

Encargada de Investigar la Existencia de Distorsiones en el Precio de las Mercaderías Importadas"), or its successor.

PART THREE:

INVESTMENT, SERVICES AND RELATED MATTERS

CHAPTER G: INVESTMENT

Section I - Investment

Article G-01:

Scope and Coverage¹

1. This Chapter applies to measures adopted or maintained by a Party relating to:
 - (a) investors of the other Party;
 - (b) investments of investors of the other Party in the territory of the Party; and
 - (c) with respect to Articles G-06 and G-14, all investments in the territory of the Party.
2. This Chapter does not apply to measures adopted or maintained by a Party relating to investors of the other Party, and investments of such investors, in financial institutions in the Party's territory.
3.
 - (a) Notwithstanding paragraph 2, Articles G-09, G-10 and Section II for breaches by a Party of Articles G-09 and G-10 shall apply to investors of the other Party, and investments of such investors, in financial institutions in the Party's territory, which have obtained the appropriate authorization.
 - (b) The Parties agree to seek further liberalization as set out in Annex G-01.3(b).
4. Nothing in this Chapter shall be construed to prevent a Party from providing a service or performing a function such as law enforcement, correctional services, income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care, in a manner that is not inconsistent with this Chapter.

Article G-02:

National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

2. Each Party shall accord to investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a province, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that province to investors, and to investments of investors, of the Party of which it forms a part.

4. For greater certainty, no Party may:

- (a) impose on an investor of the other Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
- (b) require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

Article G-03:

Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

2. Each Party shall accord to investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investments of investors of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

Article G-04:

Standard of Treatment

1. Each Party shall accord to investors of the other Party and to investments of investors of the other Party the better of the treatment required by Articles G-02 and G-03.

2. Annex G-04.2 sets out certain specific obligations by the Party specified in that Annex.

Article G-05:

Minimum Standard of Treatment

1. Each Party shall accord to investments of investors of the other Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

2. Without prejudice to paragraph 1 and notwithstanding Article G-08(7)(b), each Party shall accord to investors of the other Party, and to investments of investors of the other Party, nondiscriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

3. Paragraph 2 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article G-02 but for Article G-08(7)(b).

Article G-06:

Performance Requirements²

1. Neither Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory:

- (a) to export a given level or percentage of goods or services;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;
- (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;
- (e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
- (f) to transfer technology, a production process or other proprietary knowledge to a person in its territory, except when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement; or
- (g) to act as the exclusive supplier of the goods it produces or services it provides to a specific region or world market.

2. A measure that requires an investment to use a technology to meet generally applicable health, safety or environmental requirements shall not be construed to be inconsistent with paragraph 1(f). For greater certainty, Articles G-02 and G-03 apply to the measure.

3. Neither Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:

- (a) to achieve a given level or percentage of domestic content;

- (b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;
 - (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or
 - (d) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.
4. Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a nonParty, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.
5. Paragraphs 1 and 3 do not apply to any requirement other than the requirements set out in those paragraphs.
6. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in paragraph 1(b) or (c) or 3(a) or (b) shall be construed to prevent a Party from adopting or maintaining measures, including environmental measures:

- (a) necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;
- (b) necessary to protect human, animal or plant life or health; or
- (c) necessary for the conservation of living or non-living exhaustible natural resources.

Article G-07:

Senior Management and Boards of Directors

1. Neither Party may require that an enterprise of that Party that is an investment of an investor of the other Party appoint to senior management positions individuals of any particular nationality.
2. A Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Party that is an investment of an investor of the other Party, be of a particular nationality, or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article G-08:

Reservations and Exceptions

1. Articles G-02, G-03, G-06 and G-07 do not apply to:

- (a) any existing nonconforming measure that is maintained by
 - (i) a Party at the national or provincial level, as set out in its Schedule to Annex I, or
 - (ii) a local government;
 - (b) the continuation or prompt renewal of any nonconforming measure referred to in subparagraph (a); or
 - (c) an amendment to any nonconforming 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 G-02, G-03, G-06 and G-07.
2. Articles G-02, G-03, G-06 and G-07 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.
3. Neither Party may, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.
4. Articles G-02 and G-03 do not apply to any measure that is an exception to, or derogation from, a Party's obligations under the TRIPS Agreement, as specifically provided for in that agreement.
5. Article G-03 does not apply to treatment accorded by a Party pursuant to agreements, or with respect to sectors, set out in its Schedule to Annex III.
6. Articles G-02, G-03 and G-07 do not apply to:
- (a) procurement by a Party or a state enterprise; or
 - (b) subsidies or grants provided by a Party or a state enterprise, including government supported loans, guarantees and insurance.
7. The provisions of:
- (a) Article G-06(1)(a), (b) and (c), and (3)(a) and (b) do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs;
 - (b) Article G-06(1)(b), (c), (f) and (g), and (3)(a) and (b) do not apply to procurement by a Party or a state enterprise; and
 - (c) Article G-06(3)(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

Article G-09:

Transfers

1. Except as provided in Annex G-09.1, each Party shall permit all transfers relating to an investment of an investor of the other Party in the territory of the Party to be made freely and without delay. Such transfers include:
 - (a) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, returns in kind and other amounts derived from the investment;
 - (b) proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;
 - (c) payments made under a contract entered into by the investor, or its investment, including payments made pursuant to a loan agreement;
 - (d) payments made pursuant to Article G-10; and
 - (e) payments arising under Section II.
2. Each Party shall permit transfers to be made in a freely usable currency at the market rate of exchange prevailing on the date of transfer with respect to spot transactions in the currency to be transferred.
3. Neither Party may require its investors to transfer, or penalize its investors that fail to transfer, the income, earnings, profits or other amounts derived from, or attributable to, investments in the territory of the other Party.
4. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, nondiscriminatory and good faith application of its laws relating to:
 - (a) bankruptcy, insolvency or the protection of the rights of creditors;
 - (b) issuing, trading or dealing in securities;
 - (c) criminal or penal offenses;
 - (d) reports of transfers of currency or other monetary instruments; or
 - (e) ensuring the satisfaction of judgments in adjudicatory proceedings.
5. Paragraph 3 shall not be construed to prevent a Party from imposing any measure through the equitable, nondiscriminatory and good faith application of its laws relating to the matters set out in subparagraphs (a) through (e) of paragraph 4.
6. Notwithstanding paragraph 1, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under this Agreement, including as set out in paragraph 4.

Article G-10:

Expropriation and Compensation

1. Neither Party may directly or indirectly nationalize or expropriate an investment of an investor of the other Party in its territory or take a measure tantamount to nationalization or expropriation of such an investment ("expropriation"), except:

- (a) for a public purpose;
- (b) on a nondiscriminatory basis;
- (c) in accordance with due process of law and Article G-05(1); and
- (d) on payment of compensation in accordance with paragraphs 2 through 6.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

3. Compensation shall be paid without delay and be fully realizable.

4. If payment is made in a G7 currency, compensation shall include interest at a commercially reasonable rate for that currency from the date of expropriation until the date of actual payment.

5. If a Party elects to pay in a currency other than a G7 currency, the amount paid on the date of payment, if converted into a G7 currency at the market rate of exchange prevailing on that date, shall be no less than if the amount of compensation owed on the date of expropriation had been converted into that G7 currency at the market rate of exchange prevailing on that date, and interest had accrued at a commercially reasonable rate for that G7 currency from the date of expropriation until the date of payment.

6. On payment, compensation shall be freely transferable as provided in Article G-09.

7. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

8. For purposes of this Article and for greater certainty, a non-discriminatory measure of general application shall not be considered a measure tantamount to an expropriation of a debt security or loan covered by this Chapter solely on the ground that the measure imposes costs on the debtor that cause it to default on the debt.

Article G-11:

Special Formalities and Information Requirements

1. Nothing in Article G-02 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with the establishment of investments by investors of the other Party, such as a requirement that investors be residents of the Party or that investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of the other Party and investments of investors of the other Party pursuant to this Chapter.
2. Notwithstanding Articles G-02 or G-03, a Party may require an investor of the other Party, or its investment in its territory, to provide routine information concerning that investment solely for informational or statistical purposes. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the investor or the investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article G-12:

Relation to Other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.
2. A requirement by a Party that a service provider of the other Party post a bond or other form of financial security as a condition of providing a service into its territory does not of itself make this Chapter applicable to the provision of that crossborder service. This Chapter applies to that Party's treatment of the posted bond or financial security.

Article G-13:

Denial of Benefits

1. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such Party and to investments of such investor if investors of a nonParty own or control the enterprise and the denying Party:
 - (a) does not maintain diplomatic relations with the non-Party; or
 - (b) adopts or maintains measures with respect to the nonParty that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.
2. Subject to prior notification and consultation in accordance with Articles L-03 (Notification and Provision of Information) and N-06 (Consultations), a Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such Party and to investments of such investors if investors of a non-Party own or control the enterprise and the

enterprise has no substantial business activities in the territory of the Party under whose law it is constituted or organized.

Article G-14:

Environmental Measures

1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns.

2. The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding any such encouragement.

Article G-15:

Energy Regulatory Measures

Each Party shall seek to ensure that in the application of any energy regulatory measure, energy regulatory bodies within its territory avoid disruption of contractual relationships to the maximum extent practicable, and provide for orderly and equitable implementation appropriate to such measures.

Section II: Settlement of Disputes between a Party and an Investor of the Other Party

Article G-16:

Purpose

Without prejudice to the rights and obligations of the Parties under Chapter N (Institutional Arrangements and Dispute Settlement Procedures), this Section establishes a mechanism for the settlement of investment disputes that assures both equal treatment among investors of the Parties in accordance with the principle of international reciprocity and due process before an impartial tribunal.

