recommendations shall be submitted to the Joint Commission for its consideration. These reports may include recommendations to update Annex 1-A – Multilateral Environmental Agreements.

5. Summary records, reports and recommendations of the Committee meetings shall be made available to the public, unless otherwise decided by the Parties.

Article 12.17: Review

- 1. The Committee shall consider undertaking a review of the implementation of this Chapter, with a view to improving its operation and effectiveness, within five years of the date of the entry into force of this Agreement.*
- 2. The Committee may provide for the participation of the public and independent experts in the review process.*
- 3. The Parties shall make the results of the review available to the public.*

Article 12.18: Public Engagement

- 1. Each Party shall inform the public of activities, including meetings of the Parties and cooperative activities, undertaken to implement this Chapter.*
- 2. Each Party shall endeavour to engage the public, as appropriate, in activities undertaken to implement this Chapter.*

Article 12.19: Disclosure of Information

This Chapter does not require a Party to release information that would be otherwise prohibited or exempt from disclosure under its legislation, including those concerning access to information and privacy.

Article 12.20: Relation to Other Environmental Agreements

This Chapter does not affect the existing rights and obligations of either Party under international environmental agreements.

Article 12.21: Dispute Resolution

- 1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter.*
- 2. The Parties shall make every attempt, through consultations and cooperation, to address any matter that might affect the operation of this Chapter.*
- 3. Consultations, including at the Ministerial level, are confidential and without prejudice to the rights of the Parties in any proceeding. Each Party shall ensure that information designated by either Party for treatment as confidential information, in particular personal or commercial information, is protected.*
- 4. A Party may request consultations with the other Party through the Committee regarding any matter arising under this Chapter by delivering a written request to the National Contact Point of the other Party. The request shall present the matter clearly, identify the question at issue and provide a brief summary of any claim under this*

Chapter. Consultations shall commence promptly after a Party delivers a request for consultations.

5. During the consultations, each Party shall provide the other with information in its possession sufficient to allow a full examination of the matters raised, subject to its legislation regarding access to information and privacy.

6. If the Parties fail to resolve the matter pursuant to paragraph 4, the requesting Party may request consultations with the other Party at the Ministerial level regarding any matter under this Chapter by delivering a written request to the National Contact Point of the other Party. The Party receiving the request shall respond expeditiously. Ministerial consultations shall be concluded within 120 days of a Party's receipt of the request unless the Parties decide on another date.

7. Following the conclusion of the Ministerial consultations, the requesting Party may request that a Review Panel be convened to examine the matter if it considers that the consultations have not satisfactorily addressed the matter by delivering a written request to the National Contact Point of the other Party.

8. Subject to the provisions of this Article, the Parties shall apply, as applicable and with such changes as may be necessary, Article 17.10

(Rules of Procedure), Annex 17-C (Rules of Procedure) and the Code of Conduct adopted pursuant to Article 17.9(e) (Qualification of Panellists), unless the Parties decide otherwise. If there is an inconsistency between these referenced provisions and this Chapter, the provisions of this Chapter shall prevail.

9. A Review Panel shall be established upon receipt of a request by the National Contact Point referred to in paragraph 7. Unless the Parties decide otherwise, the terms of reference of a Review Panel shall be:

“To examine, in light of the relevant provisions of Chapter 12 (Environment) of the Canada – Ukraine Free Trade Agreement, the matter referred to in the request for the establishment of the Review Panel, and to issue a report making recommendations for the resolution of the matter.” The procedures set out in Annex 12-A apply to the selection of panellists for matters under this Chapter.

10. Unless the Parties decide otherwise, a Review Panel shall perform its functions according to Annex 17-C (Rules of Procedure) and the Code of Conduct adopted pursuant to Article 17.9(e) (Qualification of Panellists), as applicable and with such changes as may be necessary. Notwithstanding these referenced provisions, a Review Panel shall ensure that:

- (a) each Party has the opportunity to provide written and oral submissions to the Review Panel;
- (b) a non-governmental organization, institution, or person in the territory of either Party with information or expertise relevant to the matter at issue has the opportunity to provide written submissions to the Review Panel; and
- (c) at least one hearing is held before the panel for each set of Review Panel proceedings, which shall be open to the public, subject to Article 12.21.3.

11. A Review Panel shall issue to the Parties an initial report and a final report, each setting out the findings of fact, its determinations as to whether the responding Party has complied with its obligations under this Chapter and the rationale behind any findings, determinations and recommendations that it makes.

12. A Review Panel shall submit the initial report to the Parties within 120 days of the date of selection of the last panellist or within another time period decided by the Parties.

13. The Parties may provide comments to a Review Panel on the initial report within 45 days of its submission to the Parties. After considering these comments, a Review Panel may reconsider its report or make any further examination it considers appropriate.

14. A Review Panel shall submit the final report to the Parties within 60 days of the submission of the initial report. Each Party shall make the final report publicly available within 30 days after it is submitted to the Parties.

15. If in the final report a Review Panel determines that a Party has not complied with its obligations under this Chapter, the Parties shall, within three months of the submission of that final report and taking into account that report, endeavour to consent to a mutually satisfactory action plan to address the matter. Any action plan developed by the Parties shall be made public without delay.

16. If the Parties reach a mutually agreed solution to a matter at any point after a Review Panel has been established, they shall notify the Review Panel of the solution. Upon the Review Panel's receipt of this notification, the panel procedure shall be terminated.

17. At any time, the Parties may have recourse to means of alternative dispute resolution to resolve a matter, including good offices, conciliation or mediation. Unless the Parties decide otherwise, alternative dispute resolution is confidential and without prejudice to the rights of the Parties in any proceeding.

Article 12.22: Extent of Obligations

For Canada, the application of this Chapter to the provinces of Canada is subject to Annex 12-B.

Annex 12-A: Panel Selection Procedures

1. A Review Panel shall be composed of three panellists, including a chair, appointed by the Parties.

2. For the purposes of selecting a Review Panel, the following procedures shall apply:

- (a) within 30 days of a Party's receipt of the request to establish a Review Panel, each Party shall select one panellist;*
- (b) if one Party fails to select a panellist within the period referred to in subparagraph (a), the other Party shall select the panellist from among qualified individuals who are nationals of the Party that failed to select its panellist within a further seven days; and*
- (c) the following procedures shall apply to the selection of the chair:*
 - (i) the Party that is the subject of the request shall provide the requesting Party with the names of three qualified candidates. These names shall be provided within 30 days of a Party's receipt of the request to establish the Review Panel;*

- (ii) the requesting Party may choose one of the three candidates in sub-subparagraph (i) to be the chair or, if no names were provided or none of the candidates are acceptable, provide the Party that is the subject of the request with the names of three candidates who are qualified to be the chair. Those names shall be provided no later than seven days after the receipt of names provided under sub-subparagraph (i) or 37 days after the receipt of the request for the establishment of the Review Panel, whichever is earlier; and
- (iii) the Party that is the subject of the request may choose one of the three candidates to be the chair within seven days of receiving the names under sub-subparagraph (ii), failing which the chair shall be selected by lot by the requesting Party from the six candidates proposed by the Parties pursuant to sub-subparagraphs (i) and (ii) within a further seven days.

3. Panellists shall:

- (a) be chosen based on their expertise in environmental matters or other appropriate disciplines, as well as on their objectivity, reliability and sound judgment; and
- (b) be independent of, and not be affiliated with or take instructions from, either Party.

4. If either Party believes that a panellist has violated the Code of Conduct adopted pursuant to Article 17.9(e) (Qualification of Panellists), the Parties shall consult and, if they so decide, that panellist shall be removed and a new panellist shall be selected in accordance with the procedures set out in this Annex. The applicable time limit listed in Article 2 shall run from the date of their decision to remove the panellist.

5. An individual may not serve as a panellist for a review in which he or she, or a person or organization with which he or she is affiliated, has an interest.

6. The chair shall not be a national of either Party.

Annex 12-B: Application to the Provinces of Canada

1. Following the entry into force of this Agreement, Canada shall provide to Ukraine through diplomatic channels a written declaration indicating the provinces for which Canada is to be bound by this Chapter in respect of matters within their jurisdiction. The declaration shall become effective on its date of receipt by Ukraine.

2. Canada shall use its best efforts to make this Chapter applicable to as many provinces as possible.

3. Canada shall notify Ukraine six months in advance of any modification to its declaration.

4. Canada may not request information or send a notification under Article 12.14, or request consultations under Article 12.21.4, at the instance of the government of a province not included in the declaration made under paragraph 1.

Chapter 13: Labour

Article 13.1: Definitions

For the purposes of this Chapter:

labour law means laws and regulations that implement and protect the labour principles and rights set out in Article 13.3;

persistent pattern means a sustained or recurring course of action or inaction beginning after the date of entry into force of this Agreement, but does not include a single instance or case;

person means a natural person, an enterprise, or an organization of employers or workers;

province means a province of Canada, and includes the Yukon, the Northwest Territories, and Nunavut, and their successors;

trade-related means related to trade or investment covered by this Agreement, provided that this term shall not be interpreted as including the public sector.

Article 13.2: Shared Commitments

The Parties affirm their obligations as members of the International Labour Organization (ILO) and their commitments to the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up of 1998*, adopted by the International Labour Conference at its 86th Session (ILO 1998 Declaration), as well as the *ILO Declaration on Social Justice for a Fair Globalization of 2008*, adopted by the International Labour Conference at its 97th Session (ILO 2008 Declaration).

