13. Each Party shall ensure that the processing of an authorisation application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application. Each Party should establish the normal timeframe for the processing of an application.

14. At the request of an applicant, a Party's competent authority shall provide, without undue delay, information concerning the status of the application.

15. If an application is considered incomplete, a Party's competent authority shall, within a reasonable period of time, inform the applicant, identify the additional information required to complete the application, and provide the applicant an opportunity to correct deficiencies.

16. If a Party's competent authority rejects an application, it shall inform the applicant in writing and without undue delay. Upon request of the applicant, the Party's competent authority shall also inform the applicant of the reasons the application was rejected and of the timeframe for an appeal or review against the decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

CHAPTER THIRTEEN

Financial services

Article 13.1

Definitions

For the purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of that service;

cross-border supply of financial services or **cross-border trade in financial services** means the supply of a financial service:

(a) from the territory of a Party into the territory of the other Party; or

(b) in the territory of a Party by a person of that Party to a person of the other Party;

but does not include the supply of a service in the territory of a Party by an investment in that territory;

financial institution means a supplier that carries out one or more of the operations defined as being financial services in this Article, if the supplier is regulated or supervised in respect of the supply of those services as a financial institution under the law of the Party in whose territory it is located, including a branch in the territory of the Party of that financial service supplier whose head offices are located in the territory of the other Party;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by a person of the other Party;

financial service means a service of a financial nature, including insurance and insurance-related services, banking and other financial services (excluding insurance), and services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

(a) insurance and insurance-related services

  (i) direct insurance (including co-insurance):

    (A) life; or

    (B) non-life;

  (ii) reinsurance and retrocession;

  (iii) insurance intermediation, such as brokerage and agency; or

  (iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services; and

(b) banking and other financial services (excluding insurance):

(i) acceptance of deposits and other repayable funds from the public;

(ii) lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;

(iii) financial leasing;

(iv) all payment and money transmission services, including credit, charge and debit cards, travellers cheques, and bankers drafts;

(v) guarantees and commitments;

(vi) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(A) money market instruments (including cheques, bills or certificates of deposits);

(B) foreign exchange;

(C) derivative products including futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;

(E) transferable securities; or

(F) other negotiable instruments and financial assets, including bullion;

(vii) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately), and supply of services related to such issues;

(viii) money broking;

(ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;

(x) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(xi) provision and transfer of financial information, and financial data processing and related software; or

(xii) advisory, intermediation and other auxiliary financial services on all the activities listed in sub-subparagraphs (i) through (xi), including credit reference and analysis, investment and portfolio research and advice, and advice on acquisitions and on corporate restructuring and strategy;

financial service supplier means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party but does not include a public entity;

investment means 'investment' as defined in Article 8.1 (Definitions), except that for the purposes of this Chapter, with respect to 'loans' and 'debt instruments' referred to in that Article:

(a) a loan to or debt instrument issued by a financial institution is an investment in that financial institution only if it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

(b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in subparagraph (a), is not an investment;

for greater certainty,

(c) Chapter Eight (Investment) applies to a loan or debt instrument to the extent that it is not covered in this Chapter; and

(d) a loan granted by or a debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment for the purposes of Chapter Eight (Investment) if that loan or debt instrument meets the criteria for investments set out in Article 8.1 (Definitions);

investor means 'investor' as defined in Article 8.1 (Definitions);

new financial service means a financial service that is not supplied in the territory of a Party but that is supplied in the territory of the other Party and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

person of a Party means 'person of a Party' as defined in Article 1.1 (Definitions of general application) and, for greater certainty, does not include a branch of an enterprise of a third country;

public entity means:

(a) a government, a central bank or a monetary authority of a Party or any entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, but does not include an entity principally engaged in supplying financial services on commercial terms; or

(b) a private entity that performs functions normally performed by a central bank or monetary authority when exercising those functions; and

self-regulatory organisation means a non-governmental body, including any securities or futures exchange or market, clearing agency, other organisation or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions.

Article 13.2

Scope

1. This Chapter applies to a measure adopted or maintained by a Party relating to:

(a) financial institutions of the other Party;

(b) an investor of the other Party, and an investment of that investor, in a financial institution in the Party's territory; and

(c) cross-border trade in financial services.

2. For greater certainty, the provisions of Chapter Eight (Investment) apply to:

(a) a measure relating to an investor of a Party, and an investment of that investor, in a financial service supplier that is not a financial institution; and

(b) a measure, other than a measure relating to the supply of financial services, relating to an investor of a Party or an investment of that investor in a financial institution.