Article G-17:

Claim by an Investor of a Party on Its Own Behalf

1. An investor of a Party may submit to arbitration under this Section a claim that the other Party has breached an obligation under:

- (a) Section I or Article J-03(2) (State Enterprises), or

- (b) Article J-02(3)(a) (Monopolies and State Enterprises) where the monopoly has acted in a manner inconsistent with the Party's obligations under Section I, and that the investor has incurred loss or damage by reason of, or arising out of, that breach.
- 2. An investor may not make a claim if more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage.

Article G-18:

Claim by an Investor of a Party on Behalf of an Enterprise

- 1. An investor of a Party, on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, may submit to arbitration under this Section a claim that the other Party has breached an obligation under:
 - (a) Section I or Article J-03(2) (State Enterprises), or
 - (b) Article J-02(3)(a) (Monopolies and State Enterprises) where the monopoly has acted in a manner inconsistent with the Party's obligations under Section I, and that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.
- 2. An investor may not make a claim on behalf of an enterprise described in paragraph 1 if more than three years have elapsed from the date on which the enterprise first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the enterprise has incurred loss or damage.
- 3. Where an investor makes a claim under this Article and the investor or a non-controlling investor in the enterprise makes a claim under Article G-17 arising out of the same events that gave rise to the claim under this Article, and two or more of the claims are submitted to arbitration under Article G-21, the claims should be heard together by a Tribunal established under Article G-27, unless the Tribunal finds that the interests of a disputing party would be prejudiced thereby.
- 4. An investment may not make a claim under this Section.

Article G-19:

Settlement of a Claim through Consultation and Negotiation

The disputing parties should first attempt to settle a claim through consultation or negotiation.

Article G-20:

Notice of Intent to Submit a Claim to Arbitration

The disputing investor shall deliver to the disputing Party written notice of its intention to

submit a claim to arbitration at least 90 days before the claim is submitted, which notice shall specify:

- (a) the name and address of the disputing investor and, where a claim is made under Article G-18, the name and address of the enterprise;
- (b) the provisions of this Agreement alleged to have been breached and any other relevant provisions;
- (c) the issues and the factual basis for the claim; and
- (d) the relief sought and the approximate amount of damages claimed.

Article G-21:

Submission of a Claim to Arbitration

1. Except as provided in Annex G-21.1, and provided that six months have elapsed since the events giving rise to a claim, a disputing investor may submit the claim to arbitration under:

- (a) the ICSID Convention, provided that both the disputing Party and the Party of the investor are parties to the Convention;
- (b) the Additional Facility Rules of ICSID, provided that either the disputing Party or the Party of the investor, but not both, is a party to the ICSID Convention; or
- (c) the UNCITRAL Arbitration Rules.

2. The applicable arbitration rules shall govern the arbitration except to the extent modified by this Section.

Article G-22:

Conditions Precedent to Submission of a Claim to Arbitration

1. A disputing investor may submit a claim under Article G-17 to arbitration only if:

- (a) the investor consents to arbitration in accordance with the procedures set out in this Agreement; and
- (b) the investor and, where the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise, waive their right to initiate or continue before any administrative tribunal or court under the law of a Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article G-17, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Party.

2. A disputing investor may submit a claim under Article G-18 to arbitration only if both the

investor and the enterprise:

- (a) consent to arbitration in accordance with the procedures set out in this Agreement; and
 - (b) waive their right to initiate or continue before any administrative tribunal or court under the law of a Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article G-18, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Party.
3. A consent and waiver required by this Article shall be in writing, shall be delivered to the disputing Party and shall be included in the submission of a claim to arbitration.
4. Only where a disputing Party has deprived a disputing investor of control of an enterprise:
- (a) a waiver from the enterprise under paragraph 1(b) or 2(b) shall not be required; and
 - (b) Annex G-21.1(b) shall not apply.

Article G-23:

Consent to Arbitration

1. Each Party consents to the submission of a claim to arbitration in accordance with the procedures set out in this Agreement.
2. The consent given by paragraph 1 and the submission by a disputing investor of a claim to arbitration shall satisfy the requirement of:
- (a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the Additional Facility Rules for written consent of the parties;
 - (b) Article II of the New York Convention for an agreement in writing; and
 - (c) Article I of the Inter-American Convention for an agreement.

Article G-24:

Number of Arbitrators and Method of Appointment

Except in respect of a Tribunal established under Article G-27, and unless the disputing parties otherwise agree, the Tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

Article G-25:

Constitution of a Tribunal When a Party Fails to Appoint an Arbitrator or the

Disputing Parties Are Unable to Agree on a Presiding Arbitrator

1. The Secretary-General shall serve as appointing authority for an arbitration under this Section.
2. If a Tribunal, other than a Tribunal established under Article G-27, has not been constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary-General, on the request of either disputing party, shall appoint, in his discretion, the arbitrator or arbitrators not yet appointed, except that the presiding arbitrator shall be appointed in accordance with paragraph 3.
3. The Secretary-General shall appoint the presiding arbitrator from the roster of presiding arbitrators referred to in paragraph 4, provided that the presiding arbitrator shall not be a national of the disputing Party or a national of the Party of the disputing investor. In the event that no such presiding arbitrator is available to serve, the Secretary-General shall appoint, from the ICSID Panel of Arbitrators, a presiding arbitrator who is not a national of either of the Parties.
4. On the date of entry into force of this Agreement, the Parties shall establish, and thereafter maintain, a roster of 30 presiding arbitrators, none of whom may be a national of a Party, meeting the qualifications of the Convention and rules referred to in Article G-21 and experienced in international law and investment matters. The roster members shall be appointed by mutual agreement.

Article G-26:

Agreement to Appointment of Arbitrators

For purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on Article G-25(3) or on a ground other than nationality:

- (a) the disputing Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;
- (b) a disputing investor referred to in Article G-17 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the disputing investor agrees in writing to the appointment of each individual member of the Tribunal; and
- (c) a disputing investor referred to in Article G-18(1) may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the disputing investor and the enterprise agree in writing to the appointment of each individual member of the Tribunal.

Article G-27:

Consolidation

1. A Tribunal established under this Article shall be established under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with those Rules, except as modified by this Section.

2. Where a Tribunal established under this Article is satisfied that claims have been submitted to arbitration under Article G-21 that have a question of law or fact in common, the Tribunal may, in the interests of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

- (a) assume jurisdiction over, and hear and determine together, all or part of the claims; or
- (b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.

3. A disputing party that seeks an order under paragraph 2 shall request the Secretary-General to establish a Tribunal and shall specify in the request:

- (a) the name of the disputing Party or disputing investors against which the order is sought;
- (b) the nature of the order sought; and
- (c) the grounds on which the order is sought.

4. The disputing party shall deliver to the disputing Party or disputing investors against which the order is sought a copy of the request.

5. Within 60 days of receipt of the request, the Secretary-General shall establish a Tribunal comprising three arbitrators. The Secretary-General shall appoint the presiding arbitrator from the roster referred to in Article G-25(4). In the event that no such presiding arbitrator is available to serve, the Secretary-General shall appoint, from the ICSID Panel of Arbitrators, a presiding arbitrator who is not a national of either Party. The Secretary-General shall appoint the two other members from the roster referred to in Article G-25(4), and to the extent not available from that roster, from the ICSID Panel of Arbitrators, and to the extent not available from that Panel, in the discretion of the Secretary-General. One member shall be a national of the disputing Party and one member shall be a national of the Party of the disputing investors.

6. Where a Tribunal has been established under this Article, a disputing investor that has submitted a claim to arbitration under Article G-17 or G-18 and that has not been named in a request made under paragraph 3 may make a written request to the Tribunal that it be included in an order made under paragraph 2, and shall specify in the request:

- (a) the name and address of the disputing investor;
- (b) the nature of the order sought; and

- (c) the grounds on which the order is sought.
7. A disputing investor referred to in paragraph 6 shall deliver a copy of its request to the disputing parties named in a request made under paragraph 3.
8. A Tribunal established under Article G-21 shall not have jurisdiction to decide a claim, or a part of a claim, over which a Tribunal established under this Article has assumed jurisdiction.
9. On application of a disputing party, a Tribunal established under this Article, pending its decision under paragraph 2, may order that the proceedings of a Tribunal established under Article G-21 be stayed, unless the latter Tribunal has already adjourned its proceedings.
10. A disputing Party shall deliver to the Secretariat, within 15 days of receipt by the disputing Party, a copy of:
- (a) a request for arbitration made under paragraph (1) of Article 36 of the ICSID Convention;
 - (b) a notice of arbitration made under Article 2 of Schedule C of the ICSID Additional Facility Rules; or
 - (c) a notice of arbitration given under the UNCITRAL Arbitration Rules.
11. A disputing Party shall deliver to the Secretariat a copy of a request made under paragraph 3:
- (a) within 15 days of receipt of the request, in the case of a request made by a disputing investor;
 - (b) within 15 days of making the request, in the case of a request made by the disputing Party.
12. A disputing Party shall deliver to the Secretariat a copy of a request made under paragraph 6 within 15 days of receipt of the request.
13. The Secretariat shall maintain a public register of the documents referred to in paragraphs 10, 11 and 12.

Article G-28:

Notice

A disputing Party shall deliver to the other Party:

- (a) written notice of a claim that has been submitted to arbitration no later than 30 days after the date that the claim is submitted; and
- (b) copies of all pleadings filed in the arbitration.