Section A – Obligations

Article 13.3: General Commitments

1. Each Party shall ensure that its labour law and practices embody and provide protection for the following internationally recognized labour principles and rights, particularly bearing in mind their commitments as members of the ILO to the ILO 1998 Declaration:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour and, for the purposes of this Chapter, a prohibition on the worst forms of child labour;
- (d) the elimination of discrimination in respect of employment and occupation;
- (e) acceptable minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements;
- (f) the prevention of occupational injuries and illnesses, and compensation in cases of injuries or illnesses; and
- (g) non-discrimination in respect of working conditions for migrant workers.

2. To the extent that the principles and rights stated above relate to the ILO, paragraphs (a) to (d) refer only to the ILO 1998 Declaration, whereas paragraphs (e), (f), and (g) refer to the ILO's Decent Work Agenda.

Article 13.4: Non-Derogation

A Party shall not, as a means to encourage trade or investment, waive or otherwise derogate from, or offer to waive or otherwise derogate

from, its labour law in a manner that weakens or reduces adherence to the internationally recognized labour principles and rights referred to in Article 13.3.

Article 13.5: Government Enforcement Action

1. Each Party shall, subject to Article 13.17, promote compliance with and effectively enforce its labour law through appropriate government action, such as:

- (a) establishing and maintaining an effective labour inspection regime, including by developing responsible bodies and appointing and training inspectors;
- (b) monitoring compliance and investigating suspected violations, including through on-site inspections;
- (c) requiring record keeping and reporting;
- (d) encouraging the establishment of worker-management committees to address the regulation of labour in the workplace;
- (e) providing or encouraging mediation, conciliation and arbitration services; and
- (f) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labour law.

2. Each Party shall ensure that its competent authorities give due consideration, in accordance with its law, to any request by an employer, employee, or their representatives, or other interested person, for an investigation of an alleged violation of that Party's labour law.

Article 13.6: Private Action

Each Party shall ensure that a person with a recognized interest under its labour law in a particular matter has appropriate access to administrative or tribunal proceedings, which can enforce and give effect to the rights protected by that law, including by granting effective remedies for any breaches of that law.

Article 13.7: Procedural Guarantees

1. Each Party shall ensure that proceedings referred in Article 13.5.1(b), Article 13.5.1(f) and Article 13.6 are fair, equitable and transparent, and to this end each Party shall provide that:

- (a) proceedings are conducted by decision-makers who are impartial and independent, and do not have an interest in the outcome of the matter;
- (b) parties to the proceedings are entitled to support or defend their respective positions, and to present information or evidence;

- (c) decisions are based on information or evidence presented by the parties to the proceedings and final decisions on the merits of each case are in writing;
- (d) proceedings are open to the public, except when the law and the administration of justice require otherwise; and
- (e) proceedings are free and expeditious, or at least do not entail unreasonable fees or delays, and the time limits do not impede exercise of the rights.

2. Each Party shall provide that parties to these proceedings have the right, pursuant to its legislation, to seek review and correction of decisions issued in these proceedings.

Article 13.8: Public Information and Awareness

1. Each Party shall ensure that its labour law, as well as regulations, procedures and administrative rulings of general application respecting any matter covered by this Chapter are promptly published or otherwise made available in a manner that enables any interested person and the other Party to become acquainted with them.

2. When required by its law, each Party shall:

- (a) publish in advance any measure that it proposes to adopt;
and
- (b) provide any interested person with a reasonable opportunity to comment on these proposed measures.

3. Each Party shall promote public awareness of its labour law, including by:

- (a) ensuring the availability of public information related to its labour law and enforcement and compliance procedures; and
- (b) encouraging education of the public regarding its labour law.

Section B – Institutional Mechanisms

Article 13.9: Labour Ministerial Council

1. The Parties hereby establish a Labour Ministerial Council (Council) composed of Ministers responsible for labour affairs of the Parties, or their designees.

2. The Council shall meet within the first year after the date of entry into force of this Agreement and thereafter as often as it considers necessary, to discuss matters of common interest, and oversee the implementation of, and review progress under, this Chapter. The

Council may hold joint meetings with other Councils established under similar agreements.

3. Unless the Parties decide otherwise, each meeting of the Council shall include a session during which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of this Chapter.

4. The Council may consider any matter within the scope of this Chapter and take any other action in the exercise of its functions, including:

- (a) establishing and assigning responsibilities to committees, working groups, or expert groups; and*
- (b) seeking the advice of independent experts.*

5. The Council shall review the operation and effectiveness of this Chapter, including the degree to which progress has been made in implementing the objectives of this Chapter, within five years after the date of entry into force of this Agreement and thereafter within any other period as may be decided by the Council. Unless otherwise agreed, this review:

- (a) shall be conducted by one or more independent experts subject to the availability of resources. The Parties shall make every*

effort to decide on the selection of the expert or experts, and shall cooperate with the expert or experts in the preparation of the report;

- (b) shall include a literature review and consultation with the members of the public, including representatives of labour and business organizations, as well as an opportunity for the Parties to provide comments;*
- (c) shall make recommendations for the future; and*
- (d) shall be concluded within 180 days of its commencement and made public 30 days thereafter.*

Article 13.10: National Mechanisms

1. Each Party may convene a new, or consult an existing, national labour advisory or consultative committee, composed of members of its public, including representatives of its labour and business organizations, to provide views on any issue related to this Chapter.

2. Each Party shall establish an office or designate an existing office within its ministry responsible for labour affairs that shall serve as a National Administrative Office (NAO), and provide to the other Party its contact information through diplomatic channels.

3. The NAO shall serve as a point of contact with the other Party and perform the functions assigned by that Party or the Council, as well as:

- (a) coordinate cooperative programs and activities pursuant to Article 13.11;
- (b) receive and review public communications pursuant to Article 13.12; and
- (c) provide information to the other Party, a Review Panel established under Article 13.15, and the public.

Article 13.11: Cooperative Activities

1. The Parties may develop a plan of action for cooperative labour activities for the promotion of the objectives of this Chapter. To the extent possible, those activities shall be linked to any recommendation in any Council report referred to in Article 13.9. An indicative list of areas of possible cooperation between the Parties is set out in Annex 13-A to this Chapter.

2. In carrying out the plan of action, the Parties may, commensurate with the availability of resources, cooperate through:

- (a) seminars, training sessions, working groups and conferences;
- (b) joint research projects, including sector studies; and

- (c) other means by which the Parties may decide.

3. The Parties shall carry out the cooperative activities with due regard to the differences that exist with respect to each Party's national conditions, circumstances and needs, including with respect to their economies, their social and cultural traditions and their legal framework.

Article 13.12: Public Communications

1. Each Party shall provide for the submission and receipt of public communications on labour law matters that:

- (a) are raised by a national of the Party or by an enterprise or organization established in the territory of the Party;
- (b) arise in the territory of the other Party; and
- (c) pertain to any matter related to this Chapter.

2. Each Party shall review these matters, as appropriate, in accordance with domestic procedures, and notify the public of communications accepted for review within 30 days of acceptance.

Article 13.13: General Consultations

1. The Parties shall at all times endeavour to come to an understanding on the interpretation and application of this Chapter.

2. The Parties shall make every attempt, including through cooperation, consultations, and the exchange of information, to address any matter that might affect the operation of this Chapter.
3. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the NAO of the other Party.
4. If the Parties fail to resolve the matter, the requesting Party may use the procedures provided under Article 13.14.

Section C – Procedures for Labour Consultations and Dispute Settlement

Article 13.14: Ministerial Consultations

1. A Party may request, in writing, consultations with the other Party at the ministerial level regarding any obligation under this Chapter. The Party that is the subject of the request shall respond within 60 days of receipt of the request, or within any other period that the Parties may decide. The Parties shall be represented by the Council established under Article 13.9.
2. To facilitate discussion of a matter under consideration and assist in arriving at a mutually satisfactory resolution:

- (a) each Party shall provide the other Party with sufficient information in its possession to allow a full examination of the matter raised, subject to a requirement in its law regarding the confidentiality of personal and commercial information; and
- (b) each Party may call upon one or more independent experts to prepare a report on a matter referred to in this Article. The Parties shall make every effort to decide on the selection of the expert or experts, and shall cooperate with the expert or experts in the preparation of the report. Any report shall be made public within 60 days of its receipt by the Parties.

3. Ministerial consultations shall be concluded no later than 180 days after the receipt of the request unless the Parties decide on another date.

Article 13.15: Establishment and Conduct of a Review Panel

1. Following the conclusion of Ministerial Consultations, the Party that requested the consultations may request, in writing, that a Review Panel be established if that Party considers that:

- (a) the matter is trade-related; and
- (b) the other Party has failed to comply with an obligation under this Chapter through:

- (i) a failure to comply with an obligation under Article 13.3 or Article 13.4 to the extent that they refer to the ILO 1998 Declaration; or
- (ii) a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private action, procedural guarantees, or public information and awareness.

2. Unless the Parties decide otherwise, a Review Panel composed of three independent experts, including a chairperson who is not a national of either Party, shall be established in a manner consistent with the criteria and procedures set out in Annex 13-B.

3. Unless the Parties decide otherwise, the Review Panel shall perform its functions in accordance with the provisions of this Part, Annex 13-B and the Model Rules of Procedure to be established by the Parties further to Annex 13-B. The Review Panel:

- (a) shall determine, within 30 days of confirmation of its terms of reference, whether the matter is trade-related and cease its functions if it determines that the matter is not trade-related;
- (b) shall provide the Parties with sufficient opportunity to make written and oral submissions to the Review Panel;

- (c) may consider written submissions and any other information sought or received from organizations, institutions, the public and persons with relevant information or expertise; and
- (d) shall hold proceedings that are open to the public, except to the extent necessary to protect information in accordance with Article 13.19 and the Model Rules of Procedure.

