

## FREE TRADE AGREEMENT BETWEEN CANADA AND CHILE

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### PREAMBLE

*The Government of Canada and the Government of the Republic of Chile (Chile),*  
resolved to:

*STRENGTHEN* the special bonds of friendship and cooperation among their nations;

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

*CREATE* an expanded and secure market for the goods and services produced in their territories;

*REDUCE* distortions to trade;

*ESTABLISH* clear and mutually advantageous rules governing their trade;

*ENSURE* a predictable commercial framework for business planning and investment;

*BUILD* on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization and other multilateral and bilateral instruments of cooperation;

*ENHANCE* the competitiveness of their firms in global markets;

*CREATE* new employment opportunities and improve working conditions and living standards in their respective territories;

*UNDERTAKE* each of the preceding in a manner consistent with environmental protection and conservation;

*PRESERVE* their flexibility to safeguard the public welfare;

*PROMOTE* sustainable development;

*STRENGTHEN* the development and enforcement of environmental laws and regulations;

*PROTECT*, enhance and enforce basic workers' rights;

*FACILITATE* the accession of Chile to the North American Free Trade Agreement; and

*CONTRIBUTE* to hemispheric integration;

*HAVE AGREED* as follows:

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**PART ONE:**

**GENERAL PART**

**CHAPTER A: OBJECTIVES**

Article A-01:

Establishment of the Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services which are part of the Marrakesh Agreement Establishing the World Trade Organization, hereby establish a free trade area.

Article A-02:

Objectives

1. The objectives of this Agreement, as elaborated more specifically through its principles and rules, including national treatment, most-favoured-nation treatment and transparency, are to:
  - (a) eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;
  - (b) promote conditions of fair competition in the free trade area;
  - (c) increase substantially investment opportunities in the territories of the Parties;
  - (d) create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes; and
  - (e) establish a framework for further bilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement.
  
2. The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 and in accordance with applicable rules of international law.

Article A-03:

Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the Marrakesh Agreement Establishing the World Trade Organization and other agreements to which such Parties are party.
2. In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

Article A-04:

Relation to Environmental and Conservation Agreements

In the event of any inconsistency between this Agreement and the specific trade obligations set out in:

- (a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended June 22, 1979;
- (b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as amended June 29, 1990; or
- (c) the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done at Basel, March 22, 1989, such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

Article A-05:

Extent of Obligations

The Parties shall ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement, including their observance, except as otherwise provided in this Agreement, by provincial governments.

**CHAPTER B: GENERAL DEFINITIONS**

Article B-01:

Definitions of General Application

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

**Canada-United States Free Trade Agreement** means the Canada-United States Free Trade Agreement, done on January 2, 1988;

**citizen** means a citizen as defined in Annex B-01.1 for the Party specified in that Annex;

**Commission** means the Free Trade Commission established under Article N-01(1) (The Free Trade Commission);

**Customs Valuation Code** means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, including its interpretative notes, which is part of the WTO Agreement;

**days** means calendar days, including weekends and holidays;

**Dispute Settlement Understanding (DSU)** means the Understanding on Rules and Procedures Governing the Settlement of Disputes, which is part of the WTO Agreement;

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

**enterprise of a Party** means an enterprise constituted or organized under the law of a Party;

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

**GATS** means the General Agreement on Trade in Services, which is part of the WTO Agreement;

**GATT 1994** means the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;

**Generally Accepted Accounting Principles** means the recognized consensus or substantial authoritative support in the territory of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, disclosure of information and preparation of financial statements. These standards may be broad guidelines of general application as well as detailed standards, practices and procedures;

**goods of a Party** means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party<sup>1</sup>;

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

**measure** includes any law, regulation, procedure, requirement or practice;

**NAFTA** means the North American Free Trade Agreement, done on December 17, 1992;

**national** means a natural person who is a citizen or permanent resident of a Party and any other natural person referred to in Annex B-01.1;

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

**person** means a natural person or an enterprise;

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

**province** means a province of Canada, and includes the Yukon Territory and the Northwest Territories and their successors,

**Secretariat** means the Secretariat established under Article N-02(1) (The Secretariat);

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

**territory** means for a Party the territory of that Party as set out in Annex B-01.1;

**TRIPS Agreement** means the Agreement on Trade-Related Aspects of Intellectual Property Rights, which is part of the WTO Agreement; and

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

2. For purposes of this Agreement, unless otherwise specified, a reference to a province includes local governments of that province.
3. Country-specific definitions of national government are set out in Annex B-01.1.

#### Annex B-01.1

##### Country-Specific Definitions

For purposes of this Agreement, unless otherwise specified:

**citizen** means:

- (a) with respect to Canada, a natural person who is a citizen of Canada under the Citizenship Act, R.S.C. 1985, c. C-29, as amended from time to time or under any successor legislation; and
- (b) with respect to Chile, a Chilean as defined in Article 10 of the Political Constitution of the Republic of Chile ( "Constitución Política de la República de Chile");

**national** also includes, with respect to Chile, a Chilean as defined in Article 10 of the Political Constitution of the Republic of Chile ( "Constitución Política de la República de Chile"); and

**national government** means:

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

- (b) with respect to Chile, the Government of the Republic of Chile;

**territory** means:

- (a) with respect to Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic law, Canada may exercise rights with respect to the seabed and subsoil and their natural resources; and
- (b) with respect to Chile, the land, maritime, and air space under its sovereignty, and the exclusive economic zone and the continental shelf over which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law.

## **PART TWO:**

### **TRADE IN GOODS**

#### **CHAPTER C: NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS**

Article C-00:

##### Scope and Coverage

This Chapter applies to trade in goods of a Party, including:

- (a) goods covered by Annex C-00-A (Trade and Investment in the Automotive Sector); and
- (b) goods covered by Annex C-00-B (Textile and Apparel Goods), except as provided in such Annex.

##### **Section I – National Treatment**

Article C-01:

##### National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes, and to this end Article III of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement.
2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a province, treatment no less favourable than the most favourable treatment accorded by such province to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part<sup>1</sup>.
3. Paragraphs 1 and 2 do not apply to the measures set out in Annex C-01.3.

## **Section II – Tariffs**

### Article C-02:

#### Tariff Elimination<sup>2</sup>

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any customs duty, on a good.<sup>3</sup>
2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on goods in accordance with its Schedule to Annex C-02.2<sup>4</sup>.
3. On the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules. An agreement between the Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules for such good when approved by each such Party in accordance with its applicable legal procedures.
4. Except as otherwise provided in this Agreement, either Party may adopt or maintain import measures to allocate in-quota imports made pursuant to a tariff rate quota set out in Annex C-02.2, provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota.
5. On written request of either Party, a Party applying or intending to apply measures pursuant to paragraph 4 shall consult to review the administration of those measures.

### Article C-03:

#### Waiver of Customs Duties

1. Neither Party may adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfilment of a performance requirement.
2. Except as set out in Annex C-03.2, neither Party may, explicitly or implicitly, condition on the fulfilment of a performance requirement the continuation of any existing waiver of customs duties.
3. If a waiver or a combination of waivers of customs duties granted by a Party with respect to goods for commercial use by a designated person can be shown by the other Party to have an adverse impact on the commercial interests of a person of that Party, or of a person owned or controlled by a person of that Party that is located in the territory of the Party granting the waiver, or on the other Party's economy, the Party granting the waiver shall either cease to grant it or make it generally available to any importer.
4. This Article shall not apply to drawback and duty deferral programs.

### Article C-04:

#### Temporary Admission of Goods



1. Each Party shall grant duty-free temporary admission, including exemption from fees as specified in Annex C-04.1 for:
  - (a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter K (Temporary Entry for Business Persons);
  - (b) equipment for the press or for sound or television broadcasting and cinematographic equipment;
  - (c) goods imported for sports purposes and goods intended for display or demonstration; and
  - (d) commercial samples and advertising films, imported from the territory of the other Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.
  
2. Except as otherwise provided in this Agreement, neither Party may condition the dutyfree temporary admission of a good referred to in paragraph 1(a), (b) or (c), other than to require that such good:
  - (a) be imported by a national or resident of the other Party who seeks temporary entry;
  - (b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person;
  - (c) not be sold or leased while in its territory;
  - (d) be accompanied by a bond in an amount no greater than 110 per cent of the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good<sup>5</sup>;
  - (e) be capable of identification when exported;
  - (f) be exported on the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and
  - (g) be imported in no greater quantity than is reasonable for its intended use.
  
3. Except as otherwise provided in this Agreement, neither Party may condition the dutyfree temporary admission of a good referred to in paragraph 1(d), other than to require that such good:
  - (a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party;
  - (b) not be sold, leased or put to any use other than exhibition or demonstration while in its territory;

- (c) be capable of identification when exported;
  - (d) be exported within such period as is reasonably related to the purpose of the temporary admission; and
  - (e) be imported in no greater quantity than is reasonable for its intended use.
4. Where a good is temporarily admitted duty free under paragraph 1 and any condition the Party imposes under paragraph 2 and 3 has not been fulfilled, a Party may impose:
- (a) the customs duty and any other charge that would be owed on entry or final importation of the good; and
  - (b) any applicable criminal, civil or administrative penalties that the circumstances may warrant.
5. Subject to Chapters G (Investment) and H (Cross-Border Trade in Services):
- (a) each Party shall allow a vehicle or container used in international traffic that enters its territory from the territory of the other Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
  - (b) neither Party may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;
  - (c) neither Party may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and
  - (d) neither Party may require that the vehicle or carrier bringing a container from the territory of the other Party into its territory be the same vehicle or carrier that takes such container to the territory of the other Party.
6. For purposes of paragraph 5, "vehicle" means a truck, a truck tractor, tractor, trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

Article C-05:

Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:

- (a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or

- (b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article C-06:

Goods Re-Entered after Repair or Alteration<sup>6</sup>

1. Neither Party may apply a customs duty to a good, regardless of its origin, that reenters its territory after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.
2. Neither Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

Article C-07

Most-Favoured-Nation Rates of Duty on Certain Goods

1. Each Party shall eliminate its most-favoured-nation tariff applied to the goods indicated in the Harmonized System tariff items set out in Annex C-07.
2. The schedule set out in Annex C-07 provides for the elimination of the most-favoured nation tariff of each Party for the affected goods no later than January 1, 1999.

**Section III – Non-Tariff Measures**

Article C-08:

Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994, including its interpretative notes, and to this end Article XI of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made a part of this Agreement.
2. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.
3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:
  - (a) limiting or prohibiting the importation from the territory of the other Party of such good of that non-Party; or

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

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

5. Paragraphs 1 through 4 shall not apply to the measures set out in Annex C-01.3 and Annex C-08.

Article C-09:

Customs User Fees

Neither Party may adopt or maintain any customs user fee of the type referred to in Annex C-09 for originating goods.

Article C-10:

Wine and Distilled Spirits

- 1. Neither Party may adopt or maintain any measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with any distilled spirits of the Party.
- 2. Annex C-10.2 applies to other measures relating to wine and distilled spirits.

Article C-11:

Geographical Indications

As set out in Annex C-11 and taking into account the TRIPS Agreement, the Parties shall protect the geographical indications for the products specified in that Annex.