Article G-29:

Participation by a Party

On written notice to the disputing parties, a Party may make submissions to a Tribunal on a question of interpretation of this Agreement.

Article G-30:

Documents

1. A Party shall be entitled to receive from the disputing Party, at the cost of the requesting Party a copy of:
 - (a) the evidence that has been tendered to the Tribunal; and
 - (b) the written argument of the disputing parties.
2. A Party receiving information pursuant to paragraph 1 shall treat the information as if it were a disputing Party.

Article G-31:

Place of Arbitration

Unless the disputing parties agree otherwise, a Tribunal shall hold an arbitration in the territory of a Party that is a party to the New York Convention, selected in accordance with:

- (a) the ICSID Additional Facility Rules if the arbitration is under those Rules or the ICSID Convention; or
- (b) the UNCITRAL Arbitration Rules if the arbitration is under those Rules.

Article G-32:

Governing Law

1. A Tribunal established under this Section shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.
2. An interpretation by the Commission of a provision of this Agreement shall be binding on a Tribunal established under this Section.

Article G-33:

Interpretation of Annexes

1. Where a disputing Party asserts as a defense that the measure alleged to be a breach is within the scope of a reservation or exception set out in Annex I, Annex II or Annex III, on request of the disputing Party, the Tribunal shall request the interpretation of the Commission on

the issue. The Commission, within 60 days of delivery of the request, shall submit in writing its interpretation to the Tribunal.

2. Further to Article G-32(2), a Commission interpretation submitted under paragraph 1 shall be binding on the Tribunal. If the Commission fails to submit an interpretation within 60 days, the Tribunal shall decide the issue.

Article G-34:

Expert Reports

Without prejudice to the appointment of other kinds of experts where authorized by the applicable arbitration rules, a Tribunal, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.

Article G-35:

Interim Measures of Protection

A Tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. A Tribunal may not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article G-17 or G-18. For purposes of this paragraph, an order includes a recommendation.

Article G-36:

Final Award

1. Where a Tribunal makes a final award against a Party, the Tribunal may award, separately or in combination, only:

- (a) monetary damages and any applicable interest;
- (b) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution.

A Tribunal may also award costs in accordance with the applicable arbitration rules.

2. Subject to paragraph 1, where a claim is made under Article G-18(1):

- (a) an award of restitution of property shall provide that restitution be made to the enterprise;
- (b) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise; and

- (c) the award shall provide that it is made without prejudice to any right that any person may have in the relief under applicable domestic law.
- 3. A Tribunal may not order a Party to pay punitive damages.

Article G-37:

Finality and Enforcement of an Award

- 1. An award made by a Tribunal shall have no binding force except between the disputing parties and in respect of the particular case.
- 2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.
- 3. A disputing party may not seek enforcement of a final award until:
 - (a) in the case of a final award made under the ICSID Convention
 - (i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award, or
 - (ii) revision or annulment proceedings have been completed; and
 - (b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules
 - (i) three months have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award, or
 - (ii) a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.
- 4. Each Party shall provide for the enforcement of an award in its territory.
- 5. If a disputing Party fails to abide by or comply with a final award, the Commission, on delivery of a request by a Party whose investor was a party to the arbitration, shall establish a panel under Article N-08 (Request for an Arbitral Panel). The requesting Party may seek in such proceedings:
 - (a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and
 - (b) a recommendation that the Party abide by or comply with the final award.
- 6. A disputing investor may seek enforcement of an arbitration award under the ICSID Convention, the New York Convention or the Inter-American Convention regardless of whether proceedings have been taken under paragraph 5.

7. A claim that is submitted to arbitration under this Section shall be considered to arise out of a commercial relationship or transaction for purposes of Article I of the New York Convention and Article I of the Inter-American Convention.

Article G-38:

General

Time when a Claim is Submitted to Arbitration

1. A claim is submitted to arbitration under this Section when:
 - (a) the request for arbitration under paragraph (1) of Article 36 of the ICSID Convention has been received by the Secretary-General;
 - (b) the notice of arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules has been received by the Secretary-General; or
 - (c) the notice of arbitration given under the UNCITRAL Arbitration Rules is received by the disputing Party.

Service of Documents

2. Delivery of notice and other documents on a Party shall be made to the place named for that Party in Annex G-38.2.

Receipts under Insurance or Guarantee Contracts

3. In an arbitration under this Section, a Party shall not assert, as a defense, counterclaim, right of setoff or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

Publication of an Award

4. Annex G-38.4 applies to the Parties specified in that Annex with respect to publication of an award.

Article G-39:

Exclusions

1. Without prejudice to the applicability or non-applicability of the dispute settlement provisions of this Section or of Chapter N (Institutional Arrangements and Dispute Settlement Procedures) to other actions taken by a Party pursuant to Article O-02 (National Security), a decision by a Party to prohibit or restrict the acquisition of an investment in its territory by an investor of the other Party, or its investment, pursuant to that Article shall not be subject to such provisions.
2. The dispute settlement provisions of this Section and of Chapter N shall not apply to the matters referred to in Annex G-39.2.

Section III - Definitions

Article G-40:

Definitions

For purposes of this Chapter:

disputing investor means an investor that makes a claim under Section II;

disputing parties means the disputing investor and the disputing Party;

disputing Party means a Party against which a claim is made under Section II;

disputing party means the disputing investor or the disputing Party;

energy and basic petrochemical goods refer to those goods classified under the Harmonized System as:

- (a) subheading 2612.10;
- (b) headings 27.01 through 27.06;
- (c) subheading 2707.50;
- (d) subheading 2707.99 (only with respect to solvent naphtha, rubber extender oils and carbon black feedstocks);
- (e) headings 27.08 and 27.09;
- (f) heading 27.10 (except for normal paraffin mixtures in the range of C9 to C15);
- (g) heading 27.11 (except for ethylene, propylene, butylene and butadiene in purities over 50 percent);
- (h) headings 27.12 through 27.16;
- (i) subheadings 2844.10 through 2844.50 (only with respect to uranium compounds classified under those subheadings);
- (j) subheadings 2845.10; and
- (k) subheading 2901.10 (only with respect to ethane, butanes, pentanes, hexanes, and heptanes);

energy regulatory measure means any measure by governmental entities that directly affects the transportation, transmission or distribution, purchase or sale, of an energy or basic petrochemical good;

enterprise means an "enterprise" as defined in Article B-01 (Definitions of General Application), and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organized under the law of a Party, and a branch located in the territory of a Party and carrying out business activities there. equity or debt securities includes voting and non-voting shares, bonds, convertible debentures, stock options and warrants;

existing means in effect on January 1, 1994 for Canada and December 29, 1995 for Chile;

financial institution means any financial intermediary or other enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

G7 currency means the currency of Canada, France, Germany, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland or the United States of America;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of other States, done at Washington, March 18, 1965;

Inter-American Convention means the Inter-American Convention on International Commercial Arbitration, done at Panama, January 30, 1975;

investment means:

- (a) an enterprise;
- (b) an equity security of an enterprise;
- (c) a debt security of an enterprise
 - (i) where the enterprise is an affiliate of the investor, or
 - (ii) where the original maturity of the debt security is at least three years, but does not include a debt security, regardless of original maturity, of a state enterprise;
- (d) a loan to an enterprise
 - (i) where the enterprise is an affiliate of the investor, or
 - (ii) where the original maturity of the loan is at least three years, but does not include a loan, regardless of original maturity, to a state enterprise;
- (e) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;

- (f) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution, other than a debt security or a loan excluded from subparagraph (c) or (d);
- (g) real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and
- (h) interests arising from the commitment of capital or other resources in the territory of a Party to economic activity in such territory, such as under
 - (i) contracts involving the presence of an investor's property in the territory of the Party, including turnkey or construction contracts, or concessions, or
 - (ii) contracts where remuneration depends substantially on the production, revenues or profits of an enterprise; but investment does not mean,
- (i) claims to money that arise solely from
 - (i) commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to an enterprise in the territory of the other Party, or
 - (ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by subparagraph (d); or
- (j) any other claims to money, that do not involve the kinds of interests set out in subparagraphs (a) through (h); or
- (k) with respect to "loans" and "debt securities" referred to in subparagraphs (c) and (d) as it applies to investors of the other Party, and investments of such investors, in financial institution in the Party's territory
 - (i) a loan or debt security issued by a financial institution that is not treated as regulatory capital by the Party in whose territory the financial institution is located,
 - (ii) a loan granted by or debt security owned by a financial institution, other than a loan to or debt security of a financial institution referred to in subparagraph (i), and
 - (iii) a loan to, or debt security issued by, a Party or a state enterprise thereof;

investment of an investor of a Party means an investment owned or controlled directly or indirectly by an investor of such Party;

investor of a Party means a Party or state enterprise thereof, or a national or an enterprise of such Party, that seeks to make, is making or has made an investment;

investor of a non-Party means an investor other than an investor of a Party, that seeks to make, is making or has made an investment;

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958;

person of a Party means "person of a Party" as defined in Chapter B (General Definitions) except that with respect to Article G-01(2) and (3), "persons of a Party" does not include a branch of an enterprise of a non-Party;

Secretary-General means the Secretary-General of ICSID;

transfers means transfers and international payments;

Tribunal means an arbitration tribunal established under Article G-21 or G-27; and

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on December 15, 1976.

Annex G-01.3(b)

Further Liberalization

If the negotiations for Chile's accession to NAFTA have not been engaged within 15 months of the entry into force of this Agreement, the Parties shall commence negotiations with a view to entering into an agreement, based on Chapter 14 on Financial Services of the NAFTA, by no later than April 30, 1999.