Article 13.16: Review Panel Reports and Determinations

1. The Review Panel shall present to the Parties a report that:

- (a) makes findings of fact;
- (b) addresses the submissions and arguments of the Parties and any relevant information considered pursuant to Article 13.15.3(c);
- (c) determines whether the Party that is the subject of the review has failed to comply with an obligation under Article 13.3 or Article 13.4 to the extent that they refer to the ILO 1998 Declaration or a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private action, procedural guarantees, public information and awareness, or any other determination requested in the terms of reference; and

- (d) makes a recommendation for resolution of any non-compliance determined under sub-paragraph (c), which normally shall be that the Party that is the subject of the review adopt and implement an action plan sufficient to remedy the pattern of non-compliance.

2. The Review Panel shall present its initial report to the Parties within 120 days after the last panellist is selected unless the Review Panel extends the time period by up to a further 60 days or the Model Rules of Procedure to be established by the Parties further to Annex 13-B provide otherwise. If the Review Panel extends the time period, it shall first give written notice to both Parties setting out the reasons for the extension of time.

3. Each Party may submit written comments to the Review Panel on its initial report within 30 days of presentation of the report or within any other period as the Parties may decide. After considering these written comments, the Review Panel, on its own initiative or at the request of either Party, may reconsider its report and make any further examination that it considers appropriate.

4. The Review Panel shall present to the Parties a final report within 60 days of the presentation of the initial report, unless the Parties

decide otherwise. The final report shall be made public within 60 days of its receipt by the Parties.

5. If, in the final report, a Review Panel determines that there has been non-compliance within the meaning of sub-paragraph 1(c), the Parties may develop, within the following 90 days, or any longer period as they may decide, a mutually satisfactory action plan to implement the Review Panel's recommendations.

6. Following the expiry of the period set out in paragraph 5, if the Parties are unable to decide on an action plan, or the Party that is the subject of the review is failing to adopt or implement the action plan according to its terms, the requesting Party may request in writing that the Review Panel be reconvened with a view to determining whether or not a monetary assessment needs to be set and paid in accordance with Annex 13-C.

Section D – General Provisions

Article 13.17: Enforcement Principle

This Chapter does not empower a Party's authorities to undertake any action aiming at labour law enforcement in the territory of the other Party.

Article 13.18: Private Rights

A Party shall not provide for a right of action under its law against the other Party on the ground that the other Party has acted in a manner inconsistent with this Chapter.

Article 13.19: Protection of Information

1. A Party that receives information identified by the other Party as confidential or proprietary information shall protect such information as confidential or proprietary.

2. A Review Panel that receives confidential or proprietary information under this Chapter shall protect it in accordance with the Model Rules of Procedure to be established by the Parties further to Annex 13-B.

Article 13.20: Cooperation with International and Regional Organizations

The Parties may establish a cooperative arrangement with the ILO, or any other competent international or regional organization to draw on their expertise and resources to achieve the objectives of this Chapter.

Article 13.21: Review

The provisions of this Chapter shall be reviewed pursuant to Article 19.2 (Review Clause).

Annex 13-A: Cooperative Activities

1. The Parties have established the following indicative list of areas for cooperative activities that they may develop pursuant to Article 13.11:

- (a) information sharing: exchanging of information and sharing of best practices on issues of common interest and on relevant events, activities, and initiatives organized in their respective territories;*
- (b) international forums: cooperation within international and regional forums such as the ILO on labour-related issues;*
- (c) fundamental rights and their effective application: legislation and practice related to the core elements of the ILO 1998 Declaration (freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation);*
- (d) worst forms of child labour: legislation and practice related to compliance with the ILO Convention concerning the Prohibition*

and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), done at Geneva, on 17 June 1999;

- (e) labour administration: institutional capacity of labour administrations and tribunals;
- (f) labour inspectorates and inspection systems: methods and training to improve the level and efficiency of labour law enforcement, strengthen labour inspection systems, and help ensure compliance with labour laws;
- (g) labour relations: forms of cooperation and dispute resolution to ensure productive labour relations among workers, employers, and governments;
- (h) working conditions: mechanisms for supervising compliance with legislation pertaining to hours of work, minimum wages and overtime, and employment conditions;
- (i) occupational safety and health: prevention of occupational injuries and illnesses;
- (j) gender: gender issues, including the elimination of discrimination in respect of employment and occupation;
- (k) informal economy: facilitating transition from the informal to the formal economy; and
- (l) any other matter that the Parties may decide.

2. In identifying areas for labour cooperation and capacity building, and in carrying out cooperative activities, each Party may consider the views of its worker and employer representatives, as well as those of other members of the public.

Annex 13-B: Procedures Related to Review Panels

Qualifications of Panellists

1. Each Panellist shall:

- (a) be chosen on the basis of expertise in labour matters or other appropriate disciplines, objectivity, reliability and sound judgment;
- (b) be independent of, and not be affiliated with or take instructions from, either Party; and
- (c) comply with a code of conduct to be established by the Parties pursuant to this Annex.

2. If either Party believes that a panellist is in violation of the Code of Conduct, the Parties shall consult and, if they decide that the panellist shall be removed, a new panellist shall be selected in accordance with the procedures set out in paragraph 4 or 5 that were used to select the panellist who was removed. The time limits shall run from the date of the removal of the panellist. The Model Rules of Procedure may

provide procedures for resolving the situation if the Parties cannot decide.

3. Individuals shall not serve as panellists with respect to a review in which they have an interest, or if a person or organization with which they are affiliated has an interest.

Review Panel Selection Procedures

4. For the purposes of selecting a panellist, the following procedures shall apply:

- (a) within 20 days of the receipt of the request for the establishment of a Review Panel under Article 13.15.1, each Party shall select one panellist; and*
- (b) if one Party fails to select its panellist within this period, the other Party shall select the panellist from among qualified individuals who are nationals of the Party that has failed to select its panellist.*

5. For the purposes of selecting the chairperson, the following procedures shall apply:

- (a) the Party that is the subject of the review shall provide the Party that made the request with the names of three individuals who it considers to be qualified to be the chairperson. The names*

shall be provided no later than 20 days after the receipt of the request for the establishment of the Review Panel under Article 13.15.1;

- (b) the requesting Party may choose one of the individuals to be the chairperson or, if the names were not provided or none of the individuals is acceptable, provide the Party that is the subject of the review with the names of three individuals who it considers to be qualified to be the chairperson. Those names shall be provided no later than five days after receiving the names under sub-paragraph (a) or 25 days after the receipt of the request for the establishment of the Review Panel; and
- (c) the Party that is the subject of the review may choose one of the three individuals to be the chairperson, no later than five days after receiving the names under sub-paragraph (b), failing which either Party shall immediately request the Director General of the International Labour Office to appoint a chairperson within 25 days.

Conduct of the Review Panel

6. The Parties shall, within one year after the date of entry into force of this Agreement, establish Model Rules of Procedure, that shall be used for the establishment and conduct of proceedings under Section

C. The Model Rules of Procedure shall include a code of conduct for the purposes of paragraph 1 and rules for the protection of information under Article 13.19.

7. The Parties shall determine a separate budget for each set of Review Panel proceedings under this Chapter. The Parties shall contribute equally to the budget, unless they decide otherwise.

8. Unless the Parties decide otherwise, within 30 days of the establishment of the Review Panel, the terms of reference shall be:

- “To examine, in light of the relevant provisions of this Chapter, whether the Party that is the subject of the request has, in a trade-related matter, failed to comply with its obligations under Article 13.3 or Article 13.4 to the extent that they refer to the ILO 1998 Declaration, or engaged in a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private action, procedural guarantees, or public information and awareness, and to make a finding, determination, and recommendation in accordance with paragraph 1 of Article 13.16.”*

9. For a determination under Article 13.15.3(a) whether the matter is trade-related, the requesting Party has the onus of establishing that the matter is trade-related. For a determination under Article

13.16.1(c) whether the Party that is the subject of the request has failed to comply with its obligations, the requesting Party has the onus of establishing that non-compliance, and its case may be supplemented by any other information provided under Article 13.15.3(c).

10. A Review Panel shall not release the final report other than to the Parties. A Panellist may furnish a separate opinion on a matter not unanimously agreed. A Review Panel, however, shall not disclose which panellists are associated with a majority or minority opinion.

Annex 13-C: Monetary Assessments

1. The Review Panel shall reconvene as soon as possible after delivery of the request pursuant to Article 13.16.6. Within 90 days after being reconvened, the Review Panel shall determine whether the terms of the action plan have been implemented or the non-compliance remedied.

2. In the event of a negative determination under paragraph 1, and at the request of the requesting Party under Article 13.16.6, the Review Panel shall provide a monetary assessment payable on an annual basis, that reflects a determination of the estimated costs of implementing the action plan, or in the absence of an action plan,

other appropriate measures to remedy the non-compliance provided that:

- *(a) the Review Panel may adjust the assessment to reflect:*
 - *(i) any mitigating factors, such as good faith efforts made by the Party to begin remedying the non-compliance after the final report of the Review Panel, good faith reasons for the Party's failure to comply with its obligations, or a real likelihood that the cost of the assessment would have a negative impact on vulnerable members of society;*
 - *(ii) any aggravating factors, such as the pervasiveness and duration of the Party's failure to comply with its obligations; or*
 - *(iii) the Party's national conditions, circumstances and needs; and*
- *(b) in no circumstances shall the monetary assessment exceed \$15 million U.S. dollars annually, or its equivalent in the currency of the Party that is the subject of the review, adjusted to the rate of inflation of that Party.*

3. Unless the Council decides otherwise, a monetary assessment shall be paid to the requesting Party. When the circumstances warrant, the Council may decide that an assessment shall be paid into an

interest-bearing account designated by the Council and shall be expended at the direction of the Council to implement the action plan or other appropriate measures.