3. Articles 8.10 (Treatment of investors and of covered investments), 8.11 (Compensation for losses), 8.12 (Expropriation), 8.13 (Transfers), 8.14 (Subrogation), 8.16 (Denial of benefits), and 8.17 (Formal requirements) are incorporated into and made a part of this Chapter.

4. Section F of Chapter Eight (Resolution of investment disputes between investors and states) is incorporated into and made a part of this Chapter solely for claims that a Party has breached Article 13.3 or 13.4 with respect to the expansion, conduct, operation, management, maintenance, use, enjoyment, and sale or disposal of a financial institution or an investment in a financial institution, or Article 8.10 (Treatment of investors and of covered investments), 8.11 (Compensation for losses), 8.12 (Expropriation), 8.13 (Transfers), or 8.16 (Denial of benefits).

5. This Chapter does not apply to a measure adopted or maintained by a Party relating to:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services conducted for the account of the Party, with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter applies to the extent that a Party allows activities or services referred to in subparagraph (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

6. Chapter Twelve (Domestic Regulation) is incorporated into and made a part of this Chapter. For greater certainty, Article 12.3 (Licensing and qualification requirements and procedures) applies to the exercise of statutory discretion by the financial regulatory authorities of the Parties.

7. The provisions of Chapter Twelve (Domestic Regulation) incorporated into this Chapter under paragraph 6 do not apply to licensing requirements, licensing procedures, qualification requirements or qualification procedures:

(a) pursuant to a non-conforming measure maintained by Canada, as set out in its Schedule to Annex III-A;

(b) pursuant to a non-conforming measure maintained by the European Union, as set out in its Schedule to Annex I, to the extent that such measure relates to financial services; and

(c) as set out in Article 12.2.2(b) (Scope), to the extent that such measure relates to financial services.

Article 13.3

National treatment

1. Article 8.6 (National treatment) is incorporated into and made a part of this Chapter and applies to treatment of financial institutions and investors of the other Party and their investments in financial institutions.

2. The treatment accorded by a Party to its own investors and investments of its own investors under Article 8.6 (National treatment) means treatment accorded to its own financial institutions and investments of its own investors in financial institutions.

Article 13.4

Most-favoured-nation treatment

1. Article 8.7 (Most-favoured-nation treatment) is incorporated into and made a part of this Chapter and applies to treatment of financial institutions and investors of the other Party and their investments in financial institutions.

2. The treatment accorded by a Party to investors of a third country and investments of investors of a third country under paragraphs 1 and 2 of Article 8.7 (Most-favoured-nation treatment) means treatment accorded to financial institutions of a third country and investments of investors of a third country in financial institutions.

Article 13.5

Recognition of prudential measures

1. A Party may recognise a prudential measure of a third country in the application of a measure covered by this Chapter. That recognition may be:

(a) accorded unilaterally;

(b) achieved through harmonisation or other means; or

(c) based upon an agreement or arrangement with the third country.

2. A Party according recognition of a prudential measure shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or will be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.

3. If a Party recognises a prudential measure under subparagraph 1(c) and the circumstances described in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

Article 13.6

Market access

1. A Party shall not adopt or maintain, with respect to a financial institution of the other Party or with respect to market access through establishment of a financial institution by an investor of the other Party, on the basis of its entire territory or on the basis of the territory of a national, provincial, territorial, regional, or local level of government, a measure that:

(a) imposes limitations on:

(i) the number of financial institutions, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

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

(iii) the total number of financial service operations or the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

(iv) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding in financial institutions or the total value of individual or aggregate foreign investment in financial institutions; or

(v) the total number of natural persons that may be employed in a particular financial services sector or that a financial institution may employ and who are necessary for, and directly related to, the performance of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restricts or requires specific types of legal entity or joint venture through which a financial institution may perform an economic activity.

2. Article 8.4.2 (Market access) is incorporated into and made a part of this Article.

3. For greater certainty:

(a) a Party may impose terms, conditions, and procedures for the authorisation of the establishment and expansion of a commercial presence provided that they do not circumvent the Party's obligation under paragraph 1 and are consistent with the other provisions of this Chapter; and

(b) this Article does not prevent a Party from requiring a financial institution to supply certain financial services through separate legal entities if, under the law of the Party, the range of financial services supplied by the financial institution may not be supplied through a single entity.