Annex G-04.2

Standard of Treatment

1. Chile shall accord to an investor of Canada or an investment of such investor that is party to an investment contract pursuant to Decree Law 600 of 1974 ("Decreto Ley 600 de 1974"), the better of the treatment required under this Agreement or granted under the contract pursuant to the said Decree Law.
2. Chile shall permit an investor of Canada or an investment of such investor, referred to in paragraph 1, to amend the investment contract in order to reflect the rights and obligations of this Agreement.

Annex G-09.1

1. For the purpose of preserving the stability of its currency, Chile reserves the right:
 - (a) to maintain existing requirements that transfers from Chile of proceeds from the sale of all or any part of an investment of an investor of Canada or from the

partial or complete liquidation of the investment may not take place until a period not to exceed

- (i) in the case of an investment made pursuant to Law 18.657 Foreign Capital Investment Fund Law ("Ley 18.657, Ley Sobre Fondo de Inversiones de Capitales Extranjeros"), five years has elapsed from the date of transfer to Chile, or
 - (ii) subject to subparagraph (c)
 - (iii) in all other cases, one year has elapsed from the date of transfer to Chile;
- (b) to apply a reserve requirement pursuant to Article 49 No. 2 of Law 18.840, Organic Law of the Central Bank of Chile, ("Ley 18.840, Ley Orgánica del Banco Central de Chile") on an investment of an investor of Canada, other than foreign direct investment, and on foreign credits relating to an investment, provided that such a reserve requirement shall not exceed 30 per cent of the amount of the investment, or the credit, as the case may be;
- (c) to adopt
 - (i) measures imposing a reserve requirement referred to in (b) for a period which shall not exceed two years from the date of transfer to Chile,
 - (ii) any reasonable measure consistent with paragraph 3 necessary to implement or to avoid circumvention of the measures under (a) or (b), and
 - (iii) measures, consistent with Article G-09 and this Annex, establishing future special voluntary investment programs in addition to the general regime for foreign investment in Chile, except that any such measures may restrict transfers from Chile of proceeds from the sale of all or any part of an investment of an investor of Canada or from the partial or complete liquidation of the investment for a period not to exceed 5 years from the date of transfer to Chile; and
- (d) to apply, pursuant to the Law 18.840, measures with respect to transfers relating to an investment of an investor of Canada that
 - (i) require that foreign exchange transactions for such transfers take place in the Formal Exchange Market,
 - (ii) require authorization for access to the Formal Exchange Market to purchase foreign currency, at the rate agreed upon by the parties to the transaction, which access shall be granted without delay when such transfers are:
 - (A) payments for current international transactions,

- (B) proceeds from the sale of all or any part, and from the partial or complete liquidation of an investment of an investor of Canada, or
 - (C) payments pursuant to a loan provided they are made in accordance with the maturity dates originally agreed upon in the loan agreement, and
 - (iii) require that foreign currency be converted into Chilean pesos, at the rate agreed upon by the parties to the transaction, except for transfers referred to in (ii) (A) through (C) which are exempt from this requirement.
2. Where Chile proposes to adopt a measure referred to in paragraph 1(c), Chile shall, to the extent practicable:
- (a) provide in advance to Canada the reasons for the proposed adoption of the measure as well as any relevant information in relation to the measure; and
 - (b) provide Canada with a reasonable opportunity to comment on the proposed measure.
3. A measure that is consistent with this Annex but inconsistent with Article G-02, shall be deemed not to contravene Article G-02 provided that, as required under existing Chilean law, it does not discriminate among investors that enter into transactions of the same nature.
4. This Annex applies to Law 18.840, to the Decree Law 600 of 1974 ("Decreto Ley 600 de 1974") to Law 18.657 and any other law establishing a future special voluntary investment program consistent with sub-paragraph 1(c)(iii) and to the continuation or prompt renewal of such laws, and to amendments to those laws, to the extent that any such amendment does not decrease the conformity of the amended law with Article G-09(1) as it existed immediately before the amendment.
5. For the purposes of this Annex:

Chilean juridical person means an enterprise that is constituted or organized in Chile for profit in a form which under Chilean law is recognized as being a juridical person;

date of transfer means the settlement date when the funds that constitute the investment were converted into Chilean pesos, or the date of the importation of the equipment and technology;

existing means in effect on October 24, 1996;

foreign credit means any type of debt financing originating in foreign markets whatever its nature, form or maturity period;

foreign direct investment means an investment of an investor of Canada, other than a foreign credit, made in order:

- (a) to establish a Chilean juridical person or to increase the capital of an existing Chilean juridical person with the purpose of producing an additional flow of goods or services, excluding purely financial flows; or
- (b) to acquire equity of an existing Chilean juridical person and to participate in its management, but excludes such an investment that is of a purely financial character and that is designed only to gain indirect access to the financial market of Chile;

Formal Exchange Market means the market constituted by the banking entities and other institutions authorized by the competent authority; and

payments for current international transactions means "payments for current international transactions" as defined under the Articles of Agreement of the International Monetary Fund, and for greater certainty, does not include payments of principal pursuant to a loan which are not made in accordance with the maturity dates originally agreed upon in the loan agreement.

Annex G-21.1

Submission of a Claim to Arbitration

Chile

1. With respect to the submission of a claim to arbitration:
 - (a) an investor of Canada may not allege that Chile has breached an obligation under
 - (i) Section I or Article J-03(2) (State Enterprises), or
 - (ii) Article J-02(3)(a) (Monopolies and State Enterprises) where the monopoly has acted in a manner inconsistent with Chile's obligations under Section I, both in an arbitration under this Section and in proceedings before a Chilean court or administrative tribunal; and
 - (b) where an enterprise of Chile that is a juridical person that an investor of Canada owns or controls directly or indirectly alleges in proceedings before a Chilean court or administrative tribunal that Chile has breached an obligation under
 - (i) Section I or Article J-03(2) (State Enterprises), or
 - (ii) Article J-02(3)(a) (Monopolies and State Enterprises) where the monopoly has acted in a manner inconsistent with Chile's obligations under Section I, the investor may not allege the breach in an arbitration under this Section.
2. For greater certainty, where an investor of Canada or an enterprise of Chile that is a juridical person that an investor of Canada owns or controls directly or indirectly makes an allegation referred to in paragraph 1(a) or (b) before a Chilean court or administrative tribunal, the selection of the Chilean court or administrative tribunal shall be final and such investor or enterprise may not thereafter allege the breach in an arbitration under this Section.

Annex G-38.2

Service of Documents on a Party Under Section II

Canada

The place for delivery of notice and other documents under this Section for Canada is:

Office of the Deputy Attorney General of Canada
Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8

This information shall be published in the Canada Gazette.

Chile

The place for delivery of notice and other documents under this Section for Chile is:

Dirección de Asuntos Jurídicos del Ministerio de Relaciones
Exteriores de la República de Chile
Morandé 441
Santiago, Chile

Annex G-38.4

Publication of an Award

Canada

Where Canada is the disputing Party, either Canada or a disputing investor that is a party to the arbitration may make an award public.

Chile

Where Chile is the disputing Party, either Chile or a disputing investor that is a party to arbitration may make an award public.

Annex G-39.2

Exclusions from Dispute Settlement

Canada

A decision by Canada following a review under the Investment Canada Act, with respect to whether or not to permit an acquisition that is subject to review, shall not be subject to the dispute settlement provisions of Section II or of Chapter N (Institutional Arrangements and Dispute Settlement Procedures).

CHAPTER H: CROSS-BORDER TRADE IN SERVICES

Article H-01:

Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to crossborder trade in services by service providers of the other Party, including measures respecting:

- (a) the production, distribution, marketing, sale and delivery of a service;
- (b) the purchase or use of, or payment for, a service;
- (c) the access to and use of distribution and transportation systems in connection with the provision of a service;
- (d) the presence in its territory of a service provider of the other Party; and
- (e) the provision of a bond or other form of financial security as a condition for the provision of a service.

2. This Chapter does not apply to:

- (a) cross-border trade in financial services;
- (b) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than
 - (i) aircraft repair and maintenance services during which an aircraft is withdrawn from service, and
 - (ii) specialty air services;
- (c) procurement by a Party or a state enterprise; or
- (d) subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees and insurance.

3. Nothing in this Chapter shall be construed to:

- (a) impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, or to confer any right on that national with respect to that access or employment; or
- (b) prevent a Party from providing a service or performing a function such as law enforcement, correctional services, income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care, in a manner that is not inconsistent with this Chapter.

Article H-02:

National Treatment

1. Each Party shall accord to service providers of the other Party treatment no less favourable than that it accords, in like circumstances, to its own service providers.
2. The treatment accorded by a Party under paragraph 1 means, with respect to a province, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that province to service providers of the Party of which it forms a part.

Article H-03:

Most-Favoured-Nation Treatment

Each Party shall accord to service providers of the other Party treatment no less favourable than that it accords, in like circumstances, to service providers of any non-Party.

Article H-04:

Standard of Treatment

Each Party shall accord to service providers of the other Party the better of the treatment required by Articles H-02 and H-03.

Article H-05:

Local Presence

Neither Party may require a service provider of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border provision of a service.