4. After the expiry of 90 days from the date on which the Review Panel determines the amount of the monetary assessment under paragraph 2, the requesting Party may provide the Party that is the subject of the review with a notice in writing demanding payment of the monetary assessment. The monetary assessment shall be paid in equal quarterly instalments, beginning 120 days after the requesting Party provides the notice, and ending upon a decision of the Parties, or upon the date of any Review Panel determination under paragraph 5.

5. If the Party that is the subject of the review considers that it has eliminated the non-compliance, it may refer the matter to the Review Panel by providing written notice to the requesting Party. The Review Panel shall be reconvened within 60 days of that notice and issue its report within 90 days thereafter.

6. In Canada, the procedures for enforcement of the monetary assessment resulting from a Review Panel determination under paragraph 2 shall be the following:

- (a) Ukraine may file in a court of competent jurisdiction a certified copy of a Review Panel determination only if Canada has failed to comply with the terms of a notice provided under paragraph 4 within 180 days of it being provided;
- (b) when filed, the Review Panel determination, for purposes of enforcement, shall become an order of the court;
- (c) Ukraine may take proceedings for enforcement of a Review Panel determination that is made an order of the court, in that court, against the person in Canada against whom the Review Panel determination is addressed in accordance with paragraph 4 of Annex 13-D;
- (d) proceedings to enforce a Review Panel determination that has been made an order of the court shall be conducted in Canada by way of summary proceedings, provided that the court shall promptly refer any question of fact or interpretation of the Review Panel determination to the Review Panel that made the determination, and the decision of the Review Panel shall be binding on the court;
- (e) a Review Panel determination that has been made an order of the court shall not be subject to domestic review or appeal; and

- (f) an order made by the court in proceedings to enforce a Review Panel determination that has been made an order of the court shall not be subject to review or appeal.

7. If Ukraine has failed to comply with a notice provided under paragraph 4 within 180 days of it being provided, the procedures for the enforcement of the monetary assessment resulting from a Review Panel determination under paragraph 2 shall be executed in Ukraine as follows:

- (a) Ukraine shall deem a Review Panel determination as a binding foreign arbitral award within the meaning of the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done in New York, on 10 June 1958, and shall recognize and enforce it as such;
- (b) a Review Panel determination shall be deemed to be the result of a valid arbitration agreement; and
- (c) a competent Ukrainian court may refuse to recognize and enforce the Review Panel determination only on the grounds provided for in this Chapter.

8. If a Party makes a change to its domestic procedures for enforcement under paragraph 6 or 7 that has the effect of

undermining the provisions of this Annex, that Party shall be considered to be in violation of this Chapter.

Annex 13-D: Extent of Obligations

1. At the time of entry into force of this Agreement, Canada shall notify Ukraine, through diplomatic channels, a written declaration with a list of any provinces for which Canada is to be bound in respect of matters within their jurisdiction. The declaration shall be effective on the date of receipt by Ukraine, and shall carry no implication as to the internal distribution of powers within Canada. Canada shall notify Ukraine of any modification to its declaration, which shall take effect six months thereafter, subject to any outstanding public communications, Ministerial review or Review Panels.

2. Canada shall not request the establishment of a Review Panel under Section C at the request of the government of a province not included in the declaration provided under paragraph 1.

3. Ukraine shall not request the establishment of a Review Panel under Section C concerning a matter related to a labour law of a province unless that province is included in the declaration provided under paragraph 1.

4. Canada shall, no later than the date on which a Review Panel is established pursuant to Article 13.15 respecting a matter within the scope of paragraph 3, notify Ukraine in writing of whether any recommendation of a Review Panel in a report under Article 13.16 or any monetary assessment imposed by a Review Panel under Annex 13-C with respect to Canada shall be addressed to Her Majesty in right of Canada or Her Majesty in right of the province concerned.

5. Canada shall make its best efforts to have as many of its provinces as possible accept to be added to the declaration referred in paragraph 1.

Chapter 14: Transparency

Section A – Publication, Notification and Administration of Laws

Article 14.1: Definitions

For the purposes of this Section:

ruling of general application means an administrative ruling or interpretation applying to situations of fact and persons falling within the general scope of that ruling or interpretation and establishing a norm of conduct but does not include:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

Article 14.2: Publication

1. Each Party shall ensure that its legislation, procedures and administrative rulings of general application respecting a matter covered by this Agreement are promptly published or made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent possible, each Party shall:

- (a) publish in advance any measure that it proposes to adopt; and
- (b) provide interested persons and the other Party a reasonable opportunity to comment on those proposed measures.

Article 14.3: Notification and Provision of Information

1. To the extent possible, each Party shall notify the other Party of an actual or proposed measure that the Party considers might materially

affect the operation of this Agreement or substantially affect the other Party's interests under this Agreement.

2. At the request of the other Party, a Party shall promptly provide information and respond to questions pertaining to an actual or proposed measure, even if the Party was previously notified of that measure.

3. Any notification or information provided pursuant to this Article is without prejudice as to whether the measure is consistent with this Agreement.

Article 14.4: Administrative Proceedings

In order to ensure that measures of general application affecting matters covered by this Agreement are applied in a consistent, impartial and reasonable manner, each Party shall ensure that in its administrative proceedings where the measures referred to in Article 14.2 are applied to particular persons, goods or services of the other Party:

- (a) if possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with that Party's domestic procedures, when a proceeding is initiated, including a description of the nature of the*

proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of the issues in question;

- (b) a person referred to in sub-paragraph (a) are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to a final administrative action, when permitted by time, the nature of the proceeding, and the public interest; and*
- (c) the administrative procedures are in accordance with the law of each Party.*

Article 14.5: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative bodies or procedures for the purpose of prompt review and, if warranted, correction of final administrative actions in matters covered by this Agreement. Each Party shall ensure that its respective bodies are impartial and independent of the office or authority entrusted with administrative enforcement and do not have a substantial interest in the outcome of the matter.

2. Each Party shall ensure that the parties to the administrative proceedings, referred to in paragraph 1, have the right to:

- (a) a reasonable opportunity to support or defend their respective positions; and
- (b) a decision based on the evidence and submissions of record or, if required by Party's legislation, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or review as provided in its legislation, that decisions referred to in paragraph 3(b) are implemented by, and govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article 14.6: Cooperation on Promoting Increased Transparency

The Parties agree to cooperate in bilateral, regional and multilateral fora on ways to promote transparency in respect of international trade and investment.

Section B – Anti-Corruption

Article 14.7: Definitions

For the purposes of this Section:

foreign public official means a person holding a legislative, executive, administrative, or judicial office of a foreign country, whether

appointed or elected, and a person exercising a public function for a foreign country, including for a public agency or public enterprise;

official of a public international organization means an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;

public official means a person:

- *(a) holding a legislative, executive, administrative or judicial office of a Party;*
 - *(i) whether appointed or elected;*
 - *(ii) whether permanent or temporary;*
 - *(iii) whether paid or unpaid; and*
 - *(iv) irrespective of that person's seniority,*
- *(b) who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the Party and as applied in the pertinent area of law of that Party; or*
- *(c) defined as a "public official" in domestic law of a Party.*

Article 14.8: Statement of Principles

The Parties affirm their resolve to prevent and combat bribery and corruption in international trade and investment.

Article 14.9: Anti-Corruption Measures

1. With a view to preventing and combating bribery and corruption in international trade and investment, each Party shall adopt or maintain the legislative or other measures as may be necessary to establish as criminal offences:

- (a) the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official themselves or another person or entity, in order that the official act or refrain from acting in the exercise of their official duties;*
- (b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official or another person or entity, in order that the official act or refrain from acting in the exercise of their official duties;*
- (c) the promise of, offering of or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official themselves or another person or entity, in order that the official act or refrain from acting in the exercise of their official duties, in order to obtain*

or retain business or other undue advantage in relation to the conduct of international business; and

- (d) aiding, abetting or conspiring to commit any of the offences described in sub-paragraphs (a) through (c).

2. Each Party shall adopt such measures as may be necessary to establish its jurisdiction over criminal offences referred to in paragraph 1 that are committed in its territory.

3. Each Party shall ensure that its sanctions for offences referred to in paragraph 1 take into account the gravity of that offence.

4. Each Party shall adopt such measures as may be necessary consistent with its legal principles, to establish the liability of enterprises for participation in the offences referred to in paragraph

1. In particular, each Party shall ensure that enterprises held liable for an offence under this Section are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

5. Each Party shall consider incorporating in its domestic legal system at the national level appropriate measures to provide protection against any unjustified treatment of a person who reports, in good faith and on reasonable grounds, facts to the competent authorities concerning offences referred to in paragraph 1.

Article 14.10: Cooperation in International Fora

The Parties recognize the importance of regional and multilateral initiatives to prevent and combat bribery and corruption in international trade and investment. The Parties agree to work together to advance efforts in regional and multilateral fora to prevent and combat bribery and corruption in international trade and investment, including encouraging and supporting appropriate initiatives.

Chapter 15: Trade-related cooperation

Article 15.1: Trade-Related Cooperation

1. Recognizing that trade-related cooperation is a catalyst for the reforms and investments necessary to foster trade-driven economic growth and adjustment to liberalized trade, the Parties undertake to promote trade-related cooperation, with the following objectives:

- (a) to strengthen the capacities of the Parties to maximize the opportunities and benefits deriving from this Agreement;
- (b) to strengthen and develop cooperation at a bilateral, regional or multilateral level;

- (c) to foster new trade and investment opportunities in areas of mutual interest such as those relating to science, technology and innovation; and
- (d) to promote sustainable economic development, with an emphasis on small and medium-sized enterprises.