Article 13.7

Cross-border supply of financial services

1. Articles 9.3 (National treatment), 9.4 (Formal requirements), and 9.6 (Market access) are incorporated into and made a part of this Chapter and apply to treatment of cross-border financial service suppliers supplying the financial services specified in Annex 13-A.

2. The treatment accorded by a Party to its own service suppliers and services under Article 9.3.2 (National treatment) means treatment accorded to its own financial service suppliers and financial services.

3. The measures that a Party shall not adopt or maintain with respect to service suppliers and services of the other Party under Article 9.6 (Market access) means measures relating to cross-border financial service suppliers of the other Party supplying financial services.

4. Article 9.5 (Most-favoured-nation treatment) is incorporated into and made a part of this Chapter and applies to treatment of cross-border financial service suppliers of the other Party.

5. The treatment accorded by a Party to service suppliers and services of a third country under Article 9.5 (Most-favoured-nation treatment) means treatment accorded to financial service suppliers of a third country and financial services of a third country.

6. Each Party shall permit a person located in its territory, and a national wherever they are located, to purchase a financial service from a cross-border financial service supplier of the other Party located in the territory of that other Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define 'doing business' and 'solicitation' for the purposes of this Article, in conformity with paragraph 1.

7. For the financial services specified in Annex 13-A, each Party shall permit a cross-border financial service supplier of the other Party, on request or notification to the relevant regulator, where required, to supply a financial service through any new form of delivery, or to sell a financial product that is not sold in the Party's territory where the first Party permits its own financial service suppliers to supply such a service or to sell such a product under its law in like situations.

Article 13.8

Senior management and boards of directors

A Party shall not require that a financial institution of the other Party appoint to senior management or board of director positions, natural persons of any particular nationality.

Article 13.9

Performance requirements

1. The Parties shall negotiate disciplines on performance requirements such as those contained in Article 8.5 (Performance requirements) with respect to investments in financial institutions.

2. If, after three years of entry into force of this Agreement, the Parties have not agreed to such disciplines, upon request of a Party, Article 8.5 (Performance requirements) shall be incorporated into and made a part of this Chapter and shall apply to investments in financial institutions. For this purpose, 'investment' in Article 8.5 (Performance requirements) means 'investment in a financial institution in its territory'.

3. Within 180 days following the successful negotiation by the Parties on the performance requirement disciplines pursuant to paragraph 1, or following a Party's request for incorporation of Article 8.5 (Performance requirements) into this Chapter pursuant to paragraph 2, as the case may be, each Party may amend its Schedule as required. Any amendment must be limited to the listing of reservations for existing measures that do not conform with the performance requirements obligation under this Chapter, for Canada in Section A of its Schedule to Annex III and for the European Union in its Schedule to Annex I. Article 13.10.1 shall apply to such measures with respect to the performance requirement disciplines negotiated pursuant to paragraph 1, or Article 8.5 (Performance requirements) as incorporated into this Chapter pursuant to paragraph 2, as the case may be.

Article 13.10

Reservations and exceptions

1. Articles 13.3, 13.4, 13.6, and 13.8 do not apply to:

(a) an existing non-conforming measure that is maintained by a Party at the level of:

(i) the European Union, as set out in its Schedule to Annex I;

(ii) a national government, as set out by Canada in Section A of its Schedule to Annex III or the European Union in its Schedule to Annex I;

(iii) a provincial, territorial, or regional government, as set out by Canada in Section A of its Schedule to Annex III or the European Union in its Schedule to Annex I; or

(iv) a local government;

(b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or

(c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 13.3, 13.4, 13.6, or 13.8.

2. Article 13.7 does not apply to:

(a) an existing non-conforming measure that is maintained by a Party at the level of:

(i) the European Union, as set out in its Schedule to Annex I;

(ii) a national government, as set out by Canada in Section A of its Schedule to Annex III or the European Union in its Schedule to Annex I;

(iii) a provincial, territorial, or regional government, as set out by Canada in Section A of its Schedule to Annex III or the European Union in its Schedule to Annex I; or

(iv) a local government;

(b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or

(c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed upon the entry into force of this Agreement, with Article 13.7.

3. Articles 13.3, 13.4, 13.6, 13.7, and 13.8 do not apply to a measure that Canada adopts or maintains with respect to financial services as set out in Section B of its Schedule to Annex III, or to a measure that the European Union adopts or maintains with respect to financial services as set out in its Schedule to Annex II.