Article C-12:

Export Taxes

Neither Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of the other Party, unless such duty, tax or charge is adopted or maintained on any such good when destined for domestic consumption.

Article C-13:

Other Export Measures

- 1. Except as set out in Annex C-08, a Party may adopt or maintain a restriction otherwise justified under Articles XI: 2(a) or XX(g), (i) or (j) of the GATT 1994 with respect to the export of a good of the Party to the territory of the other Party, only if:

- (a) the restriction does not reduce the proportion of the total export shipments of the specific good made available to the other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36-month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree;
  - (b) the Party does not impose a higher price for exports of a good to the other Party than the price charged for such good when consumed domestically, by means of any measure, such as licenses, fees, taxation and minimum price requirements. The foregoing provision does not apply to a higher price that may result from a measure taken pursuant to subparagraph (a) that only restricts the volume of exports; and
  - (c) the restriction does not require the disruption of normal channels of supply to the other Party or normal proportions among specific goods or categories of goods supplied to the other Party.
2. The Parties shall cooperate in the maintenance and development of effective controls on the export of each other's goods to a non-Party in implementing this Article.

Article C-14:

Export Subsidies on Agricultural Goods

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall cooperate in an effort to achieve such an agreement.
2. Effective January 1, 2003, neither Party shall introduce or maintain any export subsidy on any agricultural goods originating in, or shipped from, its territory that are exported directly or indirectly to the territory of the other Party.
3. Where an exporting Party considers that a non-Party is exporting an agricultural good to the territory of the other Party with the benefit of export subsidies, the importing Party shall, on written request of the exporting Party, consult with the exporting Party with a view to agreeing on specific measures that the importing Party may adopt to counter the effect of any such subsidized imports. During the period before January 1, 2003, if the importing Party adopts the agreed-upon measures, the exporting Party shall refrain from applying, or immediately cease to apply, any export subsidy to exports of such good to the territory of the importing Party.
4. Until January 1, 2003, should a Party introduce or re-introduce a subsidy on exports of an agricultural good, the other Party may increase the rate of duty on such exports up to the applied most-favoured-nation tariff in effect at that time.

**Section IV – Consultations**

Article C-15:

Consultations and Committee on Trade in Goods and Rules of Origin

1. The Parties hereby establish a Committee on Trade in Goods and Rules of Origin, comprising representatives of each Party.
2. The Committee shall meet at least once each year, and at any other time on the request of either Party or the Commission, to ensure the effective implementation and administration of this Chapter, Chapter D, Chapter E and the Uniform Regulations. In this regard, the Committee shall:
  - (a) monitor the implementation and administration by the Parties of this Chapter, Chapter D, Chapter E and the Uniform Regulations to ensure their uniform interpretation;
  - (b) at the request of either party, review and endeavour to agree on, any proposed modification of or addition to this Chapter, Chapter D, Chapter E or the Uniform Regulations;
  - (c) recommend to the Commission any modification of or addition to this Chapter, Chapter D, Chapter E or the Uniform Regulations and to any other provision of this Agreement as may be required to conform with any change to the Harmonized System; and
  - (d) consider any other matter relating to the implementation and administration by the Parties of this Chapter, Chapter D, Chapter E and the Uniform Regulations referred to it by
    - (i) a Party,
    - (ii) the Customs Sub-Committee established under Article E-13, or
    - (iii) the Sub-Committee on Agriculture established under paragraph 4.
3. If the Committee fails to resolve a matter referred to it pursuant to paragraph 2 (b) or (d) within 30 days of such referral, either Party may request a meeting of the Commission under Article N-07.
4. The Parties hereby establish a Sub-Committee on Agriculture that shall:
  - (a) provide a forum for the Parties to consult on issues relating to market access for agricultural goods, including wine and alcoholic beverages;
  - (b) monitor the implementation and administration of this Chapter, Chapter D, and the Uniform Regulations as they affect agricultural goods;
  - (c) meet annually or whenever so requested by either Party;
  - (d) refer to the Committee any matter under sub-paragraph (b) on which it has been unable to reach agreement;
  - (e) submit to the Committee for its consideration any agreement reached under this paragraph;
  - (f) report annually to the Committee; and

- (g) follow-up and promote cooperation in matters relating to agricultural goods.
5. Each Party shall to the greatest extent practicable, take all necessary measures to implement any modification of or addition to this Agreement within 180 days of the date on which the Commission agrees on the modification or addition.
6. The Parties shall convene on the request of either Party a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, and regulation of transportation for the purpose of addressing issues related to movement of goods through the Parties' ports of entry.
7. Nothing in this Chapter shall be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to a matter under consideration by the Committee or from taking such other action as it considers necessary, pending a resolution of the matter under this Agreement.

Article C-16:

Customs Valuation Code

The Customs Valuation Code shall govern the customs valuation rules applied by the Parties to their reciprocal trade. The Parties agree that they will not make use in their reciprocal trade of the options and reservations permitted under Article 20 and paragraphs 2, 3 and 4 of Annex III of the Customs Valuation Code.

Article C-17:

Price Band System

1. Chile may maintain its Price Band System as established in Article 12 of Law 18.525 for the products covered by that Law and listed in Annex C-17.1. Chile shall not incorporate new products in the Price Band System or modify the method by which it is calculated and applied in a manner that makes it more trade restrictive than it was on November 13, 1996.
2. With respect to soft wheat flour, the multiplication factor provided for in Article 12 of Law 18.525 shall be established by statute and for a period not less than three years, consistent with Article 14 of that Law.
3. The tariff reductions in the Schedule of Chile to Annex C-02.2 for the products covered by Law 18.525 shall apply only to the ad-valorem tariff component and not to the specific duties or rebates that could result from the application of Law 18.525.

**Section V – Definitions**

Article C-18:

Definitions

For purposes of this Chapter:

**advertising films** means recorded visual media, with or without sound-tracks, consisting essentially of images showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film and that do not form part of a larger consignment;

**agricultural goods** means a good provided for in any of the following:<sup>7</sup>

(a) Harmonized System (HS) Chapters 1 through 24 (other than a fish or fish product); or

(b)

HS subheading	2905.43	manitol
HS subheading	2905.44	sorbitol
HS heading	33.01	essential oils
HS headings	35.01 to 35.05	albuminoidal substances, modified starches, glues
HS subheading	3809.10	finishing agents
HS subheading	3823.60	sorbitol n.e.p.
HS headings	41.01 to 41.03	hides and skins
HS heading	43.01	raw furskins
HS headings	50.01 to 50.03	raw silk and silk waste
HS headings	51.01 to 51.03	wool and animal hair
HS headings	52.01 to 52.03	raw cotton, cotton waste and cotton carded or combed
HS heading	53.01	raw flax
HS heading	53.02	raw hemp;

**commercial samples of negligible value** means commercial samples having a value, individually or in the aggregate as shipped, of not more than one U.S. dollar, or the equivalent amount in the currency of either of the Parties, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

**consumed** means:

(a) actually consumed; or

(b) further processed or manufactured so as to result in a substantial change in value, form or use of the good or in the production of another good;

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



- (a) charge equivalent to an internal tax imposed consistently with Article III: 2 of the GATT 1994, or any equivalent provision of a successor agreement to which both Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) anti-dumping or countervailing duty that is applied pursuant to a Party's domestic law and not applied inconsistently with Chapter M (Anti-dumping and Countervailing Duty Matters);
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered; and
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

**distilled spirits** include distilled spirits and distilled spirit-containing beverages;

**drawback program** includes measures under which a Party refunds in whole or in part the amount of customs duties paid, or waives or reduces the amount of customs duties owed, on a good imported into its territory on condition that the good is:

- (a) subsequently exported to the territory of the other Party;
- (b) used as a material in the production of another good that is subsequently exported to the territory of the other Party; or
- (c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of the other Party;

**duty deferral program** includes measures such as those governing foreign-trade zones, "regímenes de zonas francas y regímenes aduaneros especiales", temporary importations under bond, bonded warehouses, "maquiladoras" and inward processing programs;

**duty-free** means free of customs duties;

**goods imported for sports purposes** means sports requisites for use in sports contests, demonstrations or training in the territory of the Party into whose territory such goods are imported;

**goods intended for display or demonstration** includes their component parts, ancillary apparatus and accessories;

**local area network apparatus** means a good dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input or output units, including in-line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof suitable for use solely or principally with a private network, and providing for the transmission, receipt, error-checking, control, signal conversion or correction functions for non-voice data to move through a local area network;

**performance requirement** means a requirement that:

- (a) a given level or percentage of goods or services be exported;
- (b) domestic goods or services of the Party granting a waiver of customs duties be substituted for imported goods or services;
- (c) a person benefitting from a waiver of customs duties purchase other goods or services in the territory of the Party granting the waiver or accord a preference to domestically produced goods or services;
- (d) a person benefitting from a waiver of customs duties produce goods or provide services, in the territory of the Party granting the waiver, with a given level or percentage of domestic content; or
- (e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;

**printed advertising materials** means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicize or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

**repair or alteration** does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good<sup>8</sup>;

**total export shipments** means all shipments from total supply to users located in the territory of the other Party;

**total supply** means all shipments, whether intended for domestic or foreign users, from:

- (a) domestic production;
- (b) domestic inventory; and

- (c) other imports as appropriate; and

**waiver of customs duties** means a measure that waives otherwise applicable customs duties on any good imported from any country, including the territory of the other Party.

Annex C-01.3:

Exceptions to Articles C-01 and C-08

**Section I – Canadian Measures**

1. Articles C-01 and C-08 shall not apply to controls by Canada on the export of logs of all species.
2. Articles C-01 and C-08 shall not apply to controls by Canada on the export of unprocessed fish pursuant to the following existing statutes, as amended:
  - (a) New Brunswick Fish Processing Act, R.S.N.B. c. F-18.01 (1982), and Fisheries Development Act, S.N.B. c. F-15.1 (1977);
  - (b) Newfoundland Fish Inspection Act, R.S.N. 1990, c. F-12;
  - (c) Nova Scotia Fisheries Act, S.N.S. 1977, c. 9;
  - (d) Prince Edward Island Fish Inspection Act, R.S.P.E.I. 1988, c. F-13; and
  - (e) Quebec Marine Products Processing Act, No. 38, S.Q. 1987, c. 51.
3. Without prejudice to Chile's rights under the WTO Agreement, Articles C-01 and C-08 shall not apply to:
  - (a) measures by Canada respecting the importation of any goods enumerated or referred to in Schedule VII of the Customs Tariff, R.S.C. 1985, c. 41 (3rd Supp.), as amended;
  - (b) measures by Canada respecting the exportation of liquor for delivery into any country into which the importation of liquor is prohibited by law under the existing provisions of the Export Act, R.S.C. 1985, c. E-18, as amended;
  - (c) Canadian excise duties on absolute alcohol used in manufacturing under the existing provisions of the Excise Act, R.S.C. 1985, c. E-14, as amended; and
  - (d) measures by Canada prohibiting the use of foreign or non-duty paid ships in the coasting trade of Canada unless granted a license under the Coasting Trade Act, S.C. 1992, c. 31, to the extent that such provisions were mandatory legislation at the time of Canada's accession to the General Agreement on Tariffs and Trade, 1947, and have not been amended so as to decrease their conformity with the GATT 1994.