2. Trade-related cooperation may include:

- (a) exchange of information, transfer and exchange of expertise and training, such as facilitating exchange visits of researchers, experts, specialists and private sector representatives;
- (b) joint activities such as joint studies and joint research concerning issues relating to this Agreement;
- (c) transfer of technology, skills and practices;
- (d) institutional assistance and capacity-building such as through training seminars, workshops, conferences and internships;
- (e) participation in international activities; and
- (f) any other means of cooperation as jointly decided by the Parties.

3. Trade-related cooperation may build on previous cooperation activities, and may include the subject matters set out in the indicative list in Annex 15-A.

4. The provisions of this Chapter are cooperative and are not subject to dispute settlement under Chapter 17 of this Agreement.

Article 15.2: Contact Points

1. Each Party designates a Contact Point to facilitate communication concerning the implementation of this Chapter.

2. The Contact Points may jointly work to establish guidelines for conducting their work and coordinate with other contact points and committees established under this Agreement, as required, on trade-related cooperation pursuant to the objectives of this Chapter.

3. The Contact Points may communicate by electronic mail, video-conferencing or any other means as decided by the Parties.

4. The Contact Points are:

- (a) For Ukraine:
-
- Director of International trade-economic
- Cooperation and European integration,
- Ministry of Economic Development and Trade of Ukraine,
- 12/2 M. Grushevs'kyi Street, Kyiv, 01008, Ukraine

- (b) For Canada:
-
- Director, Head of Development Cooperation
- Kyiv, Ukraine
- Embassy of Canada to Ukraine
- Government of Canada

Annex 15-A: Indicative List of Potential Subject Matters for Trade-Related Cooperation

1. Support for Small and Medium-sized Enterprises (SMEs)
2. Agriculture
3. Standard-setting

Chapter 16: Administration of the agreement

Article 16.1: Joint Commission

1. The Parties hereby establish the Joint Commission, composed of representatives at the Ministerial level or their designees.
2. The Joint Commission shall:
 - (a) supervise the implementation of this Agreement;
 - (b) review the general functioning of this Agreement;
 - (c) oversee the further elaboration of this Agreement;

- (d) supervise the work of all committees and subcommittees established under this Agreement referred to in Articles 1 and 2 of Annex 16-A and any other bodies established under paragraph 6; and
- (e) consider any other matter that may affect the operation of this Agreement.

3. The Joint Commission may:

- (a) adopt interpretive decisions concerning this Agreement binding on panels established under Article 17.7 (Establishment of a Panel);
- (b) seek the advice of non-governmental persons or groups;
- (c) take any other action in the exercise of its functions as the Parties may decide;
- (d) further the implementation of the objectives of this Agreement by approving any revisions of:
 - (i) a Party's Schedule to Annex 2-B (Tariff Elimination) with the purpose of adding one or more goods excluded in the Tariff Elimination Schedule;
 - (ii) the phase-out periods established in Annex 2-B (Tariff Elimination), with the purpose of accelerating the tariff reduction;

- (iii) the product-specific rules of origin established in Annex 3-A (Product-Specific Rules of Origin); and
- (iv) the procuring entities listed on a Party's schedule in Annex 10-A (Central Government Entities) and Annex 10-B (Other Entities);
- (e) consider any amendments or modifications to the rights and obligations under this Agreement; and
- (f) establish the amount of remuneration and expenses that will be paid to panellists.

4. At the Request of the Committee on the Environment established under Chapter 12 (Environment), the Joint Commission may revise Annex 1-A (Multilateral Environmental Agreements) to include other multilateral environmental agreements, or to remove a multilateral environmental agreement listed in that Annex.

5. The revisions referred to in subparagraph 3(d) and paragraph 4 shall be subject to the completion of any necessary legal procedures of either Party.

6. The Joint Commission may establish and delegate responsibilities to committees, subcommittees or working groups. Unless otherwise provided in this Agreement, the committees, subcommittees and working groups shall work under a mandate recommended by the

Agreement Coordinators referred to in Article 16.2 and approved by the Joint Commission.

7. The Joint Commission shall establish its rules and procedures.

Decisions of the Commission shall be taken by mutual consent.

8. The Joint Commission shall convene once a year or upon the request in writing of either Party. Unless otherwise decided by the Parties, sessions of the Joint Commission shall be held alternately in the territory of each Party or by any technological means available.

Article 16.2: Agreement Coordinators

1. Each Party shall appoint an Agreement Coordinator and notify the other Party within 60 days following the entry into force of this Agreement.

2. The Agreement Coordinators shall jointly:

- (a) monitor the work of all bodies established under this Agreement, referred to in Annex 16-A and any other bodies established under Article 16.1.6, including communications relating to successors to those bodies;*
- (b) recommend to the Joint Commission the establishment of bodies that they consider necessary to assist the Joint Commission;*
- (c) coordinate preparations for Joint Commission meetings;*

- (d) follow up on any decisions taken by the Joint Commission, as appropriate;
- (e) receive notifications and information provided pursuant to this Agreement and, as necessary, facilitate communications between the Parties on any matter covered by this Agreement; and
- (f) consider any other matter that may affect the operation of this Agreement as mandated by the Joint Commission.

3. The Coordinators shall meet as often as required.

4. A Party may request in writing at any time that a special meeting of the Coordinators be held. This meeting shall take place within 30 days of receipt of the request by the other Party.

Annex 16-A: Committees, Subcommittees and Other Bodies

1. The Committees established are the:

- (a) Committee on Trade in Goods and Rules of Origin (Article 2.13); and
- (b) Committee on Intellectual Property (Article 11.12).

2. The Subcommittees established are the:

- (a) Subcommittee on Agriculture (Article 2.13.4); and

- (b) Subcommittee on Origin Procedures (Article 3.31).

3. Other bodies established are the:

- (a) Labour Ministerial Council (Article 13.9); and
- (b) Committee on the Environment (Article 12.16).

4. Contact points are established by:

- (a) Chapter 2 (National Treatment and Market Access, Article 3(i) of Annex 2-B (Tariff Elimination);
- (b) Chapter 6 (Sanitary and Phytosanitary Measures), Article 6.3 (Sanitary and Phytosanitary Contact Points);
- (c) Chapter 7 (Technical Barriers to Trade), Article 7.8 (Chapter Contact Points);
- (d) Chapter 11 (Intellectual Property), Article 11.11 (Designation of Contact Points);
- (e) Chapter 12 (Environment), Article 12.12 (National Contact Point);
- (f) Chapter 13 (Labour), Article 13.10 (National Mechanisms);
and
- (g) Chapter 15 (Trade Related Cooperation), Article 15.2 (Contact Points)

Chapter 17: Dispute Settlement

Section A – State to State Dispute Settlement

Article 17.1: Definitions

For the purposes of this Chapter:

complaining Party means a Party that requests the establishment of a panel under Article 17.7;

panel means a panel established under Article 17.7; and

Party complained against means the Party that receives the request for the establishment of a panel under Article 17.7.

Article 17.2: Cooperation

The Parties shall endeavour to come to an understanding on the interpretation and application of this Agreement, and attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of a matter that may affect its operation.

Article 17.3: Scope and Coverage

1. Except for matters arising under Chapters 6 (Sanitary and Phytosanitary Measures), 11 (Intellectual Property), 12 (Environment) and 13 (Labour), 15 (Trade Related Cooperation) and Article 9.2 of Chapter 9 (Competition Policy, Monopolies and State Enterprises) and as otherwise provided under this Agreement, the

dispute settlement provisions of this Chapter apply with respect to the settlement of disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that:

- (a) an actual or proposed measure of the other Party is or would be inconsistent with one of its obligations under this Agreement;*
- (b) the other Party has otherwise failed to carry out one of its obligations under this Agreement; or*
- (c) there is nullification or impairment within the meaning of Annex 17-A (Nullification and Impairment).*

2. Annex 17-B (Dispute Settlement for Anti-Corruption) applies to a dispute arising under Section B of Chapter 14 (Transparency). Except as set out in the Annex 17-B, Articles 17.4 through 17.14 do not apply to that dispute.

Article 17.4: Choice of Forum

1. Subject to paragraph 2, a dispute regarding a matter arising under both this Agreement and the WTO Agreement or any other free trade agreement to which both Parties are party may be settled in a forum designated under the terms of one of these agreements at the discretion of the complaining Party.

2. Notwithstanding paragraph 1, if a Party complained against claims that a measure is subject to Article 1.3 (Relation to Environmental and Conservation Agreements) and requests in writing that the matter be considered under this Agreement, the complaining Party may resort only to the dispute settlement procedures under this Agreement.

3. If the complaining Party requests the establishment of a dispute settlement panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the other, unless the Party complained against makes a request pursuant to paragraph 2.

Article 17.5: Consultations

1. A Party may request, in writing, consultations with the other Party regarding a matter referred to in Article 17.3.

2. The Party requesting consultations shall deliver the request to the other Party, setting out the reasons for the request, identifying the measure or matter at issue under Article 17.3 and indicating the legal basis for the complaint.

3. Subject to paragraph 4, the Parties, unless they otherwise decide, shall enter into consultations within 30 days of the date of receipt of the request by the other Party.

4. In urgent cases, including those involving a good or service that rapidly loses its trade value, such as perishable goods, consultations shall commence within 15 days of the date of receipt of the request by the other Party.

5. The requesting Party may request that the other Party make available personnel of its governmental agencies or other regulatory bodies with expertise in the subject matter of the consultations.

6. The Parties shall attempt to arrive at a mutually satisfactory resolution of a matter through consultations under this Article. To this end, each Party shall:

- (a) provide sufficient information for a full examination of the measure or matter at issue; and
- (b) treat as confidential any information, including proprietary information, received in the course of consultations that is designated as confidential by the Party providing the information.