Article H-06:

Reservations

1. Articles H-02, H-03 and H-05 do not apply to:
 - (a) any existing non-conforming measure that is maintained by
 - (i) a Party at the national or provincial level, as set out in its Schedule to Annex I, or
 - (ii) a local government;
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

- (c) an amendment to any 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 H-02, H-03 and H-05.
2. Articles H-02, H-03 and H-05 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

Article H-07:

Quantitative Restrictions

1. Each Party shall set out in its Schedule to Annex IV any quantitative restriction that it maintains at the national or provincial level.
2. Each Party shall notify the other Party of any quantitative restriction that it adopts, other than at the local government level, after the date of entry into force of this Agreement and shall set out the restriction in its Schedule to Annex IV.
3. The Parties shall periodically, but in any event at least every two years endeavour to negotiate the liberalization or removal of the quantitative restrictions set out in Annex IV pursuant to paragraphs 1 and 2.

Article H-08:

Liberalization of Non-Discriminatory Measures

Each Party shall set out in its Schedule to Annex V its commitments to liberalize quantitative restrictions, licensing requirements, performance requirements or other non-discriminatory measures.

Article H-09:

Procedures

The Commission shall establish procedures for:

- (a) a Party to notify and include in its relevant Schedule
 - (i) quantitative restrictions in accordance with Article H-07(2),
 - (ii) commitments pursuant to Article H-08, and
 - (iii) amendments of measures referred to in Article H-06(1)(c); and
- (b) consultations on reservations, quantitative restrictions or commitments with a view to further liberalization.

Article H-10:

Licensing and Certification

1. With a view to ensuring that any measure adopted or maintained by a Party relating to the licensing or certification of nationals of the other Party does not constitute an unnecessary barrier to trade, each Party shall endeavor to ensure that any such measure:

- (a) is based on objective and transparent criteria, such as competence and the ability to provide a service;
- (b) is not more burdensome than necessary to ensure the quality of a service; and
- (c) does not constitute a disguised restriction on the cross-border provision of a service.

2. Where a Party recognizes, unilaterally or by agreement, education, experience, licences or certifications obtained in the territory of a non-Party:

- (a) nothing in Article H-03 shall be construed to require the Party to accord such recognition to education, experience, licences or certifications obtained in the territory of the other Party; and
- (b) the Party shall afford the other Party an adequate opportunity to demonstrate that education, experience, licences or certifications obtained in the other Party's territory should also be recognized or to conclude an agreement or arrangement of comparable effect.

3. Each Party shall, within two years of the date of entry into force of this Agreement, eliminate any citizenship or permanent residency requirement set out in its Schedule to Annex I that it maintains for the licensing or certification of professional service providers of the other Party. Where a Party does not comply with this obligation with respect to a particular sector, the other Party may, in the same sector and for such period as the non-complying Party maintains its requirement, solely have recourse to maintaining an equivalent requirement set out in its Schedule to Annex I or reinstating:

- (a) any such requirement at the national level that it eliminated pursuant to this Article; or
- (b) on notification to the non-complying Party, any such requirement at the provincial level existing on the date of entry into force of this Agreement.

4. The Parties shall consult periodically with a view to determining the feasibility of removing any remaining citizenship or permanent residency requirement for the licensing or certification of each other's service providers.

5. Annex H-10.5 applies to measures adopted or maintained by a Party relating to the licensing or certification of professional service providers.

Article H-11:

Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service provider of the other Party where the Party establishes that:
 - (a) the service is being provided by an enterprise owned or controlled by nationals of a non- Party, and the denying Party adopts or maintains measures with respect to the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise; or
 - (b) the cross-border provision of a transportation service covered by this Chapter is provided using equipment not registered by a Party.
2. Subject to prior notification and consultation in accordance with Articles L-03 (Notification and Provision of Information) and N-06 (Consultations), a Party may deny the benefits of this Chapter to a service provider of the other Party where the Party establishes that the service is being provided by an enterprise that is owned or controlled by persons of a non-Party and that has no substantial business activities in the territory of the other Party.

Article H-12:

Definitions

1. For purposes of this Chapter, a reference to a national or provincial government includes any non-governmental body in the exercise of any regulatory, administrative or other governmental authority delegated to it by that government.

2. For purposes of this Chapter:

cross-border provision of a service or cross-border trade in services means the provision of a service:

- (a) from the territory of a Party into the territory of the other Party;
- (b) in the territory of a Party by a person of that Party to a person of the other Party; or
- (c) by a national of a Party in the territory of the other Party,

but does not include the provision of a service in the territory of a Party by an investment, as defined in Article G-40 (Investment - Definitions), in that territory;

enterprise means an "enterprise" as defined in Article B-01 (Definitions of General Application), and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organized under the law of a Party, and a branch located in the territory of a Party and carrying out business activities there;

existing means in effect on January 1, 1994 for Canada and December 29, 1995 for Chile;

financial service means a service of a financial nature, including insurance, and services incidental or auxiliary to a service of a financial nature;

professional services means services, the provision of which requires specialized post-secondary education, or equivalent training or experience, and for which the right to practice is granted or restricted by a Party, but does not include services provided by tradespersons or vessel and aircraft crew members;

quantitative restriction means a non-discriminatory measure that imposes limitations on:

- (a) the number of service providers, whether in the form of a quota, a monopoly or an economic needs test, or by any other quantitative means; or
- (b) the operations of any service provider, whether in the form of a quota or an economic needs test, or by any other quantitative means;

service provider of a Party means a person of a Party that seeks to provide or provides a service; and

specialty air services means aerial mapping, aerial surveying, aerial photography, forest fire management, fire fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial sightseeing, flight training, aerial inspection and surveillance, and aerial spraying services.

Annex H-10.5:

Professional Services

Section I: General Provisions

Processing of Applications for Licences and Certifications

1. Each Party shall ensure that its competent authorities, within a reasonable time after the submission by a national of the other Party of an application for a licence or certification:

- (a) where the application is complete, make a determination on the application and inform the applicant of that determination; or
- (b) where the application is not complete, inform the applicant without undue delay of the status of the application and the additional information that is required under the Party's law.

Development of Professional Standards

2. The Parties shall encourage the relevant bodies in their respective territories to develop mutually acceptable standards and criteria for licensing and certification of professional service providers and to provide recommendations on mutual recognition to the Commission.

3. The standards and criteria referred to in paragraph 2 may be developed with regard to the following matters:

- (a) education - accreditation of schools or academic programs;
- (b) examinations - qualifying examinations for licensing, including alternative methods of assessment such as oral examinations and interviews;
- (c) experience - length and nature of experience required for licensing;
- (d) conduct and ethics - standards of professional conduct and the nature of disciplinary action for non-conformity with those standards;
- (e) professional development and re-certification - continuing education and ongoing requirements to maintain professional certification;
- (f) scope of practice - extent of, or limitations on, permissible activities;
- (g) local knowledge - requirements for knowledge of such matters as local laws, regulations, language, geography or climate; and
- (h) consumer protection - alternatives to residency requirements, including bonding, professional liability insurance and client restitution funds, to provide for the protection of consumers.

4. On receipt of a recommendation referred to in paragraph 2, the Commission shall review the recommendation within a reasonable time to determine whether it is consistent with this Agreement. Based on the Commission's review, each Party shall encourage its respective competent authorities, where appropriate, to implement the recommendation within a mutually agreed time.

Temporary Licensing

5. Where the Parties agree, each Party shall encourage the relevant bodies in its territory to develop procedures for the temporary licensing of professional service providers of the other Party.

Review

6. The Commission shall periodically, and at least once every three years, review the implementation of this Section.

Section II: Foreign Legal Consultants

1. Each Party shall, in implementing its obligations and commitments regarding foreign legal consultants as set out in its relevant Schedules and subject to any reservations therein, ensure that a national of the other Party is permitted to practice or advise on the law of any country in which that national is authorized to practice as a lawyer.

Consultations With Professional Bodies

2. Each Party shall consult with its relevant professional bodies to obtain their recommendations on:

- (a) the form of association or partnership between lawyers authorized to practice in its territory and foreign legal consultants;
- (b) the development of standards and criteria for the authorization of foreign legal consultants in conformity with Article H-10; and
- (c) other matters relating to the provision of foreign legal consultancy services.

3. Prior to initiation of consultations under paragraph 7, each Party shall encourage its relevant professional bodies to consult with the relevant professional bodies designated by the other Party regarding the development of joint recommendations on the matters referred to in paragraph 2.

Future Liberalization

4. Each Party shall establish a work program to develop common procedures throughout its territory for the authorization of foreign legal consultants.

5. Each Party shall promptly review any recommendation referred to in paragraphs 2 and 3 to ensure its consistency with this Agreement. If the recommendation is consistent with this Agreement, each Party shall encourage its competent authorities to implement the recommendation within one year.

6. Each Party shall report to the Commission within one year of the date of entry into force of this Agreement, and each year thereafter, on its progress in implementing the work program referred to in paragraph 4.

7. The Parties shall meet within one year of the date of entry into force of this Agreement with a view to:

- (a) assessing the implementation of paragraphs 2 through 5;
- (b) amending or removing, where appropriate, reservations on foreign legal consultancy services; and
- (c) assessing further work that may be appropriate regarding foreign legal consultancy services.