4. Articles C-01 and C-08 shall not apply to:
- (a) the continuation or prompt renewal of a non-conforming provision of any statute referred to in paragraph 2 or 3; and
  - (b) the amendment to a non-conforming provision of any statute referred to in paragraph 2 or 3 to the extent that the amendment does not decrease the conformity of the provision with Articles C-01 and C-08.

## Section II - Chilean Measures

### Used Vehicles:

Chile may continue to prohibit imports of used vehicles provided for in the following Chilean tariff items:

8701.20.00	8702.10.10
8704.22.30	8702.10.90
8704.22.60	8702.90.10
8704.22.70	8702.90.20
8704.22.80	8702.90.90
8704.22.90	8703.21.10
8704.23.10	8703.21.90
8704.23.40	8703.22.10
8704.23.50	8703.22.90
8704.23.60	8703.23.10
8704.23.90	8703.23.90
8704.31.10	8703.24.10
8704.31.20	8703.24.90
8704.31.30	8703.31.10
8704.31.60	8703.31.90
8704.31.70	8703.32.10
8704.31.80	8703.32.90
8704.31.90	8703.33.10
8704.32.10	8703.33.90
8704.32.20	8703.90.10
8704.32.30	8703.90.90
8704.32.60	8704.21.10
8704.32.70	8704.21.20
8704.32.80	8704.21.30
8704.32.90	8704.21.60
8704.90.10	8704.21.70
8704.90.20	8704.21.80
8704.90.30	8704.21.90
8704.90.60	8704.22.10
8704.90.70	8704.22.20
8704.90.80	8704.90.90

For purposes of this Annex: **used vehicle** means a vehicle of a model year earlier than the year in which the Import Declaration for the vehicle is accepted by the Chilean Customs Service, ("Servicio Nacional de Aduanas"), except where the Import Declaration is accepted prior to April

30 in the current year and the vehicle is of the immediately preceding model year, regardless of the kilometres that the vehicle has travelled.

Annex C-02.2:

Tariff Elimination

1. The method for determining the interim rate of customs duty at each stage of reduction for an item is indicated for the item in each Party's Schedule attached to this Annex.
2. For the purpose of the elimination of customs duties in accordance with Article C-02, interim staged rates shall be rounded down, except as set out in each Party's Schedule attached to this Annex, at least to the nearest tenth of a percentage point or, if the rate of duty is expressed in monetary units, at least to the nearest 0.001 of the official monetary unit of the Party.
3. **Tariff rate quota** means a mechanism that provides for the application of a customs duty at a certain rate to imports of a particular good up to a specified quantity (in-quota quantity), and at a different rate to imports of that good that exceed that quantity. The in-quota quantities which are set out in the Annexes correspond to calendar years, except where otherwise indicated. If the entry into force of the Agreement corresponds to a date after January 1, 1997 and before December 31 of the same year, the in-quota quantity will be prorated on a proportional basis for the remainder of the calendar year.

Annex C-03.2:

Continuation of Existing Waivers of Customs Duties

**Canada**

For purposes of Article C-03(2), Canada may:

- (a) condition on the fulfilment of a performance requirement the waiver of customs duties under any measure in effect on or before January 1, 1989, on any goods entered or withdrawn from warehouse for consumption before January 1, 1998;
- (b) grant waivers of customs duties as set out in Annex C-00-A (Trade and Investment in the Automotive Sector); and
- (c) maintain the measures referred to in Article 1002(1) and (4) (as they refer to Annex 1002.1, Part Two), Article 1002(2) and Part Two (Export-Based Waivers of Customs Duties) of Annex 1002.1 of the Canada-United States Free Trade Agreement.

**Chile**

For the purposes of Article C-03.2, Chile may maintain:

- (a) until December 31, 1999 the customs duty exemption measures under Article 3 of Law 18.483; and
- (b) until December 31, 1998

- (i) fiscal credit measures, ( "crédito fiscal"), under Articles 9 and 10 of Law 18.483, and
- (ii) fiscal credit measures, ( "crédito fiscal"), for exports of domestic components under Articles 11, 11bis, 12 and 12bis of Law 18.483, provided that the benefits under these measures are available only to automotive manufacturers as defined under Article 1(h) of Law 18.483 registered with the Automotive Commission ("Comisión Automotriz") as of January 1, 1996 and that, as of that date, such benefits are not expanded nor any new benefits provided under these measures.

## Annex C-04.1:

Temporary Admission of Goods

The temporary admission of goods from Canada specified in paragraph 1 of Article C-04 shall not be subject to payment of the fee established in Article 139 of the Chilean Customs Ordinance (Ordenanza de Aduanas) contained in Decree with Force of Law 30 of the Ministry of Finance, Official Gazette, April 13, 1983, ( "Decreto con Fuerza de Ley 30 del Ministerio de Hacienda, Diario Oficial, 13 abril 1983").

## Annex C-07:

Most-Favoured-Nation Rates of Duty on  
Certain Automatic Data Processing Goods and Their Parts

1. List of tariff provisions and MFN tariff elimination dates for Article C-07: <sup>2</sup>

**Automatic Data Processing Machines (ADP)**

<u>Tariff Item</u>	<u>Canada</u>	<u>Chile</u>
8471.10.00	c	b
8471.30.00	c	b
8471.41.00	c	b
8471.49.00	n.a.	b
8471.49.10	c	n.a.
8471.49.20	c	n.a.
8471.49.31	a	n.a.
8471.49.32	a	n.a.
8471.49.33	a	n.a.
8471.49.34	a	n.a.
8471.49.35	a	n.a.
8471.49.36	a	n.a.
8471.49.39	a	n.a.
8471.49.41	c	n.a.
8471.49.42	c	n.a.
8471.49.49	c	n.a.
8471.49.51	c	n.a.
8471.49.52	a	n.a.

8471.49.59	c	n.a.
8471.49.61	a	n.a.
8471.49.69	c	n.a.
8471.49.71	c	n.a.
8471.49.72	c	n.a.
8471.49.79	c	n.a.
8471.50.00	c	b
8471.60.00	n.a.	b
8471.60.10	c	n.a.
8471.60.21	a	n.a.
8471.60.22	a	n.a.
8471.60.23	a	n.a.
8471.60.24	a	n.a.
8471.60.25	a	n.a.
8471.60.26	a	n.a.
8471.60.29	a	n.a.
8471.60.31	c	n.a.
8471.60.32	c	n.a.
8471.60.39	c	n.a.
8471.60.40	c	n.a.
8471.60.50	a	n.a.
8471.60.90	c	n.a.
8471.70.00	n.a.	b
8471.70.10	a	n.a.
8471.70.90	c	n.a.
8471.80.00	n.a.	b
8471.80.10	c	n.a.
8471.80.91	c	n.a.
8471.80.99	c	n.a.
8471.90.00	n.a.	b
8471.90.10	a	n.a.
8471.90.90	c n.a.	

### Parts of Computers

<u>Tariff Item</u>	<u>Canada</u>	<u>Chile</u>
8473.30.00	n.a.	b
8473.30.10	a	n.a.
8473.30.21	a	n.a.
8473.30.22	a	n.a.
8473.30.23	a	n.a.
8473.30.91	a	n.a.
8473.30.99	a	n.a.

### Computer Power Supplies

<u>Tariff Item</u>	<u>Canada</u>	<u>Chile</u>
8504.40.00	n.a.	b
8504.40.40	c	n.a.

8504.90.00	n.a.	b
8504.90.14	a	n.a.
8504.90.80	a	n.a.

**Metal Oxide Varistors**

<u>Tariff Item</u>	<u>Canada</u>	<u>Chile</u>
8533.40.10	a	b

**Diodes, Transistors and Similar Semiconductor Devices;  
Photosensitive Semiconductor Devices;  
Light Emitting Diodes;  
Mounted Piezo-electric Crystals**

<u>Tariff Item</u>	<u>Canada</u>	<u>Chile</u>
8541.10.00	n.a.	b
8541.10.10	a	n.a.
8541.10.90	a n.a.	
8541.21.00	a b	
8541.29.00	a b	
8541.30.00	n.a. b	
8541.30.11	a n.a.	
8541.30.19	a n.a.	
8541.30.20	a n.a.	
8541.40.00	n.a. b	
8541.40.10	a n.a.	
8541.40.90	a n.a.	
8541.50.00	a b	
8541.60.00	a b	
8541.90.00	a b	

**Electronic Integrated Circuits and Microassemblies**

<u>Tariff Item</u>	<u>Canada</u>	<u>Chile</u>
8542.12.00	a	b
8542.13.00	n.a.	b
8542.13.10	a	n.a.
8542.13.90	a	n.a.
8542.14.00	n.a.	b
8542.14.10	a	n.a.
8542.14.90	a	n.a.
8542.19.00	n.a.	b
8542.19.10	a	n.a.
8542.19.90	a	n.a.
8542.30.00	a	b
8542.40.00	a	b
8542.50.00	a	b
8542.90.00	a	b



2. The Parties agree that local area network apparatus is provided for under heading 84.71 of the Harmonized System.
3. For greater certainty, in Article C-07, most-favoured-nation (MFN) rate of duty does not include any other concessionary rate of duty.

Annex C-08:

Import and Export Measures

**Chile**

1. Chile reserves the right not to apply Articles C-08 and C-13 to the copper and other reserves for national industry and authorized entities, according to the provisions of Articles 7, 8 and 9 of Law 16.624.
2. Notwithstanding paragraph 1, Chile shall bring the provisions of Law 16.624 into conformity with this Agreement within two years of the entry into force of the Agreement.

Annex C-09:

Existing Customs User Fees

**Chile**

Chile shall not levy the charges established under:

- (a) Article 190 of Law 16.464; or
- (b) Article 62 of Supreme Decree 172 of the Undersecretariat of Aviation, Official Gazette, April 10, 1974, Regulation of Aeronautical Rates and Duties, ("Decreto Supremo 172 de la Subsecretaría de Aviación, Diario Oficial, abril 10, 1974, Reglamento de Tasas Aeronáuticas e Impuestos"), on originating goods, effective on the date of entry into force of the Agreement.