7. Consultations are confidential and without prejudice to the rights of the Parties in proceedings under this Chapter.

8. Consultations may be held in person or by another means that the Parties decide.

Article 17.6: Good Offices, Conciliation and Mediation

1. The Parties, at any time, may decide to undertake an alternative method of dispute resolution, such as good offices, conciliation or mediation.
2. The Parties shall conduct alternative methods of dispute resolution according to procedures on which they decide.
3. Either Party, at any time, may begin, suspend or terminate proceedings established under this Article.
4. Proceedings involving good offices, conciliation and mediation are confidential and without prejudice to the rights of the Parties in other proceedings.

Article 17.7: Establishment of a Panel

1. Unless the Parties decide otherwise, the complaining Party may refer the matter to a dispute settlement panel if a matter referred to in Article 17.5 has not been resolved:
 - (a) within 45 days of the date of receipt of the request for consultations; or
 - (b) within 25 days of the date of receipt of the request for consultations for matters referred to in Article 17.5(4).
2. The complaining Party shall deliver the written request for panel establishment to the Party complained against, indicating the reason

for the request, identifying the specific measure or other matter at issue, and providing a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

Article 17.8: Panel Selection

1. The panel shall consist of three panellists.
2. Within 30 days of receiving the request to establish a panel, each Party shall notify the other Party of its appointment of a panellist, and propose up to four candidates to serve as the chair of the panel. If a Party fails to appoint a panellist within this time, the panellist shall be selected by the other Party from the candidates proposed for the chair.
3. The Parties, within 45 days of the date of receipt of the request for panel establishment, shall endeavour to select a panellist who will serve as chair from among the candidates proposed. If the Parties fail to select a chair within this time period, within a further 7 days the chair shall be selected randomly from the candidates proposed.
4. If a panellist appointed by a Party withdraws, is removed or becomes unable to serve, a replacement shall be appointed by that Party within 30 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 2.

5. If the chair of the panel withdraws, is removed or becomes unable to serve, the Parties shall endeavour to decide on the appointment of a replacement within 30 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 3.

6. If an appointment pursuant to paragraph 4 or 5 requires selecting from the list of candidates proposed for chair and there are no remaining candidates, each Party shall propose up to 3 additional candidates within 30 days and, within 7 days of that deadline, the panellist or the chair, as the case may be, shall be selected randomly from the candidates proposed.

7. A time limit applicable to the proceeding is suspended as of the date the panellist withdraws, is removed or becomes unable to serve, and resumes on the date that the replacement is selected.

Article 17.9: Qualifications of Panellists

Each panellist shall:

- (a) have expertise or experience in law, international trade or other matters covered by this Agreement, or in the settlement of disputes arising under international trade agreements;
- (b) be chosen strictly on the basis of objectivity, reliability and sound judgment;

- (c) be independent of, and not be affiliated with or take instructions from, either Party;
- (d) not be a national of a Party, nor have their usual place of residence in the territory of a Party, nor be employed by either of them;
- (e) comply with a Code of Conduct that the Joint Commission shall approve at its first session following the entry into force of this Agreement; and
- (f) not have been involved in an alternative dispute settlement proceeding referred to in Article 17.6 regarding the same dispute.

Article 17.10: Rules of Procedure

1. A panel shall follow the provisions of this Chapter, including Annex 17-C (Rules of Procedure). A panel, in consultation with the Parties, may establish supplementary rules of procedure that do not conflict with the provisions of this Chapter.

2. Unless the Parties decide otherwise, the rules of procedure shall ensure that:

- (a) each Party has the opportunity to provide initial and rebuttal written submissions;

- (b) the Parties have the right to at least one hearing before the panel; subject to subparagraph (g) these hearings shall be open to the public;
- (c) the Parties have the right to present and receive written submissions and oral arguments in any of the Parties' official languages;
- (d) all submissions and comments made to the panel are available to the other Party;
- (e) a Party makes available to the public either Party's written submissions, transcripts of oral statements and written responses to requests or questions from the panel, subject to subparagraph (g);
- (f) the panel allows a non-governmental person of a Party to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the Parties; and
- (g) information designated by either Party for confidential treatment is protected.

3. Unless the Parties decide otherwise, within 15 days of the date of receipt of the request for panel establishment, the terms of reference of the panel shall be:

- *“To examine, in the light of the relevant provisions of the Agreement, the matter referred to in the request for the establishment of the panel and to make findings, determinations and recommendations as provided in Article 17.11.”*

4. If the complaining Party claims that a benefit has been nullified or impaired within the meaning of Annex 17-A, the terms of reference shall so indicate.

5. If a Party so requests, the terms of reference of a panel shall include determining the degree of adverse trade effects on a Party of a measure found:

- *(a) to be inconsistent with an obligation in the Agreement; or*
- *(b) to have caused nullification or impairment within the meaning of Annex 17-A.*

6. At the request of a Party, or on its own initiative, the panel may seek information and technical advice from a person or body it deems appropriate, subject to those terms and conditions that the Parties may decide upon.

7. The panel may rule on its own jurisdiction.

8. The panel may delegate to the chair authority to make administrative and procedural decisions.

9. The panel, in consultation with the Parties, may modify a time period applicable in the panel proceedings and make other procedural or administrative adjustments required for the fairness or efficiency of the proceeding.

10. Findings, determinations and recommendations of the panel under Article 17.11 shall be made by a majority of its members.

11. Panellists may furnish separate opinions on matters not unanimously agreed. A panel may not disclose which panellists are associated with majority or minority opinions.

12. Unless the Parties decide otherwise, the expenses of the panel, including the remuneration of the panellists, shall be borne in equal shares by the Parties.

Article 17.11: Panel Reports

1. Unless the Parties decide otherwise, the panel shall issue reports in accordance with the provisions of this Chapter.

2. The panel shall base its reports on the provisions of this Agreement applied and interpreted in accordance with the rules of interpretation of public international law, the submissions and arguments of the Parties and information and technical advice before it under the provisions of this Chapter.

3. The panel shall issue an initial report to the Parties within 120 days of the selection of the last panellist. This report shall contain:

- (a) findings of fact;
- (b) a determination as to whether the Party complained against has conformed with its obligations under this Agreement and any other finding or determination requested in the terms of reference; and
- (c) a recommendation for resolution of the dispute, if requested by a Party.

4. Notwithstanding Article 17.10, the initial report of the panel shall be confidential.

5. A Party may submit written comments to the panel on its initial report, subject to time limits that may be set by the panel. After considering those comments, the panel, on its own initiative or on the request of a Party, may:

- (a) request the views of a Party;
- (b) reconsider its report; or
- (c) carry out a further examination that it considers appropriate.

6. The panel shall present to the Parties a final report within 30 days of presentation of the initial report.

7. Unless the Parties decide otherwise, the final report of the panel may be published by either Party 15 days after it is presented to the Parties, subject to Article 17.10.2(g).

Article 17.12: Implementation of the Final Report

1. On receipt of the final report of a panel, the Parties shall decide on the resolution of the dispute. Unless the Parties decide otherwise, the resolution shall conform with a determination or recommendation made by the panel.

2. Whenever possible, the resolution shall be the removal of a measure not conforming to this Agreement or removal of the nullification or impairment within the meaning of Annex 17-A.

3. If the Parties are unable to reach a resolution within 30 days of presentation of the final report, or within another period of time as decided by the Parties, the Party complained against, if so requested by the complaining Party, shall enter into negotiations with a view to determining compensation.

Article 17.13: Non-Implementation – Suspension of Benefits

1. The complaining Party, subject to paragraph 4 and following notice to the Party complained against, may suspend the application to the Party complained against of benefits of equivalent effect if:

- (a) in its final report a panel determines that a measure is inconsistent with the obligations of this Agreement or that there is nullification or impairment within the meaning of Annex 17A;
- (b) the Parties have not been able to resolve the dispute to their mutual satisfaction within 30 days of receiving the final report; or
- (c) the Parties fail to decide on compensation within 30 days of the complaining Party's request, if a request was made.

2. The notice referred to in paragraph 1 shall specify the level of benefits that the complaining Party proposes to suspend.

3. In considering which benefits to suspend under paragraph 1:

- (a) the complaining Party should first seek to suspend benefits or other obligations in the same sector affected by the measure or other matter that the panel has found to be inconsistent with an obligation under this Agreement or to have caused nullification or impairment within the meaning of Annex 17-A; and

- (b) the complaining Party that considers it is not practicable or effective to suspend benefits or other obligations in the same sector may suspend benefits in another sector.

4. A Party may only suspend benefits temporarily, and only until the other Party has brought the inconsistent measure or other matter into conformity with this Agreement, including as a result of the panel process described in Article 17.14, or until the time when the Parties arrive at a resolution of the dispute.

5. For the purposes of paragraph 4, “inconsistent measure or other matter” means a measure or other matter found by a panel to be inconsistent with the obligations of this Agreement or otherwise nullifying or impairing benefits within the meaning of Annex 17-A.

Article 17.14: Review of Compliance and Suspension of Benefits

1. A Party may, by written notice to the other Party, request that a panel be reconvened to make a determination regarding:

- (a) whether the level of benefits suspended by a Party under Article 17.13.1 is manifestly excessive; or
- (b) any disagreement as to the existence or consistency with this Agreement of a measure taken to comply with the determinations or recommendations of the previously established panel.

2. In the written notice of the request referred to in paragraph 1, the Party shall identify the specific measure or matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

3. The panel shall be reconvened when the other Party receives written notice of the request referred to in paragraph 1. In the event that a panellist is unable to serve on the reconvened panel, they shall be replaced under Article 17.8.4.

4. The provisions of Articles 17.10 and 17.11 apply to procedures adopted and a report issued by a panel reconvened under this Article, with the exception that, subject to Article 17.10.9, the panel shall present an initial report within 60 days of being reconvened if the request concerns only paragraph 1(a), and otherwise within 90 days.