Section III: Temporary Licensing of Engineers

1. The Parties shall meet within one year of the date of entry into force of this Agreement to establish a work program to be undertaken by each Party, in conjunction with its relevant professional bodies, to provide for the temporary licensing in its territory of nationals of the other Party who are licenced as engineers in the territory of the other Party.
2. To this end, each Party shall consult with its relevant professional bodies to obtain their recommendations on:
 - (a) the development of procedures for the temporary licensing of such engineers to permit them to practice their engineering specialties in each jurisdiction in its territory;
 - (b) the development of model procedures for adoption by the competent authorities throughout its territory to facilitate the temporary licensing of such engineers;
 - (c) the engineering specialties to which priority should be given in developing temporary licensing procedures; and
 - (d) other matters relating to the temporary licensing of engineers identified by the Party in such consultations.
3. Each Party shall request its relevant professional bodies to make recommendations on the matters referred to in paragraph 2 within two years of the date of entry into force of this Agreement.
4. Each Party shall encourage its relevant professional bodies to meet at the earliest opportunity with the relevant professional bodies of the other Party with a view to cooperating in the development of joint recommendations on the matters referred to in paragraph 2 within two years of the date of entry into force of this Agreement. Each Party shall request an annual report from its relevant professional bodies on the progress achieved in developing those recommendations.
5. The Parties shall promptly review any recommendation referred to in paragraph 3 or 4 to ensure its consistency with this Agreement. If the recommendation is consistent with this Agreement, each Party shall encourage its competent authorities to implement the recommendation within one year.
6. The Commission shall review the implementation of this Section within two years of the date of entry into force of this Section.

CHAPTER I: TELECOMMUNICATIONS

Article I-01:

Scope and Coverage

1. This Chapter applies to:
 - (a) measures adopted or maintained by a Party relating to access to and use of public

telecommunications transport networks or services by persons of the other Party, including access and use by such persons operating private networks;

- (b) measures adopted or maintained by a Party relating to the provision of enhanced or value-added services by persons of the other Party in the territory, or across the borders, of a Party; and
 - (c) standards-related measures relating to attachment of terminal or other equipment to public telecommunications transport networks.
2. Except to ensure that persons operating broadcast stations and cable systems have continued access to and use of public telecommunications transport networks and services, this Chapter does not apply to any measure adopted or maintained by a Party relating to broadcast or cable distribution of radio or television programming.
3. Nothing in this Chapter shall be construed to:
- (a) require a Party to authorize a person of the other Party to establish, construct, acquire, lease, operate or provide telecommunications transport networks or telecommunications transport services;
 - (b) require a Party, or require a Party to compel any person, to establish, construct, acquire, lease, operate or provide telecommunications transport networks or telecommunications transport services not offered to the public generally;
 - (c) prevent a Party from prohibiting persons operating private networks from using their networks to provide public telecommunications transport networks or services to third persons; or
 - (d) require a Party to compel any person engaged in the broadcast or cable distribution of radio or television programming to make available its cable or broadcast facilities as a public telecommunications transport network.

Article I-02:

Access to and Use of Public Telecommunications Transport Networks and Services

1. Each Party shall ensure that persons of the other Party have access to and use of any public telecommunications transport network or service, including private leased circuits, offered in its territory or across its borders for the conduct of their business, on reasonable and non-discriminatory terms and conditions, including as set out in paragraphs 2 through 8.
2. Subject to paragraphs 6 and 7, each Party shall ensure that such persons are permitted to:
- (a) purchase or lease, and attach terminal or other equipment that interfaces with the public telecommunications transport network;
 - (b) interconnect private leased or owned circuits with public telecommunications transport networks in the territory, or across the borders, of that Party, including for use in providing dialup access to and from their customers or users, or with

circuits leased or owned by another person on terms and conditions mutually agreed by those persons;

- (c) perform switching, signalling and processing functions; and
 - (d) use operating protocols of their choice.
3. Each Party shall ensure that:
- (a) the pricing of public telecommunications transport services reflects economic costs directly related to providing the services; and
 - (b) private leased circuits are available on a flat-rate pricing basis.

Nothing in this paragraph shall be construed to prevent crosssubsidization between public telecommunications transport services.

4. Each Party shall ensure that persons of the other Party may use public telecommunications transport networks or services for the movement of information in its territory or across its borders, including for intracorporate communications, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of the other Party.

5. Further to Article O-01 (General Exceptions), nothing in this Chapter shall be construed to prevent a Party from adopting or enforcing any measure necessary to:

- (a) ensure the security and confidentiality of messages; or
 - (b) protect the privacy of subscribers to public telecommunications transport networks or services.
6. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications transport networks or services, other than that necessary to:
- (a) safeguard the public service responsibilities of providers of public telecommunications transport networks or services, in particular their ability to make their networks or services available to the public generally; or
 - (b) protect the technical integrity of public telecommunications transport networks or services.

7. Provided that conditions for access to and use of public telecommunications transport networks or services satisfy the criteria set out in paragraph 6, such conditions may include:

- (a) a restriction on resale or shared use of such services;
- (b) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks or services;
- (c) a restriction on interconnection of private leased or owned circuits with such networks or services or with circuits leased or owned by another person, where

the circuits are used in the provision of public telecommunications transport networks or services; and

- (d) a licensing, permit, registration or notification procedure which, if adopted or maintained, is transparent and applications filed thereunder are processed expeditiously.

8. For purposes of this Article, "non-discriminatory" means on terms and conditions no less favorable than those accorded to any other customer or user of like public telecommunications transport networks or services in like circumstances.

Article I-03:

Conditions for the Provision of Enhanced or ValueAdded Services

1. Each Party shall ensure that:
 - (a) any licensing, permit, registration or notification procedure that it adopts or maintains relating to the provision of enhanced or valueadded services is transparent and nondiscriminatory, and that applications filed thereunder are processed expeditiously; and
 - (b) information required under such procedures is limited to that necessary to demonstrate that the applicant has the financial solvency to begin providing services or to assess conformity of the applicant's terminal or other equipment with the Party's applicable standards or technical regulations.
2. Neither Party may require a person providing enhanced or valueadded services to:
 - (a) provide those services to the public generally;
 - (b) cost justify its rates;
 - (c) file a tariff;
 - (d) interconnect its networks with any particular customer or network; or
 - (e) conform with any particular standard or technical regulation for interconnection other than for interconnection to a public telecommunications transport network.
3. Notwithstanding paragraph 2(c), a Party may require the filing of a tariff by:
 - (a) such provider to remedy a practice of that provider that the Party has found in a particular case to be anticompetitive under its law; or
 - (b) a monopoly to which Article I-05 applies.

Article I-04:

Standards-Related Measures

1. Further to the WTO Agreement on Technical Barriers to Trade each Party shall ensure that its standards-related measures relating to the attachment of terminal or other equipment to the public telecommunications transport networks, including those measures relating to the use of testing and measuring equipment for conformity assessment procedures, are adopted or maintained only to the extent necessary to:

- (a) prevent technical damage to public telecommunications transport networks;
- (b) prevent technical interference with, or degradation of, public telecommunications transport services;
- (c) prevent electromagnetic interference, and ensure compatibility, with other uses of the electromagnetic spectrum;
- (d) prevent billing equipment malfunction; or
- (e) ensure users' safety and access to public telecommunications transport networks or services.

2. A Party may require approval for the attachment to the public telecommunications transport network of terminal or other equipment that is not authorized, provided that the criteria for that approval are consistent with paragraph 1.

3. Each Party shall ensure that the network termination points for its public telecommunications transport networks are defined on a reasonable and transparent basis.

4. Neither Party may require separate authorization for equipment that is connected on the customer's side of authorized equipment that serves as a protective device fulfilling the criteria of paragraph 1.

5. Further to the WTO Agreement on Technical Barriers to Trade each Party shall:

- (a) ensure that its conformity assessment procedures are transparent and non-discriminatory and that applications filed thereunder are processed expeditiously;
- (b) permit any technically qualified entity to perform the testing required under the Party's conformity assessment procedures for terminal or other equipment to be attached to the public telecommunications transport network, subject to the Party's right to review the accuracy and completeness of the test results; and
- (c) ensure that any measure that it adopts or maintains requiring persons to be authorized to act as agents for suppliers of telecommunications equipment before the Party's relevant conformity assessment bodies is non-discriminatory.

6. No later than one year after the date of entry into force of this Agreement, each Party shall adopt, as part of its conformity assessment procedures, provisions necessary to accept the

test results from laboratories or testing facilities in the territory of the other Party for tests performed in accordance with the accepting Party's standards-related measures and procedures.

7. The Parties hereby establish a Committee on Telecommunications Standards, comprising representatives of each Party.

8. The Committee on Telecommunications Standards shall perform the functions set out in Annex I-04.

Article I-05:

Monopolies¹

1. Where a Party maintains or designates a monopoly to provide public telecommunications transport networks or services, and the monopoly, directly or through an affiliate, competes in the provision of enhanced or valueadded services or other telecommunications-related services or telecommunications-related goods, the Party shall ensure that the monopoly does not use its monopoly position to engage in anticompetitive conduct in those markets, either directly or through its dealings with its affiliates, in such a manner as to affect adversely a person of the other Party. Such conduct may include crosssubsidization, predatory conduct and the discriminatory provision of access to public telecommunications transport networks or services.

2. To prevent such anticompetitive conduct, each Party shall adopt or maintain effective measures, such as:

- (a) accounting requirements;
- (b) equirements for structural separation;
- (c) rules to ensure that the monopoly accords i ts competitors access to and use of its public telecommunications transport networks or services on terms and conditions no less favourable than those it accords to itself or its affiliates; or
- (d) rules to ensure the timely disclosure of technical changes to public telecommunications transport networks and their interfaces.

Article I-06:

Transparency

Further to Article L-02 (Publication), each Party shall make publicly available its measures relating to access to and use of public telecommunications transport networks or services, including measures relating to:

- (a) tariffs and other terms and conditions of service;
- (b) specifications of technical interfaces with the networks or services;
- (c) information on bodies responsible for the preparation and adoption of standards-related measures affecting such access and use;

- (d) conditions applying to attachment of terminal or other equipment to the networks; and
- (e) notification, permit, registration or licensing requirements.

Article I-07:

Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter, this Chapter shall prevail to the extent of the inconsistency.