Annex C-10.2:

Wine and Distilled Spirits

**Canada**

1. Except as provided in paragraphs 3 through 6, in respect of any measure related to the internal sale and distribution of wine and distilled spirits, Article C-01 shall not apply to:
  - (a) a non-conforming provision of any existing measure;
  - (b) the continuation or prompt renewal of a non-conforming provision of any existing measure; or

- (c) an amendment to a non-conforming provision of any existing measure to the extent that the amendment does not decrease its conformity with Article C-01.
2. The Party asserting that paragraph 1 applies to one of its measures shall have the burden of establishing the validity of such assertion.
- 3.
- (a) Any measure related to the listing of wine and distilled spirits of the other Party shall
    - (i) conform with Article C-01,
    - (ii) be transparent, non-discriminatory and provide for prompt decision on any listing application, prompt written notification of such decision to the applicant and, in the case of a negative decision, provide for a statement of the reason for refusal,
    - (iii) establish administrative appeal procedures for listing decisions that provide for prompt, fair and objective rulings,
    - (iv) be based on normal commercial considerations,
    - (v) not create disguised barriers to trade, and
    - (vi) be published and made generally available to persons of the other Party;
  - (b) Notwithstanding paragraph 3(a) and Article C-01, and provided that listing measures of British Columbia otherwise conform with paragraph 3(a) and Article C-01, automatic listing measures in the province of British Columbia may be maintained provided they apply only to existing estate wineries producing less than 30,000 gallons of wine annually and meeting the existing content rule.
- 4.
- (a) Where the distributor is a public entity, the entity may charge the actual cost-of-service differential between wine or distilled spirits of the other Party and domestic wine or distilled spirits. Any such differential shall not exceed the actual amount by which the audited cost of service for the wine or distilled spirits of the exporting Party exceeds the audited cost of service for the wine or distilled spirits of the importing Party;
  - (b) Notwithstanding Article C-01, Article I (Definitions) except for the definition of "distilled spirits", Article IV.3 (Wine), and Annexes A, B, and C, of the Agreement between Canada and the European Economic Community concerning Trade and Commerce in Alcoholic Beverages, dated February 28, 1989, shall apply with such changes as the circumstances may require;
  - (c) All discriminatory mark-ups on distilled spirits shall be eliminated immediately on the date of entry into force of this Agreement. Cost-of-service differential mark-ups as described in subparagraph (a) shall be permitted;

- (d) Any other discriminatory pricing measure shall be eliminated on the date of entry into force of this Agreement.
- 5.
- (a) Any measure related to distribution of wine or distilled spirits of the other Party shall conform with Article C-01;
  - (b) Notwithstanding subparagraph (a), and provided that distribution measures otherwise ensure conformity with Article C-01, a Party may
    - (i) maintain or introduce a measure limiting on-premise sales by a winery or distillery to those wines or distilled spirits produced on its premises, and
    - (ii) maintain a measure requiring existing private wine store outlets in the provinces of Ontario and British Columbia to discriminate in favour of wine of those provinces to a degree no greater than the discrimination required by such existing measure;
  - (c) Nothing in this Agreement shall prohibit the Province of Quebec from requiring that any wine sold in grocery stores in Quebec be bottled in Quebec, provided that alternative outlets are provided in Quebec for the sale of wine of the other Party, whether or not such wine is bottled in Quebec.
6. Unless otherwise specifically provided in this Annex, the Parties retain their rights and obligations under the GATT 1994 and agreements negotiated under the WTO Agreement.
7. The Parties will refer issues related to this Annex to the Subcommittee on Agriculture established under Article C-15.
8. For purposes of this Annex: wine includes wine and wine-containing beverages.

#### Annex C-11

##### Geographical Indications

1. Immediately upon obtaining protection for the geographical indication Chilean Pisco ("Pisco Chileno") in Canada under the Trade-marks Act, Chile shall protect the geographical indication "Canadian Whisky" and shall not permit the import or sale of any product as "Canadian Whisky" unless it has been manufactured in Canada in accordance with the laws and regulations of Canada, governing the manufacture of "Canadian Whisky" for consumption in Canada.
2. Until Chile fully implements its obligations under the TRIPS Agreement, and in order to protect the "Canadian Whisky" referred to above, Chile shall prohibit the importation of any product marked "Canadian Whisky" unless that product is accompanied by a certification from the competent Canadian authority that the product complies with the Canadian requirements referred to in paragraph 1.

#### Annex C-17.1

##### Price Band System

The products covered by Law 18.525, in accordance with the Chilean tariff classification, are the following<sup>10</sup> :

Wheat and Wheat Flour

1001.9000

1101.0000

Edible Vegetable Oils

1507.1000

1507.9000

1508.1000

1508.9000

1509.1000

1509.9000

1510.0000

1511.1000

1511.9000

1512.1110

1512.1120

1512.1910

1512.1920

1512.2100

1512.2900

1513.1100

1513.1900

1513.2100

1513.2900

1514.1000

1514.9000

1515.2100

1515.2900

1515.5000

1515.9000

Sugar

1701.1100

1701.1200

1701.9100

1701.9900

Annex C-00-A

Trade and Investment in the Automotive Sector

**Canada**

*Existing Measures*<sup>11</sup>

1. Canada may maintain with the United States of America the Agreement Concerning Automotive Products between the Government of Canada and the Government of the United

States of America, signed at Johnson City, Texas, January 16, 1965 and entered into force on September 16, 1966, in accordance with Article 1001, and Article 1002(1) and (4) (as they refer to Annex 1002.1, Part One), and Annex 1002.1, Part One (Waivers of Customs Duties) of the Canada - United States Free Trade Agreement, which provisions are incorporated into and made a part of the NAFTA for such purpose.

2. For greater certainty, the differences in treatment pursuant to paragraph 1 shall not be considered to be inconsistent with Article G-03 (Investment - Most-Favoured-Nation Treatment).

#### Annex C-00-B

#### Textile and Apparel Goods

#### **Section 1 – Scope and Coverage<sup>1</sup>**

1. This Annex applies to the textile and apparel goods set out in Appendix 1.1.
2. In the event of any inconsistency between this Agreement and the WTO Agreement on Textiles and Clothing or any other existing or future agreement applicable to trade in textile or apparel goods, this Agreement shall prevail to the extent of the inconsistency, unless the Parties agree otherwise.

#### **Section 2 -- Duty -free Treatment of Certain Goods**

The Parties may identify at any time particular textile and apparel goods that they mutually agree fall within:

- (a) hand-loomed fabrics of a cottage industry;
- (b) hand-made cottage industry goods made of such hand-loomed fabrics; or
- (c) traditional folklore handicraft goods.

The importing Party shall grant duty-free treatment to goods so identified, if certified by the competent authority of the exporting Party.

#### **Section 3 – Bilateral Emergency Actions (Tariff Actions)<sup>2</sup>**

1. Subject to paragraphs 2 through 5 and during the transition period only, if, as a result of the reduction or elimination of a duty provided for in this Agreement, a textile or apparel good originating in the territory of a Party, or a good that has been integrated into the WTO and entered under a tariff preference level set out in Appendix 5.1, is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to the domestic market for that good, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the importing Party may, to the minimum extent necessary to remedy the damage or actual threat thereof:

- (a) suspend the further reduction of any rate of duty provided for under this Agreement on the good; or
- (b) increase the rate of duty on the good to a level not to exceed the lesser of

- (i) the mostfavourednation (MFN) applied rate of duty in effect at the time the action is taken, and
  - (ii) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.
2. In determining serious damage, or actual threat thereof, the Party:
- (a) shall examine the effect of increased imports on the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and investment, none of which is necessarily decisive; and
  - (b) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.
3. A Party shall deliver without delay to the other Party written notice of its intent to take such action, and on request shall enter into consultations with that Party.
4. The following conditions and limitations apply to any emergency action taken under this Section:
- (a) no action may be maintained for a period exceeding three years or, except with the consent of the Party against whose good the action is taken, have effect beyond the expiration of the transition period;
  - (b) no action may be taken by a Party against any particular good originating in the territory of the other Party more than once during the transition period; and
  - (c) on termination of the action, the rate of duty shall be the rate that, according to the Schedule for the staged elimination of the tariff, would have been in effect one year after the initiation of the action, and beginning January 1 of the year following the termination of the action, at the option of the Party that has taken the action
    - (i) the rate of duty shall conform to the applicable rate set out in that Party's Schedule to Annex C-02.2, or
    - (ii) the tariff shall be eliminated in equal annual stages ending on the date set out in that Party's Schedule to Annex C-02.2 for the elimination of the tariff.
5. The Party taking an action under this Section shall provide to the other Party mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. Such concessions shall be limited to the textile and apparel goods set out in Appendix 1.1, unless the Parties otherwise agree. If the Parties are unable to agree on compensation, the exporting Party may take tariff action having trade effects substantially equivalent to the action taken under this Section against any goods imported from the other Party. The Party taking the tariff action

shall only apply the action for the minimum period necessary to achieve the substantially equivalent effects.

#### **Section 4 – Bilateral Emergency Actions (Quantitative Restrictions)**

1. A Party may take bilateral emergency action against non-originating textile or apparel goods of the other Party in accordance with this Section and Appendix 4.1.
2. If a Party considers that a non-originating textile or apparel good, including a good entered under a tariff preference level set out in Appendix 5.1, is being imported into its territory from the other Party in such increased quantities, in absolute terms or relative to the domestic market for that good, under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good in the importing Party, the importing Party may request consultations with the other Party with a view to eliminating the serious damage or actual threat thereof.
3. The Party requesting consultations shall include in its request for consultations the reasons that it considers demonstrate that such serious damage or actual threat thereof to its domestic industry is resulting from the imports of the other Party, including the latest data concerning such damage or threat.
4. In determining serious damage, or actual threat thereof, the Party shall apply Section 3(2).
5. The Parties shall begin consultations within 60 days of the request for consultations and shall endeavour to agree on a mutually satisfactory level of restraint on exports of the particular good within 90 days of the request, unless the Parties agree to extend this period. In reaching a mutually satisfactory level of export restraint, the Parties shall:
  - (a) consider the situation in the market in the importing Party;
  - (b) consider the history of trade in textile and apparel goods between the Parties, including previous levels of trade; and
  - (c) seek to ensure that the textile and apparel goods imported from the territory of the exporting Party are accorded equitable treatment as compared with treatment accorded like textile and apparel goods from non-Party suppliers.<sup>3</sup>
6. If the Parties do not agree on a mutually satisfactory level of export restraint, the Party requesting consultations may impose annual quantitative restrictions on imports of the good from the territory of the other Party, subject to paragraphs 7 through 13.
7. Any quantitative restriction imposed under paragraph 6 shall be no less than the sum of:
  - (a) the quantity of the good imported into the territory of the Party requesting consultations from the other Party, as reported in general import statistics of the importing Party, during the first 12 of the most recent 14 months preceding the month in which the request for consultations was made; and
  - (b) 20 per cent of such quantity for cotton, manmade fibre and other non-cotton vegetable fibre good categories, and six per cent for wool good categories.

8. The first period of any quantitative restriction imposed under paragraph 6 shall begin on the day after the date on which the request for consultations was made and terminate at the end of the calendar year in which the quantitative restriction is imposed. Any quantitative restriction that is imposed for a first period of less than 12 months shall be prorated to correspond to the time remaining in the calendar year in which the restriction is imposed, and the prorated amount may be adjusted in accordance with the flexibility provisions set out in Appendix 4.1.

9. For each successive calendar year that the quantitative restriction imposed under paragraph 6 remains in effect, the Party imposing it shall:

- (a) increase it by six per cent for cotton, man-made fibre and non-cotton vegetable fibre textile and apparel goods, and by two per cent for wool textile and apparel goods, and
- (b) accelerate the growth rate for quantitative restrictions on cotton, man-made fibre and noncotton vegetable fibre textile and apparel goods as required by the WTO Agreement on Textiles and Clothing, and the flexibility provisions set out in Appendix 4.1 apply.

10. A quantitative restriction imposed under paragraph 6 before July 1 in any calendar year may remain in effect for the remainder of that year, plus two additional calendar years. Such a restriction imposed on or after July 1 in any calendar year may remain in effect for the remainder of that year, plus three additional calendar years. No such restriction may remain in effect beyond the transition period.

11. Neither Party may take an emergency action under this Section with respect to any particular textile or apparel non-originating good against which a quantitative restriction is in effect.