5. A panel reconvened under this Article may include in its report a recommendation, if appropriate, that a suspension of benefits be terminated or that the amount of benefits suspended be modified.

Article 17.15: Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises in a domestic judicial or administrative proceeding of a Party that either Party considers would merit its intervention, or if a court or

administrative body solicits the views of a Party, that Party shall notify the other Party. The Joint Commission shall endeavour to decide on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any interpretation of the Joint Commission to the court or administrative body in accordance with the rules of that forum.

3. If the Joint Commission is unable to decide on the interpretation, a Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Section B – Other Dispute Settlement

Article 17.16: Private Rights

A Party may not provide a right of action under its domestic law against the other Party on the ground that an act or omission of that Party is inconsistent with this Agreement.

Article 17.17: Alternative Dispute Resolution

1. Each Party shall encourage and facilitate the use of arbitration and other means of alternative dispute resolution to the extent possible in

order to settle international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of awards in those disputes.

3. A Party is deemed to comply with paragraph 2 if it is a party to and complies with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958.

Annex 17-A: Nullification or Impairment

1. If a Party considers that a benefit it could reasonably have expected to accrue to it under a provision of

- (a) Chapter 2 (National Treatment and Market Access), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Emergency Action) or Chapter 10 (Government Procurement); or
- (b) Chapter 8 (Electronic Commerce)

is being nullified or impaired as a result of the application of a measure of the other Party that is not inconsistent with this Agreement, in the sense of Article XXIII:1(b) of the GATT 1994 or Article XX:2 of the

Annex to the Protocol Amending the Agreement on Government Procurement (hereinafter referred to as the “GPA”), the Party may have recourse to dispute settlement under this Chapter. A panel established under this Chapter shall take into account relevant jurisprudence interpreting Article XXIII:1(b) of the GATT 1994 and Article XX:2 of the GPA.

2. A Party may not invoke paragraph 1(b) or (c) with respect to a measure subject to an exception under Article 18.2 (General Exceptions).

3. A Party may not invoke paragraph 1 with respect to a measure subject to the exception under Article 18.6 (Cultural Industries).

Annex 17-B: Dispute Settlement for Anti-Corruption

Consultations

1. A Party may request consultations with the other Party regarding a matter related to Section B of Chapter 14 (Transparency) by delivering a request in writing to the Agreement Coordinator of the other Party. The Agreement Coordinators shall consult as soon as possible to discuss the matter.

2. If the Parties fail to resolve the matter within 60 days of delivery of the request for consultations referred to in paragraph 1, and the matter relates to an obligation under Section B of Chapter 14 (Transparency), a Party may request cabinet-level consultations. The Parties shall conduct cabinet-level consultations as soon as possible after the request for those consultations is made.

Review Panel

3. If the Parties fail to resolve the matter within 120 days of delivery of the request for cabinet-level consultations referred to in paragraph 2, the requesting Party may request establishment of a Review Panel by delivering a request in writing to the other Party.

4. Unless the Parties decide otherwise, the terms of reference of the Review Panel shall be:

- “To examine, in the light of the relevant provisions of Section B of Chapter 14 of the Agreement, the matter referred by (name of the complaining Party) as set out in the request for the establishment of the Review Panel and to make determinations and recommendations as provided in paragraph 14.”

5. Unless the Parties decide otherwise, the Review Panel shall conduct its proceedings in accordance with the Rules of Procedure in Annex

17-C. A Review Panel may establish, in consultation with the Parties, supplementary rules of procedure that do not conflict with the provisions of this Annex.

6. If the Review Panel determines that there has been a violation of an obligation under Section B of Chapter 14 (Transparency), the Parties may decide on a mutually satisfactory action plan to implement the Panel's recommendations. Any action plan agreed upon by the Parties may be made publically available by either Party.

Panel selection

7. A Review Panel shall be composed of three panelists.

8. Panellists shall:

- (a) be chosen on the basis of expertise in anti-corruption matters or other appropriate disciplines, objectivity, reliability and sound judgment;
- (b) be independent of, and not be affiliated with or take instructions from, either Party;
- (c) not have an interest in the review directly, nor be affiliated with a person or organization that has an interest in the review; and

- (d) comply with the Code of Conduct referred to in Article 17.9(e).

Panel selection procedures

9. Each Party shall, within 20 days of delivery of the request referred to in paragraph 3, appoint a panellist, propose up to four candidates that are not nationals of either Party to serve as the chair of the Review Panel, and notify the other Party in writing of the appointment and its proposed candidates to serve as chair.

10. If a Party fails to appoint a panelist within this time, the other Party shall select the panellist from among qualified individuals who are nationals of the Party that has failed to select its panellist.

11. The Parties shall, within 30 days after the date of receipt of the request for panel establishment, endeavour to decide on and appoint a chair. If the Parties fail to decide on the chair within this time, within a further seven days the chair shall be selected by lot from among the candidates proposed.

12. If either Party believes that a panelist is in violation of the Code of Conduct referred to in Article 17.9(e), the Parties shall consult and, if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with the procedures set out in paragraphs 9 to

11. The time limits for that selection will run from the date the Parties agree to remove the panelist.

Review Panel Process

Initial Report

13. The Review Panel shall present to the Parties an initial report within 120 days of the selection of the last panelist.

14. The report shall contain:

- (a) findings of fact;
- (b) the Review Panel's determination as to whether there has been a violation of an obligation; and
- (c) if a violation has been found, the Review Panel's recommendations for the resolution of the matter.

Final Report

15. The Parties may provide comments on the initial report within 60 days of its presentation to the Parties.

16. The Review Panel shall present the final report to the Parties within 90 days of providing the initial report.

17. A Party may publish the final report 60 days after it is presented to the Parties.

18. The Parties may decide to modify any time limits set out in this Annex.

19. The Parties shall determine a separate budget for each set of panel proceedings pursuant to this Annex. If the Parties do not decide on a budget, the expenses of the Review Panel will be shared by the Parties equally.

Annex 17-C: Rules of Procedure

Application

1. The following rules of procedure apply to a dispute settlement proceeding under this Chapter, unless the Parties decide otherwise.

Definitions

2. For the purposes of this Annex:

adviser means a person retained by a Party to advise or assist the Party in connection with the panel proceeding;

legal holiday means every Saturday and Sunday and any other day designated by a Party as a holiday for the purposes of these rules; and

representative means an employee of a government department or agency or of another government entity of a Party.

Written Submissions and Other Documents

3. Each Party shall deliver the original and a minimum of 3 copies of any written submission to the panel and one copy to the Embassy of the other Party. Delivery of submissions and any other document related to the panel proceeding may be made by e-mail or other means of electronic transmission if the Parties so decide. When a Party delivers physical copies of written submissions or any other document related to the panel proceeding, that Party shall also deliver an electronic version of the submissions or other documents.

4. The complaining Party shall deliver an initial written submission no later than 10 days after the date on which the last panellist is appointed. The Party complained against, in turn, shall deliver a written counter-submission no later than 20 days after the date on which the initial written submission of the complaining Party is due.

5. The panel, in consultation with the Parties, shall establish dates for the delivery of the subsequent written rebuttal submissions of the Parties and any other written submissions that the panel and the Parties determine are appropriate.

6. At any time a Party may correct minor errors of a clerical nature in any written submission or other document related to the panel proceeding by delivering a new document clearly indicating the changes.

7. If the last day for delivery of a document falls on a legal holiday observed by either Party or on another day on which the government offices of either Party are closed by order of the government or by force majeure, the document may be delivered on the next business day.

Burden of Proof

8. A complaining Party asserting that a measure of the other Party is inconsistent with the provisions of this Agreement shall have the burden of establishing that inconsistency. If the Party complained against asserts that a measure is subject to an exception or exemption under this Agreement, it shall have the burden of establishing that the exception or exemption applies.

Written Submission by a Non-Governmental Person

9. A panel, on application, may grant leave to a non-governmental person of a Party to file written submissions. In making its decision to grant leave, the panel shall consider, among other things:

- (a) if the subject matter of the proceeding is of public interest;
- (b) if the non-governmental person has a substantial interest in the proceeding, which requires more than an interest in the development of trade law jurisprudence, the interpretation of the Agreement or the subject matter of the dispute;

- (c) if the written submission would assist the panel in determining a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the Parties; and
- (d) submissions by the Parties on the application for leave.

10. If the panel has granted leave to a non-governmental person to file a written submission, the panel shall ensure that:

- (a) the written submission does not introduce new issues to the dispute;
- (b) the written submission is within the terms of reference of the dispute as defined by the Parties;
- (c) the written submission addresses only the issues of fact and law that the non-governmental person described in its application for leave;
- (d) the written submission avoids disrupting the proceeding and preserves the equality of the Parties; and
- (e) the Parties have the opportunity to respond to the written submission.

Role of Experts

11. On request of a Party, or on its own initiative, the panel may seek information and technical advice from a person or body that it deems appropriate, subject to paragraphs 12 and 13 and any additional terms and conditions as the Parties may decide. The requirements set out in Article 17.9 apply to the experts or bodies, as appropriate.

12. Before the panel seeks information or technical advice under paragraph 11, it shall:

- (a) notify the Parties of its intention to seek information or technical advice and provide them with an adequate period of time to submit comments; and
- (b) provide the Parties with a copy of information or technical advice received and provide them with an adequate period of time to submit comments.

13. If the panel takes into consideration the information or technical advice received under paragraph 11 for the preparation of its report, it shall also take into consideration comments or observations submitted by the Parties with respect to that information or technical advice.