Article I-08:

Relation to International Organizations and Agreements

The Parties recognize the importance of international standards for global compatibility and interoperability of telecommunication networks or services and undertake to promote those standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

Article I-09:

Technical Cooperation and Other Consultations

1. To encourage the development of interoperable telecommunications transport services infrastructure, the Parties shall cooperate in the exchange of technical information, the development of government-to-government training programs and other related activities. In implementing this obligation, the Parties shall give special emphasis to existing exchange programs.
2. The Parties shall consult with a view to determining the feasibility of further liberalizing trade in all telecommunications services, including public telecommunications transport networks and services.

Article I-10:

Definitions

For purposes of this Chapter:

authorized equipment means terminal or other equipment that has been approved for attachment to the public telecommunications transport network in accordance with a Party's conformity assessment procedures;

conformity assessment procedure means "conformity assessment procedure" as defined in the WTO Agreement on Technical Barriers to Trade and includes the procedures referred to in Annex I-10;

enhanced or valueadded services means those telecommunications services employing computer processing applications that:

- (a) act on the format, content, code, protocol or similar aspects of a customer's transmitted information;
- (b) provide a customer with additional, different or restructured information;
or
- (c) involve customer interaction with stored information;

flat-rate pricing basis means pricing on the basis of a fixed charge per period of time regardless of the amount of use;

intracorporate communications means telecommunications through which an enterprise communicates:

- (a) internally or with or among its subsidiaries, branches or affiliates, as defined by each Party; or
- (b) on a noncommercial basis with other persons that are fundamental to the economic activity of the enterprise and that have a continuing contractual relationship with it, but does not include telecommunications services provided to persons other than those described herein;

network termination point means the final demarcation of the public telecommunications transport network at the customer's premises;

private network means a telecommunications transport network that is used exclusively for intracorporate communications;

protocol means a set of rules and formats that govern the exchange of information between two peer entities for purposes of transferring signaling or data information;

public telecommunications transport network means public telecommunications infrastructure that permits telecommunications between defined network termination points;

public telecommunications transport networks or services means public telecommunications transport networks or public telecommunications transport services;

public telecommunications transport service means any telecommunications transport service required by a Party, explicitly or in effect, to be offered to the public generally, including telegraph, telephone, telex and data transmission, that typically involves the real-time transmission of customer-supplied information between two or more points without any end-to end change in the form or content of the customer's information;

standard means a document, approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for goods or related processes and production methods, or for services or related operating 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, process, or production or operating method;

standards-related measure means a standard, technical regulation or conformity assessment procedure;

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

technical regulation means a document which lays down goods' characteristics or their related processes and production methods, or services' characteristics or their related operating methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, process, or production or operating method;

telecommunications service means a service provided by means of the transmission and reception of signals by any electromagnetic means, but does not mean the cable, broadcast or other electromagnetic distribution of radio or television programming to the public generally;

terminal equipment means any digital or analog device capable of processing, receiving, switching, signaling or transmitting signals by electromagnetic means and that is connected by radio or wire to a public telecommunications transport network at a termination point; and

WTO Agreement on Technical Barriers to Trade means the Agreement on Technical Barriers to Trade which forms part of the WTO Agreement.

Annex I-04.8

Committee on Telecommunications Standards

1. The Committee on Telecommunications Standards, established under Article I-04(7), shall comprise representatives of each Party.
2. The Committee shall, within six months of the date of entry into force of this Agreement, develop a work program, including a timetable, for making compatible to the greatest extent possible, the standards-related measures of the Parties for authorized equipment as defined in Chapter I (Telecommunications).
3. The Committee may address other appropriate standards-related matters respecting telecommunications equipment or services and such other matters as it considers appropriate.
4. The Committee shall take into account relevant work carried out by the Parties in other fora, and that of non-governmental standardizing bodies.

Annex I-10:

Conformity Assessment Procedures

For Canada:

Department of Industry, Standards and Interconnection Division Certification Procedures (CP-01)

Department of Industry Act, S.C. 1995, c.1

Canada Transportation Act, S.C. 1996, c. 10

Radiocommunication Act, R.S.C. 1985, c. R-2, as amended by S.C. 1989, c. 17

Telecommunications Act, S.C. 1993, c.38

For Chile:

Undersecretariat of Telecommunications, Ministry of Transport and Telecommunications ("Subsecretaría de Telecomunicaciones, Ministerio de Transportes y Telecomunicaciones")

Law 18.168, Official Gazette, October 2, 1982, General Law of Telecommunications ("Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones")

Supreme Decree 220 of the Ministry of Transport and Telecommunications, Official Gazette, January 8, 1981, Regulation on the Homologation of Telephone Equipment (Decreto 220 de Ministerio de Transportes y Telecomunicaciones, Diario Oficial, enero 8, 1981, "Reglamento de Homologación de Aparatos Telefónicos")

CHAPTER J: COMPETITION POLICY, MONOPOLIES AND STATE ENTERPRISES

Article J-01:

Competition Law¹

1. Each Party shall adopt or maintain measures to proscribe anti-competitive business conduct and take appropriate action with respect thereto, recognizing that such measures will enhance the fulfillment of the objectives of this Agreement. To this end the Parties shall consult from time to time about the effectiveness of measures undertaken by each Party.
2. Each Party recognizes the importance of cooperation and coordination among their authorities to further effective competition law enforcement in the free trade area. The Parties shall cooperate on issues of competition law enforcement policy, including mutual legal assistance, notification, consultation and exchange of information relating to the enforcement of competition laws and policies in the free trade area.
3. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Article.

Article J-02:

Monopolies and State Enterprises²

1. Nothing in this Agreement shall be construed to prevent a Party from designating a monopoly.
2. Where a Party intends to designate a monopoly and the designation may affect the interests of persons of the other Party, the Party shall:
 - (a) wherever possible, provide prior written notification to the other Party of the designation; and
 - (b) endeavor to introduce at the time of the designation such conditions on the operation of the monopoly as will minimize or eliminate any nullification or impairment of benefits in the sense of Annex N-04 (Nullification and Impairment).
3. Each Party shall ensure, through regulatory control, administrative supervision or the application of other measures, that any privately-owned monopoly that it designates and any government monopoly that it maintains or designates:
 - (a) acts in a manner that is not inconsistent with the Party's obligations under this Agreement wherever such a monopoly exercises any 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 import or export licences, approve commercial transactions or impose quotas, fees or other charges³;
 - (b) except to comply with any terms of its designation that are not inconsistent with subparagraph (c) or (d), 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 sale⁴;
 - (c) provides non-discriminatory treatment to investments of investors, to goods and to service providers of the other Party in its purchase or sale of the monopoly good or service in the relevant market; and
 - (d) does not use its monopoly position to engage, either directly or indirectly, including through its dealings with its parent, its subsidiary or other enterprise with common ownership, in anticompetitive practices in a non-monopolized market in its territory that adversely affect an investment of an investor of the other Party, including through the discriminatory provision of the monopoly good or service, cross-subsidization or predatory conduct.
4. Paragraph 3 does not apply to procurement by governmental agencies of goods or services for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods or the provision of services for commercial sale.

5. For purposes of this Article "maintain" means designate prior to the date of entry into force of this Agreement and existing on that date.

Article J-03:

State Enterprises

1. Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state enterprise.

2. Each Party shall ensure, through regulatory control, administrative supervision or the application of other measures, that any state enterprise that it maintains or establishes acts in a manner that is not inconsistent with the Party's obligations under Chapter G (Investment) wherever such enterprise exercises any regulatory, administrative or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant licences, approve commercial transactions or impose quotas, fees or other charges.

3. Each Party shall ensure that any state enterprise that it maintains or establishes accords non-discriminatory treatment in the sale of its goods or services to investments in the Party's territory of investors of the other Party.

Article J-04:

Definitions

For purposes of this Chapter:

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

discriminatory provision includes treating:

- (a) a parent, a subsidiary or other enterprise with common ownership more favourably than an unaffiliated enterprise, or
- (b) one class of enterprises more favourably than another, in like circumstances;

government monopoly means a monopoly that is 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 privately-held enterprises in the relevant business or industry;

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

monopoly means an entity, including a consortium or government agency, that in any relevant market in the territory of a Party is designated as 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 and most-favoured-nation treatment, as set out in the relevant provisions of this Agreement; and

state enterprise means, except as set out in Annex J-04, an enterprise owned, or controlled through ownership interests, by a Party.

Annex J-04

Country-Specific Definition of State Enterprises

For purposes of Article J-03(3), with respect to Canada, "state enterprise" means a Crown corporation within the meaning of the Financial Administration Act (Canada), a Crown corporation within the meaning of any comparable provincial law or equivalent entity that is incorporated under other applicable provincial law.

CHAPTER K: TEMPORARY ENTRY FOR BUSINESS PERSONS

Article K-01:

General Principles

Further to Article A-02 (Objectives), this Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and to protect the domestic labour force and permanent employment in their respective territories.

Article K-02:

General Obligations

Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article K-01 and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

Article K-03:

Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health and safety and national security, in accordance with this Chapter, including the provisions of Annex K-03 and Annex K-03.1.
2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely:
 - (a) the settlement of any labour dispute that is in progress at the place or intended place of employment; or

- (b) the employment of any person who is involved in such dispute.
- 3. When a Party refuses pursuant to paragraph 2 to issue an immigration document authorizing employment, it shall:
 - (a) inform in writing the business person of the reasons for the refusal; and
 - (b) promptly notify the other Party in writing of the reasons for the refusal.
- 4. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

Article K-04:

Provision of Information

- 1. Further to Article L-02 (Publication), each Party shall:
 - (a) provide to the other Party such materials as will enable it to become acquainted with its measures relating to this Chapter; and
 - (b) no later than one year after the date of entry into force of this Agreement, prepare, publish and make available in its own territory, and in the territory of the other Party, explanatory material in a consolidated document regarding the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Party to become acquainted with them.
- 2. Each Party shall collect and maintain, and make available to the other Party in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Party who have been issued immigration documentation, including data specific to each occupation, profession or activity.