12. Neither Party may adopt or maintain a quantitative restriction under this Section on a particular textile or apparel good that otherwise would be permitted under this Annex, if that Party is required to eliminate such measure under the WTO Agreement on Textiles and Clothing.

13. Neither Party may take a bilateral emergency action after the expiration of the transition period with respect to cases of serious damage, or actual threat thereof, to domestic industry arising from the operation of this Agreement except with the consent of the other Party.

### **Section 5 – Special Provisions**

Appendix 5.1 sets out special provisions applicable to certain textile and apparel goods.

### **Section 6: Definitions**

For purposes of this Annex:

**average yarn number**, as applied to woven fabrics of cotton or man-made fibres, means the average yarn number of the yarns contained therein. In computing the average yarn number, the length of the yarn is considered to be equal to the distance covered by it in the fabric, with all clipped yarn being measured as if continuous and with the count being taken of the total single yarns in the fabric including the single yarns in any multiple



(folded) or cabled yarns. The weight shall be taken after any excessive sizing is removed by boiling or other suitable process. Any of the following formulas can be used to determine the average yarn number:

$$N = \frac{BYT}{1,000}, \quad \frac{100T}{Z}, \quad \frac{BT}{Z} \quad \text{or} \quad \frac{ST}{10}$$

when:

N is the average yarn number,  
 B is the breadth (width) of the fabric in centimetres,  
 Y is the metres (linear) of the fabric per kilogram,  
 T is the total single yarns per square centimetre,  
 S is the square metres of fabric per kilogram,  
 Z is the grams per linear metre of fabric, and  
 Z' is the grams per square metre of fabric.

Fractions in the resulting "average yarn number" shall be disregarded;

**exporting Party** means the Party from whose territory a textile or apparel good is exported;

**flexibility provisions** means the provisions set out in Appendix 4.1;

**importing Party** means the Party into whose territory a textile or apparel good is imported;

**integrated into the WTO** means subject to the obligations of the WTO Agreement;

**product category** means a grouping of textile or apparel goods defined in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States, 1995 (or successor publication), published by the United States Department of Commerce, International Trade Administration, Office of Textiles and Apparel, Trade and Data Division, Washington, D.C.;

**specific limit** means a level of exports for a particular textile or apparel good that may be adjusted in accordance with Appendix 4.1;

**square metres equivalent (SME)** means that unit of measurement that results from the application of the conversion factors set out in Appendix 5.2 to a primary unit of measure such as unit, dozen or kilogram;

**tariff preference level (TPL)** means a mechanism that provides for the application of a customs duty at a preferential rate to imports of a particular good up to a specified quantity, and at a different rate to imports of that good that exceed that quantity;

**transition period** means the six-year period beginning on the date of entry into force of this Agreement;

**wool apparel** means:

- (a) apparel in chief weight of wool;
- (b) woven apparel in chief weight of manmade fibres containing 36 per cent or more by weight of wool; and
- (c) knitted or crocheted apparel in chief weight of manmade fibres containing 23 per cent or more by weight of wool;

**wool fabric** means:

- (a) fabric in chief weight of wool;
- (b) woven fabric in chief weight of man-made fibres containing 36 per cent or more by weight of wool; and
- (c) knitted or crocheted fabric in chief weight of man-made fibres containing 23 per cent or more by weight of wool; and

**WTO Agreement on Textiles and Clothing** means the Agreement on Textiles and Clothing which is part of the WTO Agreement.

#### Appendix 1.1

#### List of Goods Covered by Annex C-00-B

**Note:** For purposes of reference only, descriptions are provided next to the corresponding item. For legal purposes, coverage shall be determined according to the terms of the Harmonized System.

<b>HS No.</b>	<b>Description</b>
<b>Chapter 30 Pharmaceutical Products</b>	
3005.90	Wadding, gauze, bandages and the like
<b>Chapter 39 Plastics and articles thereof</b>	
ex 3921.12	(Woven, knitted or non-woven fabric coated, covered or laminated with plastics)
ex 3921.13	
ex 3921.90	
<b>Chapter 42 Articles of leather; saddlery and harness; travel goods, handbags and similar containers</b>	
ex 4202.12	(Luggage, handbags and flatgoods with an outer surface predominantly of textile materials)
ex 4202.22	
ex 4202.32	
ex 4202.92	
<b>Chapter 50 Silk</b>	
5004.00	Silk yarn (other than yarn spun from silk waste) not for retail sale

5005.00	Yarn spun from silk waste, not for retail sale
5006.00	Silk yarn and yarn spun from silk waste, for retail sale; silk-worm gut
5007.10	Woven fabric of noil silk
5007.20	Woven fabric of silk or silk waste, other than noil silk, 85% or more of such fibres
5007.90	Woven fabric of silk, nes

### **Chapter 51 Wool, fine or coarse animal hair, horsehair yarn and fabric**

5105.10	Carded wool
5105.21	Combed wool in fragments
5105.29	Wool tops and other combed wool, other than combed wool in fragments
5105.30	Fine animal hair, carded or combed
5106.10	Yarn of carded wool, <sup>3</sup> 85% wool, not for retail sale
5106.20	Yarn of carded, wool, <85% wool, not for retail sale
5107.10	Yarn of combed wool, <sup>3</sup> 85% wool, not for retail sale
5107.20	Yarn of combed wool, <85% wool, not for retail sale
5108.10	Yarn of carded fine animal hair, not for retail sale
5108.20	Yarn of combed fine animal hair, not for retail sale
5109.10	Yarn of wool or of fine animal hair, <sup>3</sup> 85% wool and fine animal hair, for retail sale
5109.90	Yarn of wool/of fine animal hair, <85% wool and fine animal hair, for retail sale
5110.00	Yarn of coarse animal hair or of horsehair
5111.11	Woven fabric of carded wool or fine animal hair, <sup>3</sup> 85% wool and fine animal hair, <sup>2</sup> 300 g/m <sup>2</sup>
5111.19	Woven fabric of carded wool or fine animal hair, <sup>3</sup> 85% wool or fine animal hair, >300 g/m <sup>2</sup>
5111.20	Woven fabric of carded wool or fine animal hair, <85% wool or fine animal hair, with man-made fibres
5111.30	Woven fabric of carded wool or fine animal hair, <85% wool or fine animal hair, with man-made fibres
5111.90	Woven fabric of carded wool or fine animal hair, <85% wool or fine animal hair, nes
5112.11	Woven fabric of combed wool or fine animal hair, <sup>3</sup> 85% wool or fine animal hair, <sup>2</sup> 200 g/m <sup>2</sup>
5112.19	Woven fabric of combed wool or fine animal hair, <sup>3</sup> 85% wool or fine animal hair, >200 g/m <sup>2</sup>
5112.20	Woven fabric of combed wool or fine animal hair, <85% wool or fine animal hair, with man-made filament
5112.30	Woven fabric of combed wool or fine animal hair, <85% wool or fine animal hair, with man-made fibres
5112.90	Woven fabric of combed wool or fine animal hair, <85% wool or fine animal hair, nes
5113.00	Woven fabric of coarse animal hair or of horsehair

### **Chapter 52 Cotton**

5203.00	Cotton, carded or combed
5204.11	Cotton sewing thread <sup>3</sup> 85% cotton, not for retail sale
5204.19	Cotton sewing thread, <85% cotton, not for retail sale
5204.20	Cotton sewing thread, for retail sale

5205.11	Cotton yarn, <sup>3</sup> 85% cotton, single, uncombed, <sup>3</sup> 714.29 decitex, not for retail sale
5205.12	Cotton yarn, <sup>3</sup> 85% cotton, single, uncombed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale
5205.13	Cotton yarn, <sup>3</sup> 85% cotton, single, uncombed, 232.56>decitex <sup>3</sup> 192.31, not for retail sale
5205.14	Cotton yarn, <sup>3</sup> 85% cotton, single, uncombed, 192.31 >decitex <sup>3</sup> 125, not for retail sale
5205.15	Cotton yarn, <sup>3</sup> 85% cotton, single, uncombed, <125 decitex, not for retail sale
5205.21	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, <sup>3</sup> 714.29, not for retail sale
5205.22	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale
5205.23	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale
5205.24	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, 192.31 >decitex <sup>3</sup> 125, not for retail sale
5205.26	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, 125 >decitex <sup>3</sup> 106.38, not for retail sale
5205.27	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, 106.38 >decitex <sup>3</sup> 83.33, not for retail sale
5205.28	Cotton yarn, <sup>3</sup> 85% cotton, single, combed, <83.33 decitex, not for retail sale
5205.31	Cotton yarn, <sup>3</sup> 85% cotton, multiple, uncombed, <sup>3</sup> 714.29 decitex, not for retail sale, nes
5205.32	Cotton yarn, <sup>3</sup> 85% cotton, multiple, uncombed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale, nes
5205.33	Cotton yarn, <sup>3</sup> 85% cotton, multiple, uncombed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale, nes
5205.34	Cotton yarn, <sup>3</sup> 85% cotton, multiple, uncombed, 192.31 >decitex <sup>3</sup> 125, not for retail sale, nes
5205.35	Cotton yarn, <sup>3</sup> 85% cotton, multiple, uncombed, <125 decitex, not for retail sale, nes
5205.41	Cotton yarn, <sup>3</sup> 85% cotton, multiple, combed, <sup>3</sup> 714.29 decitex, not for retail sale, nes
5205.42	Cotton yarn, <sup>3</sup> 85% cotton, multiple, combed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale, nes
5205.43	Cotton yarn, <sup>3</sup> 85% cotton, multiple, combed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale, nes
5205.44	Cotton yarn, <sup>3</sup> 85% cotton, multiple, combed, 192.31 >decitex <sup>3</sup> 125, not for retail sale, nes
5205.46	Cotton yarn, <sup>3</sup> 85% cotton, multiple, combed, 125 >decitex <sup>3</sup> 106.38, not for retail sale, nes
5205.47	Cotton yarn, <sup>3</sup> 85% cotton, multiple, combed, 106.38 >decitex <sup>3</sup> 83.33, not for retail sale, nes
5205.48	Cotton yarn, <85% cotton, single, uncombed, <83.33 decitex, not for retail sale
5206.11	Cotton yarn, <85% cotton, single, uncombed, <sup>3</sup> 714.29, not for retail sale
5206.12	Cotton yarn, <85% cotton, single, uncombed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale

5206.13	Cotton yarn, <85% cotton, single, uncombed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale
5206.14	Cotton yarn, <85% cotton, single, uncombed, 192.31 >decitex <sup>3</sup> 125, not for retail sale
5206.15	Cotton yarn, <85% cotton, single, uncombed, <125 decitex, not for retail sale
5206.21	Cotton yarn, <85% cotton, single, combed, <sup>3</sup> 714.29 decitex, not for retail sale
5206.22	Cotton yarn, <85% cotton, single, combed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale
5206.23	Cotton yarn, <85% cotton, single, combed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale
5206.24	Cotton yarn, <85% cotton, single, combed, 192.31 >decitex <sup>3</sup> 125, not for retail sale
5206.25	Cotton yarn, <85% cotton, single, combed, <125 decitex, not for retail sale
5206.31	Cotton yarn, <85% cotton, multiple, uncombed, <sup>3</sup> 714.29, not for retail sale, nes
5206.32	Cotton yarn, <85% cotton, multiple, uncombed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale, nes
5206.33	Cotton yarn, <85% cotton, multiple, uncombed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale, nes
5206.34	Cotton yarn, <85% cotton, multiple, uncombed, 192.31 >decitex <sup>3</sup> 125, not for retail sale, nes
5206.35	Cotton yarn, <85% cotton, multiple, uncombed, <125 decitex, not for retail sale, nes
5206.41	Cotton yarn, <85% cotton, multiple, combed, <sup>3</sup> 714.29, not for retail sale, nes
5206.42	Cotton yarn, <85% cotton, multiple, combed, 714.29 >decitex <sup>3</sup> 232.56, not for retail sale, nes
5206.43	Cotton yarn, <85% cotton, multiple, combed, 232.56 >decitex <sup>3</sup> 192.31, not for retail sale, nes
5206.44	Cotton yarn, <85% cotton, multiple, combed, 192.31 >decitex <sup>3</sup> 125, not for retail sale, nes
5206.45	Cotton yarn, <85% cotton, multiple, combed, <125 decitex, not for retail sale, nes
5207.10	Cotton yarn (other than sewing thread) <sup>3</sup> 85% cotton, for retail sale
5207.90	Cotton yarn (other than sewing thread) <85% cotton, for retail sale
5208.11	Plain weave cotton fabric, <sup>3</sup> 85% cotton, <sup>2</sup> 100g/m <sup>2</sup> , unbleached
5208.12	Plain weave cotton fabric, <sup>2</sup> 85% cotton, >100g/m <sup>2</sup> , <sup>2</sup> 200g/m <sup>2</sup> , unbleached
5208.13	Twill weave cotton fabric, <sup>3</sup> 85% cotton, <sup>2</sup> 200g/m <sup>2</sup> , unbleached
5208.19	Woven fabric of cotton, <sup>3</sup> 85% cotton, <sup>2</sup> 200g/m <sup>2</sup> , unbleached, nes
5208.21	Plain weave cotton fabric, <sup>3</sup> 85% cotton, <sup>2</sup> 100g/m <sup>2</sup> , bleached
5208.22	Plain weave cotton fabric, <sup>3</sup> 85% cotton, >100g/m <sup>2</sup> , <sup>2</sup> 200g/m <sup>2</sup> , bleached
5208.23	Twill weave cotton fabric, <sup>3</sup> 85% cotton, <sup>2</sup> 200g/m <sup>2</sup> , bleached
5208.29	Woven fabric of cotton, <sup>3</sup> 85% cotton, <sup>2</sup> 200g/m <sup>2</sup> , bleached, nes
5208.31	Plain weave cotton fabric, <sup>3</sup> 85% cotton, <sup>2</sup> 100g/m <sup>2</sup> , dyed
5208.32	Plain weave cotton fabric, <sup>3</sup> 85% cotton, >100g/m <sup>2</sup> , <sup>2</sup> 200g/m <sup>2</sup> , dyed
5208.33	Twill weave cotton fabric, <sup>3</sup> 85% cotton, <sup>2</sup> 200g/m <sup>2</sup> , dyed
5208.39	Woven fabric of cotton, <sup>3</sup> 85% cotton, <sup>2</sup> 200g/m <sup>2</sup> , dyed, nes

5208.41	Plain weave cotton fabric, 385% cotton, 2100g/m2, yarn dyed
5208.42	Plain weave cotton fabric, 385% cotton, >100g/m2, 2200 g/m2, yarn dyed
5208.43	Twill weave cotton fabric, 385% cotton, 2200g/m2, yarn dyed
5208.49	Woven fabric of cotton, 385% cotton, 2200g/m2, yarn dyed, nes
5208.51	Plain weave cotton fabric, 385% cotton, 2100g/m2, printed
5208.52	Plain weave cotton fabric, 385% cotton, >100g/m2, 2200 g/m2, printed
5208.53	Twill weave cotton fabric, 385% cotton, 2200g/m2, printed
5208.59	Woven fabric of cotton, 385% cotton, 2 200g/m2, printed, nes
5209.11	Plain weave cotton fabric, 385% cotton, >200g/m2, unbleached
5209.12	Twill weave cotton fabric, 385% cotton, >200g/m2, unbleached
5209.19	Woven fabric of cotton, 385% cotton, >200g/m2, unbleached, nes
5209.21	Plain weave cotton fabric, 385% cotton, >200g/m2, bleached
5209.22	Twill weave cotton fabric, 385% cotton, >200g/m2, bleached
5209.29	Woven fabric of cotton, 385% cotton, >200g/m2, bleached, nes
5209.31	Plain weave cotton fabric, 385% cotton, >200g/m2, dyed
5209.32	Twill weave cotton fabric, 385% cotton, >200g/m2, dyed
5209.39	Woven fabric of cotton, 385% cotton, >200g/m2, dyed, nes
5209.41	Plain weave cotton fabric, 385% cotton, >200g/m2, yarn dyed
5209.42	Blue denim fabric of cotton, 385% cotton, >200g/m2
5209.43	Twill weave cotton fabric, other than denim, 385% cotton, >200g/m2, yarn dyed
5209.49	Woven fabric of cotton, 385% cotton, >200g/m2, yarn dyed, nes
5209.51	Plain weave cotton fabric, 385% cotton, >200g/m2, printed
5209.52	Twill weave cotton fabric, 385% cotton, >200g/m2, printed
5209.59	Woven fabric of cotton, 385% cotton, >200g/m2, printed, nes
5210.11	Plain weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, unbleached
5210.12	Twill weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, unbleached
5210.19	Woven fabric of cotton, <85% cotton, with man-made fibre, 2200g/m2, unbleached, nes
5210.21	Plain weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, bleached
5210.22	Twill weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, bleached
5210.29	Woven fabric of cotton, <85% cotton, with man-made fibre, 2200g/m2, bleached, nes
5210.31	Plain weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, dyed
5210.32	Twill weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, dyed
5210.39	Woven fabric of cotton, <85% cotton, with man-made fibre, 2200g/m2, dyed, nes
5210.41	Plain weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, yarn dyed
5210.42	Twill weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, yarn dyed
5210.49	Woven fabric of cotton, <85% cotton, with man-made fibre, 2200g/m2, yarn dyed, nes
5210.51	Plain weave cotton fabric, <85% cotton, with man-made fibre, 2200g/m2, printed

5210.52	Twill weave cotton fabric, <85% cotton, with man-made fibre, <sup>2</sup> 200g/m <sup>2</sup> , printed
5210.59	Woven fabric of cotton, <85% cotton, with man-made fibre, <sup>2</sup> 200g/m <sup>2</sup> , printed, nes
5211.11	Plain weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , unbleached
5211.12	Twill weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , unbleached
5211.19	Woven fabric of cotton, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , unbleached, nes
5211.21	Plain weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , bleached
5211.22	Twill weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , bleached
5211.29	Woven fabric of cotton, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , bleached, nes
5211.31	Plain weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , dyed
5211.32	Twill weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , dyed
5211.39	Woven fabric of cotton, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , dyed, nes
5211.41	Plain weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , yarn dyed
5211.42	Blue denim fabric of cotton, <85% cotton, with man-made fibre, >200g/m <sup>2</sup>
5211.43	Twill weave cotton fabric, other than denim, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , yarn dyed
5211.49	Woven fabric of cotton, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , yarn dyed, nes
5211.51	Plain weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , printed
5211.52	Twill weave cotton fabric, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , printed
5211.59	Woven fabric of cotton, <85% cotton, with man-made fibre, >200g/m <sup>2</sup> , printed, nes
5212.11	Woven fabric of cotton, weighing <sup>2</sup> 200g/m <sup>2</sup> , unbleached, nes
5212.12	Woven fabric of cotton, weighing <sup>2</sup> 200g/m <sup>2</sup> , bleached, nes
5212.13	Woven fabric of cotton, weighing <sup>2</sup> 200g/m <sup>2</sup> , dyed, nes
5212.14	Woven fabric of cotton, <sup>2</sup> 200g/m <sup>2</sup> , of yarns of different colours, nes
5212.15	Woven fabric of cotton, weighing <sup>2</sup> 200g/m <sup>2</sup> , printed, nes
5212.21	Woven fabric of cotton, weighing >200g/m <sup>2</sup> , unbleached, nes
5212.22	Woven fabric of cotton, weighing >200g/m <sup>2</sup> , bleached, nes
5212.23	Woven fabric of cotton, weighing >200g/m <sup>2</sup> , dyed, nes
5212.24	Woven fabric of cotton, >200g/m <sup>2</sup> , of yarns of different colours, nes
5212.25	Woven fabric of cotton, weighing >200g/m <sup>2</sup> , printed, nes

### **Chapter 53 Other vegetable textile fibres; paper yarn and woven fabric of paper yarn**

5306.10	Flax yarn, single
5306.20	Flax yarn, multiple
5307.10	Yarn of jute or of other textile bast fibres, single

5307.20	Yarn of jute or other textile bast fibres, multiple
5308.20	True hemp yarn
5308.90	Yarn of other vegetable textile fibres
5309.11	Woven fabric, <sup>3</sup> 85% flax, unbleached or bleached
5309.19	Woven fabric, <sup>3</sup> 85% flax, other than unbleached or bleached
5309.21	Woven fabric of flax, <85% flax, unbleached or bleached
5309.29	Woven fabric of flax, <85% flax, other than unbleached or bleached
5310.10	Woven fabric of jute or of other textile bast fibres, unbleached
5310.90	Woven fabric of jute or of other textile bast fibres, other than unbleached
5311.00	Woven fabric of other vegetable textile fibres; woven fabric of paper yarn

#### **Chapter 54 Man-made filaments**

5401.10	Sewing thread of synthetic filaments
5401.20	Sewing thread of artificial filaments
5402.10	High tenacity yarn (other than sewing thread), nylon or other polyamide fibre, not for retail sale
5402.20	High tenacity yarn (other than sewing thread), of polyester filaments, not for retail sale
5402.31	Textured yarn nes, of nylon or other polyamide fibre, <sup>2</sup> 50 tex/single yarn, not for retail sale
5402.32	Textured yarn nes, of nylon or other polyamide fibre,>50 tex/single yarn, not for retail sale
5402.33	Textured yarn nes, of polyester filaments, not for retail sale
5402.39	Textured yarn of synthetic filaments, nes, not for retail sale
5402.41	Yarn of nylon or other polyamide fibre, single, untwisted, nes, not for retail sale
5402.42	Yarn of polyester filaments, partially oriented, single, nes, not for retail sale
5402.43	Yarn of polyester filaments, single, untwisted, nes, not for retail sale
5402.49	Yarn of synthetic filaments, single, untwisted, nes, not for retail sale
5402.51	Yarn of nylon or other polyamide fibre, single, >50 turns per metre, not for retail sale
5402.52	Yarn of polyester filaments, single, >50 turns per metre, not for retail sale
5402.59	Yarn of synthetic filaments, single, >50 turns per metre, nes, not for retail sale
5402.61	Yarn of nylon or other polyamide fibre, multiple, nes, not for retail sale
5402.62	Yarn of polyester filaments, multiple, nes, not for retail sale
5402.69	Yarn of synthetic filaments, multiple, nes, not for retail sale
5403.10	High tenacity yarn (other than sewing thread), of viscose rayon filaments, not for retail sale
5403.20	Textured yarn nes, of artificial filaments, not for retail sale
5403.31	Yarn of viscose rayon filaments, single, untwisted, nes, not for retail sale
5403.32	Yarn of viscose rayon filaments, single, >120 turns per metre, nes, not for retail sale
5403.33	Yarn of cellulose acetate filaments, single, nes, not for retail sale
5403.39	Yarn of artificial filaments, single, nes, not for retail sale
5403.41	Yarn of viscose rayon filaments, multiple, nes, not for retail sale
5403.42	Yarn of cellulose acetate filaments, multiple, nes, not for retail sale
5403.49	Yarn of artificial filaments, multiple, nes, not for retail sale