4. If a Party has set out a reservation to Articles 8.4 (Market access), 8.5 (Performance requirements), 8.6 (National treatment), 8.7 (Most-favoured-nation treatment), 8.8 (Senior management and boards of directors), 9.3 (National treatment), 9.5 (Most-favoured-nation treatment), or 9.6 (Market access) in its Schedule to Annex I or II, the reservation also constitutes a reservation to Articles 13.3, 13.4, 13.6, 13.7, or 13.8, or to any discipline on performance requirements negotiated pursuant to Article 13.9.1 or incorporated into this Chapter pursuant to Article 13.9.2, as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the reservation is covered by this Chapter.

5. A Party shall not adopt a measure or series of measures after the date of entry into force of this Agreement that are covered by Section B of Canada's Schedule to Annex III, or by the Schedule to Annex II of the European Union and that require, directly or indirectly, an investor of the other Party, by reason of nationality, to sell or otherwise dispose of an investment existing at the time the measure or series of measures became effective.

6. In respect of intellectual property rights, a Party may derogate from Articles 13.3 and 13.4, and from any discipline on technology transfer in relation to performance requirements negotiated pursuant to Article 13.9.1 or incorporated into this Chapter pursuant to Article 13.9.2, as the case may be, if the derogation is permitted by the TRIPS Agreement, including waivers to the TRIPS Agreement adopted pursuant to Article IX of the WTO Agreement.

7. Articles 13.3, 13.4, 13.6, 13.7, 13.8, and 13.9 do not apply to:

(a) procurement by a Party of a good or service purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is 'covered procurement' within the meaning of Article 19.2 (Scope and coverage); or

(b) subsidies, or government support relating to trade in services, provided by a Party.

Article 13.11

Effective and transparent regulation

1. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner.

2. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Chapter are promptly published or made available in such a manner as to enable an interested person and the other Party to become acquainted with them. To the extent possible, each Party shall:

(a) publish in advance any such measures that it proposes to adopt;

(b) provide an interested person and the other Party a reasonable opportunity to comment on these proposed measures; and

(c) allow reasonable time between the final publication of the measures and the date they become effective.

For the purposes of this Chapter, these requirements replace those set out in Article 27.1 (Publication).

3. Each Party shall maintain or establish appropriate mechanisms to respond within a reasonable period of time to an inquiry from an interested person regarding measures of general application covered by this Chapter.

4. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a cross-border financial service supplier, or a financial institution of the other Party relating to the supply of a financial service within a reasonable period of time that is justified by the complexity of the application and the normal period of time established for the processing of the application. For Canada, such a reasonable time period is 120 days. The regulatory authority shall promptly notify the applicant of the decision. If it is not practicable for a decision to be made within a reasonable period of time, the regulatory authority shall promptly notify the applicant and endeavour to make the decision as soon as possible. For greater certainty, an application is not considered complete until all relevant hearings are held and the regulatory authority has received all necessary information.

Article 13.12

Self-regulatory organisations

If a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to supply a financial service in or into the territory of that Party, or grants a privilege or advantage when supplying a financial service through a self-regulatory organisation, then the requiring Party shall ensure that the self-regulatory organisation observes the obligations of this Chapter.

Article 13.13

Payment and clearing systems

Under terms and conditions that accord national treatment, each Party shall grant a financial service supplier of the other Party established in its territory access to payment and clearing systems operated by a Party, or by an entity exercising governmental authority delegated to it by a Party, and access to official funding and refinancing facilities available in the normal course of ordinary business. This Article does not confer access to a Party's lender of last resort facilities.

Article 13.14

New financial services

1. Each Party shall permit a financial institution of the other Party to supply any new financial service that the first Party would permit its own financial institutions, in like situations, to supply under its law, on request or notification to the relevant regulator, if required.

2. A Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. If authorisation is required, a decision shall be made within a reasonable period of time and the authorisation may only be refused for prudential reasons.

3. This Article does not prevent a financial institution of a Party from applying to the other Party to consider authorising the supply of a financial service that is not supplied within either Party's territory. That application is subject to the law of the Party receiving the application and is not subject to the obligations of this Article.

Article 13.15

Transfer and processing of information

1. Each Party shall permit a financial institution or a cross-border financial service supplier of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing if processing is required in the ordinary course of business of the financial institution or the cross-border financial service supplier.