Article K-05:

Working Group

The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials, to consider the implementation and administration of this Chapter and any measures of mutual interest.

Article K-06:

Dispute Settlement

- 1. A Party may not initiate proceedings under Article N-07 (Commission - Good Offices, Conciliation and Mediation) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article K-02 unless:
 - (a) the matter involves a pattern of practice; and

- (b) the business person has exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph (1)(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article K-07:

Relation to Other Chapters

Except for this Chapter, Chapters A (Objectives), B (General Definitions), N (Institutional Arrangements and Dispute Settlement Procedures) and P (Final Provisions) and Articles L-01 (Contacts Points), L-02 (Publication), L-03 (Notification and Provision of Information) and L-04 (Administrative Proceedings), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

Article K-08:

Definitions:

For purposes of this Chapter:

business person means a citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities; and

temporary entry means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence.

Annex K-03:

Temporary Entry for Business Persons

Section I: Business Visitors

1. Each Party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix K-03.I.1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

- (a) proof of citizenship of a Party;
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (c) evidence demonstrating that the proposed business activity is international in scope and the business person is not seeking to enter the local labour market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

- (a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and
- (b) the business person's principal place of business and the actual place of accrual of profits, at least, predominantly, remain outside such territory.

A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. Where the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

3. Each Party shall grant temporary entry to a business person seeking to engage in a business activity other than those set out in Appendix K-03.I.1, without requiring that person to obtain an employment authorization, on a basis no less favourable than that provided under the existing provisions of the measures set out in Appendix K-03.I.3, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

4. Neither Party may:

- (a) as a condition for temporary entry under paragraph 1 or 3, require prior approval procedures, petitions, labour certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph or 3.

5. Notwithstanding paragraph 4, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with the other Party with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with the other Party with a view to its removal.

Section II: Traders and Investors

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to:

- (a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a citizen and the territory of the other Party into which entry is sought, or
- (b) establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital, in a capacity that is supervisory, executive or involves essential skills, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

2. Neither Party may:

- (a) as a condition for temporary entry under paragraph 1, require labour certification tests or other procedures of similar effect; or
 - (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.
3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry.

Section III: Intra-Company Transferees

1. Each Party shall grant temporary entry and provide confirming documentation to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive or involves specialized knowledge, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry. A Party may require the business person to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for admission.
2. Neither Party may:
- (a) as a condition for temporary entry under paragraph 1, require labour certification tests or other procedures of similar effect; or
 - (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.
3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with the other Party with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with the other Party with a view to its removal.

Section IV: Professionals

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix K-03.IV.1, if the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:
- (a) proof of citizenship of a Party; and
 - (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.
2. Neither Party may:
- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labour certification tests or other procedures of similar effect; or

- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.
- 3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with the other Party with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with the other Party with a view to its removal.
- 4. Notwithstanding paragraphs 1 and 2, a Party may establish an annual numerical limit, which shall be set out in Appendix K-03.IV.4, regarding temporary entry of business persons of the other Party seeking to engage in business activities at a professional level in a profession set out in Appendix K-03.IV.1, if the Parties have not agreed otherwise prior to the date of entry into force of this Agreement. In establishing such a limit, the Party shall consult with the other Party.
- 5. A Party establishing a numerical limit pursuant to paragraph 4, unless the Parties agree otherwise:
 - (a) shall, for each year after the first year after the date of entry into force of this Agreement, consider increasing the numerical limit set out in Appendix K-03.IV.4 by an amount to be established in consultation with the other Party, taking into account the demand for temporary entry under this Section;
 - (b) shall not apply its procedures established pursuant to paragraph 1 to the temporary entry of a business person subject to the numerical limit, but may require the business person to comply with its other procedures applicable to the temporary entry of professionals; and
 - (c) may, in consultation with the other Party, grant temporary entry under paragraph 1 to a business person who practices in a profession where accreditation, licensing, and certification requirements are mutually recognized by the Parties.
- 6. Nothing in paragraph 4 or 5 shall be construed to limit the ability of a business person to seek temporary entry under a Party's applicable immigration measures relating to the entry of professionals other than those adopted or maintained pursuant to paragraph 1.
- 7. Three years after a Party establishes a numerical limit pursuant to paragraph 4, it shall consult with the other Party with a view to determining a date after which the limit shall cease to apply.

Annex K-03.1

- 1. Business persons who enter Chile under any of the categories set out in Annex K-03 shall be deemed to be engaged in activities which are in the country's interest.
- 2. Business persons who enter Chile under any of the categories set out in Annex K-03 and are issued a temporary visa shall have that temporary visa extended for subsequent periods provided the conditions on which it is based remain in effect, without requiring that person to apply for permanent residence.
- 3. Business persons who enter Chile may also obtain an identity card for foreigners.

Appendix K-03.I.1:

Business Visitors

Research and Design

- * Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of the other Party.

Growth, Manufacture and Production

- * Purchasing and production management personnel conducting commercial transactions for an enterprise located in the territory of the other Party.

Marketing

- * Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise located in the territory of the other Party.
- * Trade fair and promotional personnel attending a trade convention.

Sales

- * Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of the other Party but not delivering goods or providing services.
- * Buyers purchasing for an enterprise located in the territory of the other Party.

Distribution

- * Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

After-sales Service

- * Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

- * Professionals engaging in a business activity at a professional level in a profession set out in Appendix K-03.IV.1.

- * Management and supervisory personnel engaging in a commercial transaction for an enterprise located in the territory of the other Party.
- * Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the territory of the other Party.
- * Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.
- * Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of the other Party.
- * Translators or interpreters performing services as employees of an enterprise located in the territory of the other Party.

Definitions

For purposes of this Appendix:

territory of the other Party means the territory of the Party other than the territory of the Party into which temporary entry is sought.

Appendix K-03.I.3

Existing Immigration Measures

1. In the case of Canada, subsection 19(1) of the Immigration Regulations, 1978, SOR/78-172, as amended, made under the Immigration Act R.S.C. 1985, c. I-2, as amended. 2. In the case of Chile, Title I, paragraph 6 of Decree Law 1094, Official Gazette, July 19, 1975, Immigration Law ("Decreto Ley 1094, Diario Oficial, julio 19, 1975, Ley de Extranjería"), and Title III of Immigration Regulation ("Decreto Supremo 597 del Ministerio del Interior, Diario Oficial noviembre 24, 1984, Reglamento de Extranjería").

Appendix K-03.IV.1

Professionals

PROFESSION¹

MINIMUM EDUCATION
REQUIREMENTS AND
ALTERNATIVE
CREDENTIALS²

General

Accountant

Baccalaureate or Licenciatura Degree; or
C.P.A., C.A., C.G.A. or C.M.A.; or
Contador auditor or Contador público
(University Title)³

Architect	Baccalaureate or Licenciatura Degree; or state/provincial licence ⁴
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma ⁵ or Post-Secondary Certificate ⁶ , and three years experience
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Economist (including Commercial)	Baccalaureate or Licenciatura Degree Engineer in Chile)
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial licence
Forester	Baccalaureate or Licenciatura Degree; or state/provincial licence
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/national licence Landscape Architect Baccalaureate or Licenciatura Degree

Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years) or Abogado, or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. or Magister en Bibliotecología (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree Range Manager/Range Conservationalist Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist ⁷	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree or Asistente Social/Trabajador social (University Title)
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree

Medical/Allied Professional

Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or Licenciatura en Odontologia; or state/provincial licence
Dietitian	Baccalaureate or Licenciatura Degree or Dietista Nutricional (University Title); or state/provincial licence
Medical Laboratory Technologist (Canada)/Medical Technologist (Chile, Mexico and the United States of America) ⁸	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree or Nutricionista/Dietista Nutricional (University Title)
Occupational Therapist	Baccalaureate or Licenciatura Degree or Terapeuta Ocupacional (University Title); or state/provincial licence
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial licence
Physician (teaching or research only)	M.D. or Doctor en Medicina or Médico Cirujano/ Médico (University Title); or state/provincial licence
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree or Kinesiólogo/Kinesioterapeuta (University Title); or state/provincial licence
Psychologist	State/provincial licence; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial licence, or Licenciatura Degree, or Enfermera (University Title)
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria or Médico Veterinario (University Title); or state/provincial licence

Scientist

Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree

Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree or Geólogo (University Title)
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States of America)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada and Chile)	Baccalaureate or Licenciatura Degree for Physicist; Oceanógrafo (University Title) for Oceanographer
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree
Teacher	
College	Baccalaureate or Licenciatura Degree

Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

Appendix K-03.IV.4

Notwithstanding Annex K-03.IV.4, for the purposes of this Agreement, neither Party shall establish an annual numerical limit regarding temporary entry of business persons of the other Party seeking to engage in business activities at a professional level set out in Appendix K-03.IV.1.

PART SEVEN:

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

CHAPTER L: PUBLICATION, NOTIFICATION AND ADMINISTRATION OF LAWS

Article L-01:

Contact Points

Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Agreement. On the request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

Article L-02:

Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise 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 such measure that it proposes to adopt; and
 - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.