5404.10	Synthetic monofilament, <sup>3</sup> 67 decitex, no cross sectional dimension >1 mm
5404.90	Strip and the like of synthetic textile material of an apparent width <sup>2</sup> 5mm
5405.00	Artificial monofil, 67 decitex, cross sectional dimension >1mm; strip of art. tex. mat. width <sup>2</sup> 5mm
5406.10	Yarn of synthetic filaments (other than sewing thread), for retail sale
5406.20	Yarn of artificial filaments (other than sewing thread), for retail sale
5407.10	Woven fabric of high tenacity filament yarn of nylon or other polyamides, or polyester
5407.20	Woven fabric obtained from strip or the like of synthetic textile materials
5407.30	Fabric specified in Note 9 Section XI (layers of parallel synthetic textile yarn)
5407.41	Woven fabric, <sup>3</sup> 85% nylon or other polyamide filaments, unbleached or bleached, nes
5407.42	Woven fabric, <sup>3</sup> 85% nylon or other polyamide filaments, dyed, nes
5407.43	Woven fabric, <sup>3</sup> 85% nylon or other polyamide filaments, yarn dyed, nes
5407.44	Woven fabric, <sup>3</sup> 85% nylon or other polyamide filaments, printed, nes
5407.51	Woven fabric, <sup>3</sup> 85% textured polyester filaments, unbleached or bleached, nes
5407.52	Woven fabric, <sup>3</sup> 85% textured polyester filaments, dyed, nes
5407.53	Woven fabric, <sup>3</sup> 85% textured polyester filaments, yarn dyed, nes
5407.54	Woven fabric, <sup>3</sup> 85% textured polyester filaments, printed, nes
5407.61	Woven fabric, <sup>3</sup> 85% non-textured polyester filaments, nes
5407.69	Woven fabric, <sup>3</sup> 85% other polyester filaments, nes
5407.71	Woven fabric, <sup>3</sup> 85% synthetic filaments, unbleached or bleached, nes
5407.72	Woven fabric, <sup>3</sup> 85% synthetic filaments, dyed, nes
5407.73	Woven fabric, <sup>3</sup> 85% synthetic filaments, yarn dyed, nes
5407.74	Woven fabric, <sup>3</sup> 85% synthetic filaments, printed, nes
5407.81	Woven fabric of synthetic filaments, <85% syn. filaments, with cotton, unbl or bl, nes
5407.82	Woven fabric of synthetic filaments, <85% with cotton, dyed, nes
5407.83	Woven fabric of synthetic filaments, <85% with cotton, yarn dyed, nes
5407.84	Woven fabric of synthetic filaments, <85% with cotton, printed, nes
5407.91	Woven fabric of synthetic filaments, unbleached or bleached, nes
5407.92	Woven fabric of synthetic filaments, dyed, nes
5407.93	Woven fabric of synthetic filaments, yarn dyed, nes
5407.94	Woven fabric of synthetic filaments, printed, nes
5408.10	Woven fabric of high tenacity filament yarn of viscose rayon
5408.21	Woven fabric, <sup>3</sup> 85% artificial filament or strip, unbleached or bleached, nes
5408.22	Woven fabric, <sup>3</sup> 85% artificial filament or strip, dyed, nes
5408.23	Woven fabric, <sup>3</sup> 85% artificial filament or strip, yarn dyed, nes
5408.24	Woven fabric, <sup>3</sup> 85% artificial filament or strip, printed, nes
5408.31	Woven fabric of artificial filaments, unbleached or bleached, nes
5408.32	Woven fabric of artificial filaments, dyed, nes
5408.33	Woven fabric of artificial filaments, yarn dyed, nes
5408.34	Woven fabric of artificial filaments, printed, nes

#### **Chapter 55 Man-made staple fibres**

5501.10	Filament tow of nylon or other polyamides
5501.20	Filament tow of polyesters

5501.30	Filament tow of acrylic or modacrylic
5501.90	Synthetic filament tow, nes
5502.00	Artificial filament tow
5503.10	Staple fibres of nylon or other polyamides, not carded or combed
5503.20	Staple fibres of polyesters, not carded or combed
5503.30	Staple fibres of acrylic or modacrylic, not carded or combed
5503.40	Staple fibres of polypropylene, not carded or combed
5503.90	Synthetic staple fibres, not carded or combed, nes
5504.10	Staple fibres of viscose, not carded or combed
5504.90	Artificial staple fibres, other than viscose, not carded or combed
5505.10	Waste of synthetic fibres
5505.20	Waste of artificial fibres
5506.10	Staple fibres of nylon or other polyamides, carded or combed
5506.20	Staple fibres of polyesters, carded or combed
5506.30	Staple fibres of acrylic or modacrylic, carded or combed
5506.90	Synthetic staple fibres, carded or combed, nes
5507.00	Artificial staple fibres, carded or combed
5508.10	Sewing thread of synthetic staple fibres
5508.20	Sewing thread of artificial staple fibres
5509.11	Yarn, <sup>3</sup> 85% nylon or other polyamide staple fibres, single, not for retail sale
5509.12	Yarn, <sup>3</sup> 85% nylon or other polyamide staple fibres, multiple, not for retail sale, nes
5509.21	Yarn, <sup>3</sup> 85% of polyester staple fibres, single, not for retail sale
5509.22	Yarn, <sup>3</sup> 85% of polyester staple fibres, multiple, not for retail sale, nes
5509.31	Yarn, <sup>3</sup> 85% of acrylic or modacrylic staple fibres, single, not for retail sale
5509.32	Yarn, <sup>3</sup> 85% acrylic/modacrylic staple fibres, multiple, not for retail sale, nes
5509.41	Yarn, <sup>3</sup> 85% of other synthetic staple fibres, single, not for retail sale
5509.42	Yarn, <sup>3</sup> 85% of other synthetic staple fibres, multiple, not for retail sale, nes
5509.51	Yarn of polyester staple fibres mixed with artificial staple fibre, not for retail sale, nes
5509.52	Yarn of polyester staple fibre mixed with wool or fine animal hair, not for retail sale, nes
5509.53	Yarn of polyester staple fibres mixed with cotton, not for retail sale, nes
5509.59	Yarn of polyester staple fibres, not for retail sale, nes
5509.61	Yarn of acrylic staple fibre mixed with wool or fine animal hair, not for retail sale, nes
5509.62	Yarn of acrylic staple fibres mixed with cotton, not for retail sale, nes
5509.69	Yarn of acrylic staple fibres, not for retail sale, nes
5509.91	Yarn of other synthetic staple fibres mixed with wool or fine animal hair, not for retail sale, nes
5509.92	Yarn of other synthetic staple fibres mixed with cotton, not for retail sale, nes
5509.99	Yarn of other synthetic staple fibres, not for retail sale, nes
5510.11	Yarn, <sup>3</sup> 85% of artificial staple fibres, single, not for retail sale
5510.12	Yarn, <sup>3</sup> 85% of artificial staple fibres, multiple, not for retail sale, nes
5510.20	Yarn of artificial staple fibre mixed with wool/fine animal hair, not for retail sale, nes

5510.30	Yarn of artificial staple fibres mixed with cotton, not for retail sale, nes
5510.90	Yarn of artificial staple fibres, not for retail sale, nes
5511.10	Yarn, <sup>3</sup> 85% of synthetic staple fibres, other than sewing thread, for retail sale
5511.20	Yarn, <85% of synthetic staple fibres, for retail sale, nes
5511.30	Yarn of artificial fibres (other than sewing thread), for retail sale
5512.11	Woven fabric, <sup>3</sup> 85% of polyester staple fibres, unbleached or bleached
5512.19	Woven fabric, <sup>3</sup> 85% of polyester staple fibres, other than unbleached or bleached
5512.21	Woven fabric, <sup>3</sup> 85% of acrylic staple fibres, unbleached or bleached
5512.29	Woven fabric, <sup>3</sup> 85% of acrylic staple fibres, other than unbleached or bleached
5512.91	Woven fabric, <sup>3</sup> 85% of other synthetic staple fibres, unbleached or bleached
5512.99	Woven fabric, <sup>3</sup> 85% of other synthetic staple fibres, other than unbleached or bleached
5513.11	Plain weave polyester fabric, <85% syn stple fibre, with cot, <sup>2</sup> 170g/m <sup>2</sup> , unbl or bl
5513.12	Twill weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , unbl or bl
5513.13	Woven polyester fabric, <85% synthetic stple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , unbl or bl, nes
5513.19	Woven fabric of other synthetic staple fibre, <85% syn. stpl fib, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , unbl or bl
5513.21	Plain weave polyester staple fibre fabric, <85% synthetic staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , dyed
5513.22	Twill weave polyester staple fibre fabric, <85% synthetic staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , dyed
5513.23	Woven fabric of polyester staple fibre, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , dyed, nes
5513.29	Woven fabric of other synthetic staple fibre, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , dyed
5513.31	Plain weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , yarn dyed
5513.32	Twill weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , yarn dyed
5513.33	Woven fabric of polyester staple fibre, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , dyed nes
5513.39	Woven fabric of other synthetic staple fibre, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , yarn dyed
5513.41	Plain weave polyester staple fibre fabric, <85% syn. stpl fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , printed
5513.42	Twill weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , printed
5513.43	Woven fabric of polyester staple fibre, <85% syn staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , printed, nes
5513.49	Woven fabric of other synthetic staple fibre, <85% syn. staple fibre, with cotton, <sup>2</sup> 170g/m <sup>2</sup> , printed
5514.11	Plain weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, >170g/m <sup>2</sup> , unbl or bl