Operation of Panels

14. The chair shall preside at all of the panel's meetings.

15. The panel may conduct its business by any appropriate means, including by telephone, facsimile transmission and video or computer links.

16. Only panellists may take part in the deliberations of the panel. The panel, in consultation with the Parties, may employ assistants, interpreters or translators, or stenographers to the extent they may be required for the proceeding, and may permit them to be present during the deliberations. The members of the panel and the persons employed by the panel shall maintain the confidentiality of the panel's deliberations and information that is protected under Article 17.10(g).

17. A panel, in consultation with the Parties, may modify a time period applicable in the panel proceedings and make other procedural or administrative adjustments required in the proceeding.

Hearings

18. The chair shall fix the date and time of the initial hearing and any subsequent hearing in consultation with the Parties and the panellists, and then notify the Parties in writing of those dates and times.

19. Unless the Parties decide otherwise, the location of hearings shall alternate between the territories of the Parties, with the first hearing to take place in the territory of the Party complained against.

20. No later than 5 days before the date of a hearing, each Party shall deliver to the other Party and the panel a list of the names of the persons who will be present at the hearing on behalf of that Party, as well as a list of the other representatives or advisers who will be attending the hearing.

21. Each hearing shall be conducted by the panel in a manner that ensures that the complaining Party and the Party complained against are afforded equal time for arguments, replies and counter-replies.

22. Hearings shall be open to the public, except as necessary to protect information designated by either Party for confidential treatment.

The panel, in consultation with the Parties, shall adopt appropriate logistical arrangements and procedures to ensure that hearings are not disrupted by the attendance of the public. Those procedures may include, among other methods, the use of live web-broadcasting or closed-circuit television.

23. The panel shall arrange the preparation of any hearing transcripts and shall deliver a copy of those transcripts to each Party as soon as possible after they are prepared.

Ex Parte Contacts

24. A Party may not communicate with the panel without notifying the other Party. The panel shall not communicate with a Party in the absence of, or without notifying, the other Party.

25. A panellist may not discuss an aspect of the substantive subject matter of the proceeding with the Parties in the absence of the other panellists.

Remuneration and Payment of Expenses

26. Each panellist shall keep a record and render a final account to the Parties of their time and expenses, and those of any assistant. The chair of the panel shall keep a record and render a final account to the Parties of all general expenses.

Chapter 18: Exceptions

Article 18.1: Definitions

For the purposes of this Chapter:

competition authority means:

- (a) for Canada, the Commissioner of Competition and includes a successor notified to the other Party through the Coordinators;
and

- (b) for Ukraine, the Antimonopoly Committee of Ukraine and includes a successor notified to the other Party through the Coordinators.

designated authority means:

- (a) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance and includes a successor notified to the other Party through the Coordinators; and
- (b) for Ukraine, the State Fiscal Service of Ukraine and includes a successor notified to the other Party through the Coordinators.

information protected under its competition laws means:

- (a) for Canada, information within the scope of Section 29 of the *Competition Act*, R.S.C. 1985, c. C-34, and includes any successor provision; and
- (b) for Ukraine, information with restricted access according to Article 221 of the Law of Ukraine *On the Antimonopoly Committee of Ukraine* and includes any successor provision.

person engaged in a cultural industry means a person engaged in any of the following activities:

- (a) the publication, distribution or sale of books, magazines, periodicals or newspapers in print or machine-readable form, but not including the sole activity of printing or typesetting any of the foregoing;
- (b) the production, distribution, sale or exhibition of film or video recordings;
- (c) the production, distribution, sale or exhibition of audio or video music recordings;
- (d) the publication, distribution or sale of music in print or machine-readable form; or
- (e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services.

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and

tax and taxation measure do not include:

- (a) a customs duty; or
- (b) a measure listed in exceptions (b), (c), or (d) in the definition of customs duty in Article 1.6 (Definitions of General Application).

Article 18.2: General Exceptions

For the purposes of Chapter 2 (National Treatment and Market Access), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Emergency Action), Chapter 6 (Sanitary and Phytosanitary Measures), Chapter 7 (Technical Barriers to Trade), and Chapter 8 (Electronic Commerce), GATT 1994 Article XX is incorporated into this Agreement. The Parties understand that the measures referred to in GATT 1994 Article XX (b) include environmental measures necessary to protect human, animal or plant life or health. The Parties further understand that GATT 1994 Article XX (g) applies to measures for the conservation of living and non-living exhaustible natural resources.

Article 18.3: National Security

This Agreement does not:

- (a) require a Party to furnish or allow access to information if that Party determines that the disclosure of this information would be contrary to its essential security interests;*
- (b) prevent a Party from taking an action that it considers necessary to protect its essential security interests:*

- (i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment;
- (ii) taken in time of war or other emergency in international relations; or
- (iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or
- (c) prevent a Party from fulfilling its obligations under the *Charter of the United Nations* for the maintenance of international peace and security.

Article 18.4: Taxation

1. Except as set out in this Article, this Agreement does not apply to a taxation measure.
2. This Agreement does not affect the rights and obligations of a Party under a tax convention. In the event of any inconsistency between this Agreement and a tax convention, the tax convention prevails.

3. If a provision with respect to a taxation measure under this Agreement is similar to a provision under a tax convention, the competent authorities identified in the tax convention shall use the procedural provisions of that tax convention to resolve an issue that may arise under this Agreement.

4. Notwithstanding paragraphs 2 and 3:

- (a) Article 2.3 (National Treatment) and the provisions of this Agreement necessary to give effect to that Article apply to a taxation measure to the same extent as Article III of the GATT; and,
- (b) Article 2.9 (Customs Duties on Exports) applies to a taxation measure.

5. In order to give effect to paragraphs 1 to 3:

- (a) if an issue arises as to whether a measure of a Party is a taxation measure in a dispute between the Parties, either Party may refer the issue to the designated authorities of the Parties. The designated authorities shall decide the issue of whether the measure is a taxation measure, and their decision shall bind any panel established under Article 17.7 (Establishment of a Panel) for the dispute. If a Party has referred the issue to the designated

authorities and they have not decided the issue within six months of the referral, the panel shall decide the issue; and

- (b) if an issue arises as to whether, according to paragraph 2, a tax convention prevails over this Agreement in a dispute between the Parties, a Party to the dispute may refer the issue to the designated authorities of the Parties. The designated authorities shall consider the issue and decide whether there is an inconsistency between this Agreement and a tax convention with respect to a taxation measure that gives rise to the issue. If within six months of the referral of the issue to the designated authorities, they decide with respect to the taxation measure that gives rise to the issue that there is an inconsistency, procedures concerning that taxation measure may not be initiated under Article 17.7 (Establishment of a Panel). Procedures concerning the taxation measure may not be initiated while the designated authorities are considering the issue. If a Party has referred the issue to the designated authorities and they have not decided the issue within six months of the referral, the panel shall decide the issue.

6. The designated authorities seized of an issue under paragraph 5 may modify the time period allowed to decide the issue.

7. This Agreement does not require a Party to furnish or allow access to information the disclosure of which would be contrary to that Party's law protecting information concerning the taxation affairs of a taxpayer.

Article 18.5: Disclosure of Information

1. This Agreement does not require a Party to furnish or allow access to information that if disclosed would impede law enforcement, or would be contrary to the Party's law protecting the deliberative and policy-making processes of the executive branch of government at the cabinet level, personal privacy or the financial affairs and accounts of individual customers of financial institutions.

2. In the course of a dispute settlement procedure under this Agreement:

- (a) a Party is not required to furnish or allow access to information protected under its competition laws; and
- (b) a competition authority of a Party is not required to furnish or allow access to information that is privileged or otherwise protected from disclosure.

Article 18.6: Cultural Industries

This Agreement does not apply to a measure adopted or maintained by a Party with respect to a person engaged in a cultural industry except as specifically provided in Article 2.4 (Tariff Elimination on Imports).

Article 18.7: World Trade Organization Waivers

If a right or obligation in this Agreement duplicates a right or obligation under the WTO Agreement, a measure adopted by a Party in conformity with a waiver decision adopted by the WTO pursuant to Article IX of the WTO Agreement is deemed to be also in conformity with this Agreement.

Chapter 19: Final provisions

Article 19.1: Annexes, Appendices and Footnotes

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

Article 19.2: Review Clause

The Parties undertake to review this Agreement within two years of its entry into force, in light of further developments including within the framework of the WTO Agreement, and other agreements to which the Parties are party, with a view to examining the further

development and deepening of its provisions and to extending it to subject matters not covered therein, including cross-border trade in services, financial services, investment, telecommunications, temporary entry and any other subject area as decided by the Parties.

Article 19.3: Amendments

The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable internal requirements and procedures necessary for the entry into force of the amendment, on the date agreed by the Parties.

Article 19.4: Reservations and Unilateral Declarations

This Agreement shall not be subject to unilateral reservations or unilateral interpretive declarations.

Article 19.5: Entry into Force

1. Each Party shall notify the other Party in writing of the completion of its domestic procedures required for the entry into force of this Agreement.

2. This Agreement shall enter into force on the first day of the second month following receipt of the latter notification of the completion of the procedures for entry into force.

Article 19.6: Termination

This Agreement may be terminated by either Party by giving notice in writing of its intention to terminate to the other Party. The Agreement shall terminate six months after the date of receipt of that notice.

Article 19.7: Accession

A non-Party may accede to this Agreement upon terms and conditions to be set out in an Agreement on Accession between the Parties and the non-Party. The Parties and the non-Party shall notify each other through diplomatic channels of the completion of the internal procedures necessary to approve the Agreement on Accession.

In witness whereof, the undersigned, being duly authorized, have signed this Agreement.

Done in duplicate at, this day of 2016, in the English, French and Ukrainian languages, each version being equally authentic.

For Canada

For Ukraine