2. Each Party shall maintain adequate safeguards to protect privacy, in particular with regard to the transfer of personal information. If the transfer of financial information involves personal information, such transfers shall be in accordance with the legislation governing the protection of personal information of the territory of the Party where the transfer has originated.

Article 13.16

Prudential carve-out

1. This Agreement does not prevent a Party from adopting or maintaining reasonable measures for prudential reasons, including:

(a) the protection of investors, depositors, policy-holders, or persons to whom a financial institution, cross-border financial service supplier, or financial service supplier owes a fiduciary duty;

(b) the maintenance of the safety, soundness, integrity, or financial responsibility of a financial institution, cross-border financial service supplier, or financial service supplier; or

(c) ensuring the integrity and stability of a Party's financial system.

2. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

3. Subject to Articles 13.3 and 13.4, a Party may, for prudential reasons, prohibit a particular financial service or activity. Such a prohibition shall not apply to all financial services or to a complete financial services sub-sector, such as banking.

Article 13.17

Specific exceptions

1. This Agreement does not apply to measures taken by a public entity in pursuit of monetary or exchange rate policies. This paragraph does not affect a Party's obligations under Articles 8.5 (Performance requirements), 8.13 (Transfers), or 13.9.

2. This Agreement does not require a Party to furnish or allow access to information relating to the affairs and accounts of individual consumers, cross-border financial service suppliers, financial institutions, or to any confidential information which, if disclosed, would interfere with specific regulatory, supervisory, or law enforcement matters, or would otherwise be contrary to public interest or prejudice legitimate commercial interests of particular enterprises.

Article 13.18

Financial Services Committee

1. The Financial Services Committee established under Article 26.2.1(f) (Specialised committees) shall include representatives of authorities in charge of financial services policy with expertise in the field covered by this Chapter. For Canada, the Committee representative is an official from the Department of Finance Canada or its successor.

2. The Financial Services Committee shall decide by mutual consent.

3. The Financial Services Committee shall meet annually, or as it otherwise decides, and shall:

(a) supervise the implementation of this Chapter;

(b) carry out a dialogue on the regulation of the financial services sector with a view to improving mutual knowledge of the Parties' respective regulatory systems and to cooperate in the development of international standards as illustrated by the Understanding on the dialogue on the regulation of the financial services sector contained in Annex 13-C; and

(c) implement Article 13.21.

Article 13.19

Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request.

2. Each Party shall ensure that when there are consultations pursuant to paragraph 1 its delegation includes officials with the relevant expertise in the area covered by this Chapter. For Canada this means officials of the Department of Finance Canada or its successor.

Article 13.20

Dispute settlement

1. Chapter Twenty-Nine (Dispute Settlement) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. If the Parties are unable to agree on the composition of the arbitration panel established for the purposes of a dispute arising under this Chapter, Article 29.7 (Composition of the arbitration panel) applies. However, all references to the list of arbitrators established under Article 29.8 (List of arbitrators) shall be understood to refer to the list of arbitrators established under this Article.

3. The CETA Joint Committee may establish a list of at least 15 individuals, chosen on the basis of objectivity, reliability, and sound judgement, who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals, who are not nationals of either Party, to act as chairpersons. Each sub-list shall include at least five individuals. The CETA Joint Committee may review the list at any time and shall ensure that the list conforms with this Article.

4. The arbitrators included on the list must have expertise or experience in financial services law or regulation or in the practice thereof, which may include the regulation of financial service suppliers. The arbitrators acting as chairpersons must also have experience as counsel, panellist, or arbitrator in dispute settlement proceedings. Arbitrators shall be independent, serve in their individual capacity, and shall not take instructions from any organisation or government. They shall comply with the Code of Conduct in Annex 29-B (Code of conduct).

5. If an arbitration panel finds that a measure is inconsistent with this Agreement and the measure affects:

(a) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector; or

(b) only a sector other than the financial services sector, the complaining Party shall not suspend benefits in the financial services sector.

Article 13.21

Investment disputes in financial services

1. Section F of Chapter Eight (Resolution of investment disputes between investors and states) applies, as modified by this Article and Annex 13-B, to:

(a) investment disputes pertaining to measures to which this Chapter applies and in which an investor claims that a Party has breached Article 8.10 (Treatment of investors and of covered investments), 8.11 (Compensation for losses), 8.12 (Expropriation), 8.13 (Transfers), 8.16 (Denial of benefits), 13.3, or 13.4; or

(b) investment disputes commenced pursuant to Section F of Chapter Eight (Resolution of investment disputes between investors and states) in which Article 13.16.1 has been invoked.

