Chapter 2
General Definitions

Article 2.1: Definitions of General Application

For the purposes of this Agreement, unless otherwise specified:

(a) **central level of government** means:

(i) for Australia, the Commonwealth government; and

(ii) for Chile, the national level of government;

(b) **covered investment** means, with respect to a Party, an investment in its territory of an investor of the other Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

(c) **Customs Administration** means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

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

(i) 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;

(ii) safeguard duties applied in accordance with Article XIX of GATT 1994 and the Safeguards Agreement;

(iii) antidumping or countervailing duty; and

(iv) fee or other charge in connection with importation commensurate with the cost of services rendered;

(e) **days** means calendar days, including weekends and holidays;

(f) **enterprise** means any entity constituted or organised under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(g) **enterprise of a Party** means an enterprise constituted or organised under the law of a Party;

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

(i) **GATS** means the *General Agreement on Trade in Services*, contained in Annex 1B of the WTO Agreement;

(j) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A of the WTO Agreement;

(k) **goods of a Party** means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party. A good of a Party may include materials of other countries;

(l) **government procurement** means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;

(m) **Harmonized System (HS)** means the *Harmonized Commodity Description and Coding System* governed by "*The International Convention on the Harmonized Commodity Description and Coding System*", including its General Rules of Interpretation, Section Notes, and Chapter Notes, and their amendments, as adopted and implemented by the Parties in their respective tariff laws;

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

(o) **investor of a Party** means a Party or a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party; provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his/her dominant and effective nationality [2-1];

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

(q) **national** means a natural person who has the nationality of a Party according to Annex 2-A;

(r) **originating good** means a good qualifying under the rules of origin set out in Chapter 4 (Rules of Origin);

(s) **person** means a natural person or an enterprise;

(t) **person of a Party** means a national or an enterprise of a Party;

(u) **publish** includes publication in written form or on the Internet;

[2-1] For greater certainty, the Parties understand that "investor of a Party" includes a state enterprise.

(v) **regional level of government** means, for Australia, a state of Australia, the Australian Capital Territory, or the Northern Territory. For Chile, as a unitary state, "regional level of government" is not applicable;

(w) **Safeguards Agreement** means the *Agreement on Safeguards*, contained in Annex 1A of the WTO Agreement;

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

(y) **state enterprise** means an enterprise wholly or majority owned or controlled by a Party for the purposes of carrying on business activity;

(z) **subheading** means the first six digits in the tariff classification number under the Harmonized System;

(aa) **territory** means for a Party the territory of that Party as set out in Annex 2-A;

(bb) **TBT Agreement** means the *Agreement on Technical Barriers to Trade*, contained in Annex 1A of the WTO Agreement;

(cc) **TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C of the WTO Agreement;

(dd) **WTO** means the World Trade Organization, and

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

Annex 2-A

Country-Specific Definitions

For the purposes of this Agreement, unless otherwise specified:

1. **natural person who has the nationality of a Party** means:

   (a) with respect to Australia, an Australian citizen as defined in the *Australian Citizenship Act 2007*, or a permanent resident of Australia as defined in the *Migration Regulations 1994*; and

   (b) with respect to Chile, a *chileno (a)* as defined in *Constitución Política de la República de Chile* or a permanent resident of Chile; and

2. **territory** means:

   (a) with respect to Australia, the territory of the Commonwealth of Australia:

   (i) excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and

   (ii) including Australia's territorial sea, contiguous zone, exclusive economic zone, and continental shelf; and

   (b) with respect to Chile, the land, maritime, and air space under its sovereignty, and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law.