2. In the case of an investment dispute under subparagraph 1(a), or if the respondent invokes Article 13.16.1 within 60 days of the submission of a claim to the Tribunal under Article 8.23 (Submission of a claim to the Tribunal), a division of the Tribunal shall be composed, in accordance with Article 8.27.7 (Constitution of the Tribunal) from the list established under Article 13.20.3. If the respondent invokes Article 13.16.1 within 60 days of the submission of a claim, with respect to an investment dispute other than under subparagraph 1(a), the period of time applicable to the composition of a division of the Tribunal under Article 8.27.7 (Constitution of the Tribunal) commences on the date the respondent invokes Article 13.16.1. If the CETA Joint Committee has not made the appointments pursuant to Article 8.27.2 (Constitution of the Tribunal) within the period of time provided in Article 8.27.17 (Constitution of the Tribunal), either disputing party may request that the Secretary-General of the International Centre for Settlement of Investment Disputes ('ICSID') select the Members of the Tribunal from the list established under Article 13.20. If the list has not been established under Article 13.20 on the date the claim is submitted pursuant to Article 8.23 (Submission of a claim to the Tribunal), the Secretary-General of ICSID shall select the Members of the Tribunal from the individuals proposed by one or both of the Parties in accordance with Article 13.20.

3. The respondent may refer the matter in writing to the Financial Services Committee for a decision as to whether and, if so, to what extent the exception under Article 13.16.1 is a valid defence to the claim. This referral shall not be made later than the date the Tribunal fixes for the respondent to submit its counter-memorial. If the respondent refers the matter to the Financial Services Committee under this paragraph the periods of time or proceedings referred to in Section F of Chapter Eight (Resolution of investment disputes between investors and states) are suspended.

4. In a referral under paragraph 3, the Financial Services Committee or the CETA Joint Committee, as the case may be, may make a joint determination as to whether and to what extent Article 13.16.1 is a valid defence to the claim. The Financial Services Committee or the CETA Joint Committee, as the case may be, shall transmit a copy of the joint determination to the investor and the Tribunal, if constituted. If the joint determination concludes that Article 13.16.1 is a valid defence to all parts of the claim in their entirety, the investor is deemed to have withdrawn its claim and the proceedings are discontinued in accordance with Article 8.35 (Discontinuance). If the joint determination concludes that Article 13.16.1 is a valid defence to only parts of the claim, the joint determination is binding on the Tribunal with respect to those parts of the claim. The suspension of the periods of time or proceedings described in paragraph 3 then no longer applies and the investor may proceed with the remaining parts of the claim.

5. If the CETA Joint Committee has not made a joint determination within three months of referral of the matter by the Financial Services Committee, the suspension of the periods of time or proceedings referred to in paragraph 3 no longer applies and the investor may proceed with its claim.

6. At the request of the respondent, the Tribunal shall decide as a preliminary matter whether and to what extent Article 13.16.1 is a valid defence to the claim. Failure of the respondent to make that request is without prejudice to the right of the respondent to assert Article 13.16.1 as a defence in a later phase of the proceedings. The Tribunal shall draw no adverse inference from the fact that the Financial Services Committee or the CETA Joint Committee has not agreed on a joint determination in accordance with Annex13-B.

CHAPTER FOURTEEN

International maritime transport services

Article 14.1

Definitions

For the purposes of this Chapter:

customs clearance services or **customs house brokers' services** means the carrying out, on a fee or contract basis, of customs formalities concerning import, export or through transport of cargo, irrespective of whether these services are the main or secondary activity of the service provider;

container station and depot services means the storage, stuffing, stripping or repair of containers and making them available for shipment, whether in port areas or inland;

door-to-door or multimodal transport operation means the transport of cargo under a single transport document, that uses more than one mode of transport and involves an international sea-leg;

feeder services means the pre- and onward transportation by sea of international cargo, including containerised, break bulk and dry or liquid bulk cargo, between ports located in the territory of a Party. For greater certainty, in respect of Canada, feeder services may include transportation between sea and inland waters, where inland waters means those defined in the *Customs Act*, R.S.C. 1985, c.1 (2nd Supp.);

international cargo means cargo transported by sea-going vessels between a port of a Party and a port of the other Party or of a third country, or between a port of one Member State of the European Union and a port of another Member State of the European Union;