5514.12	Twill weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, >170g/m2, unbl or bl
5514.13	Woven fabric of polyester staple fibre, <85% syn. stpl fibre, with cotton, >170g/m2, unbl or bl, nes
5514.19	Woven fabric of other synthetic staple fibre, <85% syn stpl. fib, with cotton, >170g/m2, unbl or bl
5514.21	Plain weave polyester staple fibre fabric, <85% syn staple fibre, with cotton, >170g/m2, dyed
5514.22	Twill weave polyester staple fibre fabric, <85% synthetic staple fibre, with cotton, >170g/m2, dyed
5514.23	Woven fabric of polyester staple fibre, <85% synthetic staple fibre, with cotton, >170g/m2, dyed
5514.29	Woven fabric of other synthetic staple fibre, <85% synthetic staple fibre, with cotton, >170g/m2, dyed
5514.31	Plain weave polyester staple fibre fabric, <85% syn. staple fibre, with cotton, >170g/m2, yarn dyed
5514.32	Twill weave polyester staple fibre fabric, <85% mixed with cotton, >170g/m2, yarn dyed
5514.33	Woven fabric of polyester staple fibre, <85% syn. staple fibre, with cotton, >170g/m2, yarn dyed nes
5514.39	Woven fabric of other synthetic staple fibre, <85% syn. stpl fibre, with cotton, >170g/m2, yarn dyed
5514.41	Plain weave polyester staple fibre fabric, <85% synthetic staple fibre, with cotton, >170g/m2, printed
5514.42	Twill weave polyester staple fibre fabric, <85% synthetic staple fibre, with cotton, >170g/m2, printed
5514.43	Woven fabric of polyester staple fibres <85% syn. staple fibre, with cotton, >170g/m2, printed, nes
5514.49	Woven fabric of other synthetic staple fibre, <85% syn. staple fibre, with cotton, >170g/m2, printed
5515.11	Woven fabric of polyester staple fibre, with viscose rayon staple fibre, nes
5515.12	Woven fabric of polyester staple fibre, with man-made filaments, nes
5515.13	Woven fabric of polyester staple fibre, with wool or fine animal hair, nes
5515.19	Woven fabric of polyester staple fibre, nes
5515.21	Woven fabric of acrylic staple fibre, with man-made filaments, nes
5515.22	Woven fabric of acrylic staple fibre, with wool or fine animal hair, nes
5515.29	Woven fabric of acrylic or modacrylic staple fibres, nes
5515.91	Woven fabric of other synthetic staple fibre, with man-made filaments, nes
5515.92	Woven fabric of other synthetic staple fibre, with wool or fine animal hair, nes
5515.99	Woven fabric of synthetic staple fibres, nes
5516.11	Woven fabric, 385% artificial staple fibre, unbleached or bleached
5516.12	Woven fabric, 385% artificial staple fibre, dyed
5516.13	Woven fabric, 385% artificial staple fibre, yarn dyed
5516.14	Woven fabric, 385% artificial staple fibre, printed
5516.21	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with man-made fib, unbl or bl
5516.22	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with man-made fib, dyed

5516.23	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with man-made fib, yarn dyed
5516.31	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with man-made fib, printed
5516.32	Woven fabric of artificial staple fibre, <85% art stpl fibre, with wool/fine animal hair, unbl or bl
5516.33	Woven fabric of artificial staple fibre, <85% art staple fibre, mixed mainly or solely with wool/fine animal hair, dyed
5516.34	Woven fabric of artificial staple fibre, <85% art staple fibre, mixed mainly or solely with wool/fine animal hair, yarn dyed
5516.41	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with cotton, unbl or bl
5516.42	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with cotton, dyed
5516.43	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with cotton, yarn dyed
5516.44	Woven fabric of artificial staple fibre, <85% artificial staple fibre, with cotton, printed
5516.91	Woven fabric of artificial staple fibre, unbleached or bleached, nes
5516.92	Woven fabric of artificial staple fibre, dyed, nes
5516.93	Woven fabric of artificial staple fibre, yarn dyed, nes
5516.94	Woven fabric of artificial staple fibre, printed, nes

**Chapter 56 Wadding, felt and nonwovens; special yarns, twine, cordage, ropes and cables and articles thereof**

5601.10	Sanitary articles of wadding of textile materials, including sanitary towels, tampons, and diapers
5601.21	Wadding of cotton and articles thereof, other than sanitary articles
5601.22	Wadding of man-made fibres and articles thereof, other than sanitary articles
5601.29	Wadding of other textile materials and articles thereof, other than sanitary articles
5601.30	Textile flock and dust and mill neps
5602.10	Needleloom felt and stitch-bonded fibre fabric
5602.21	Felt other than needleloom, of wool or fine animal hair, not impregnated, coated, covered or laminated
5602.29	Felt other than needleloom, of other textile materials, not impregnated, coated, covered or laminated
5602.90	Felt of textile materials, nes
5603.11	Nonwovens, whether or not impregnated, coated, covered or laminated, of man-made filaments, $\geq 25\text{g/m}^2$
5603.12	Nonwovens, whether or not impregnated, coated, covered or laminated, of man-made filaments, $>25\text{g/m}^2$ but $\leq 70\text{g/m}^2$
5603.13	Nonwovens, whether or not impregnated, coated, covered or laminated, of man-made filaments, $>70\text{g/m}^2$ but $\leq 150\text{g/m}^2$
5603.14	Nonwovens, whether or not impregnated, coated, covered or laminated, of man-made filaments, $>150\text{g/m}^2$
5603.91	Nonwovens, whether or not impregnated, coated, covered or laminated, other, $\geq 25\text{g/m}^2$

5603.92	Nonwovens, whether or not impregnated, coated, covered or laminated, other, >25g/m <sup>2</sup> but <sup>2</sup> 70g/m <sup>2</sup>
5603.93	Nonwovens, whether or not impregnated, coated, covered or laminated, other, >70g/m <sup>2</sup> but <sup>2</sup> 150g/m <sup>2</sup>
5603.94	Nonwovens, whether or not impregnated, coated, covered or laminated, other, >150g/m <sup>2</sup>
5604.10	Rubber thread and cord, textile covered
5604.20	High tenacity yarn of polyester, nylon other polyamide, viscose rayon, impregnated or coated
5604.90	Textile yarn, strip, impregnated, coated, covered or sheathed with rubber or plastics nes
5605.00	Metallized yarn, being textile yarn combined with metal thread, strip, or powder
5606.00	Gimped yarn nes; chenille yarn; loop wale-yarn
5607.10	Twine, cordage, ropes and cables, of jute or other textile bast fibres
5607.21	Binder or baler twine, of sisal or other textile fibres of the genus Agave
5607.29	Twine nes, cordage, ropes and cables, of sisal textile fibres
5607.30	Twine, cordage, ropes and cables, of abaca or other hard (leaf) fibres
5607.41	Binder or baler twine, of polyethylene or polypropylene
5607.49	Twine nes, cordage, ropes and cables, of polyethylene or polypropylene
5607.50	Twine, cordage, ropes and cables, of other synthetic fibres
5607.90	Twine, cordage, ropes and cables, of other materials
5608.11	Made up fishing nets, of man-made textile materials
5608.19	Knotted netting of twine, cordage, or rope, and other made up nets of man-made textile materials
5608.90	Knotted netting of twine, cordage, or rope, nes, and made up nets of other textile materials
5609.00	Articles of yarn, strip, twine, cordage, rope and cables, nes

### **Chapter 57 Carpets and other textile floor coverings**

5701.10	Carpets of wool or fine animal hair, knotted
5701.90	Carpets of other textile materials, knotted
5702.10	Kelem, Schumacks, Karamanie and similar textile hand-woven rugs
5702.20	Floor coverings of coconut fibres (coir)
5702.31	Carpets of wool or fine animal hair, of woven pile construction, not made up, nes
5702.32	Carpets of man-made textile materials, of woven pile construction, not made up, nes
5702.39	Carpets of other textile materials, of woven pile construction, not made up, nes
5702.41	Carpets of wool or fine animal hair, of woven pile construction, made up, nes
5702.42	Carpets of man-made textile materials, of woven pile construction, made up, nes
5702.49	Carpets of other textile materials, of woven pile construction, made up, nes
5702.51	Carpets of wool or fine animal hair, woven, not made up, nes
5702.52	Carpets of man-made textile materials, woven, not made up, nes
5702.59	Carpets of other textile materials, woven, not made up, nes
5702.91	Carpets of wool or fine animal hair, woven, made up, nes

5702.92	Carpets of man-made textile materials, woven, made up, nes
5702.99	Carpets of other textile materials, woven, made up, nes
5703.10	Carpets of wool or fine animal hair, tufted
5703.20	Carpets of nylon or other polyamide, tufted
5703.30	Carpets of other man-made textile materials, tufted
5703.90	Carpets of other textile materials, tufted
5704.10	Tiles of felt of textile materials, having a maximum surface area of 0.3 m <sup>2</sup>
5704.90	Carpets of felt of textile materials, nes
5705.00	Carpets and other textile floor coverings, nes

**Chapter 58 Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery**

5801.10	Woven pile fabric of wool or fine animal hair, other than terry and narrow fabric
5801.21	Woven uncut weft pile fabric of cotton, other than terry and narrow fabric
5801.22	Cut corduroy fabric of cotton, other than narrow fabric
5801.23	Woven weft pile fabric of cotton, nes
5801.24	Woven warp pile fabric of cotton, epingle (uncut), other than terry and narrow fabric
5801.25	Woven warp pile fabric of cotton, cut, other than terry and narrow fabric
5801.26	Chenille fabric of cotton, other than narrow fabric
5801.31	Woven uncut weft pile fabric of manmade fibres, other than terry and narrow fabric
5801.32	Cut corduroy fabric of man-made fibres, other than narrow fabric
5801.33	Woven weft pile fabric of man-made fibres, nes
5801.34	Woven warp pile fabric of man-made fibre, epingle (uncut), other than terry and narrow fabric
5801.35	Woven warp pile fabric of man-made fibre, cut, other than terry and narrow fabric
5801.36	Chenille fabric of man-made fibres, other than narrow fabric
5801.90	Woven pile fabric and chenille fabric of other textile materials, other than terry and narrow fabric
5802.11	Terry toweling and similar woven terry fabric of cotton, other than narrow fabric, unbleached
5802.19	Terry toweling and similar woven terry fabric of cotton, other than unbleached or narrow fabric
5802.20	Terry toweling and similar woven terry fabric of other textile materials, other than narrow fabric
5802.30	Tufted textile fabric, other than products of heading No 57.03
5803.10	Gauze of cotton, other than narrow fabric
5803.90	Gauze of other textile material, other than narrow fabric
5804.10	Tulles and other net fabric, not including woven, knitted or crocheted fabric
5804.21	Mechanically made lace of man-made fibre, in the piece, in strips or motifs
5804.29	Mechanically made lace of other textile materials, in the piece, in strips or in motifs
5804.30	Hand-made lace, in the piece, in strips or in motifs

5805.00	Hand-woven tapestries and needle-worked tapestries, whether or not made up
5806.10	Narrow woven pile fabric and narrow chenille fabric
5806.20	Narrow woven fabric, containing <sup>35</sup> % elastomeric yarn or rubber thread, nes
5806.31	Narrow woven fabric of cotton, nes
5806.32	Narrow woven fabric of man-made fibres, nes
5806.39	Narrow woven fabric of other textile materials, nes
5806.40	Fabric consisting of warp without weft, assembled by means of an adhesive
5807.10	Labels, badges and similar woven articles of textile materials
5807.90	Labels, badges and similar articles, not woven, of textile materials, nes
5808.10	Braids in the piece
5808.90	Ornamental trimmings in the piece, other than knit; tassels, pompons and similar articles
5809.00	Woven fabric of metal thread or metallized yarn, for apparel, and homefurnishings, nes
5810.10	Embroidery without visible ground, in the piece, in strips or in motifs
5810.91	Embroidery of cotton, in the piece, in strips or in motifs, nes
5810.92	Embroidery of man-made fibres, in the piece, in strips or in motifs, nes
5810.99	Embroidery of other textile materials, in the piece, in strips or motifs, nes
5811.00	Quilted textile products in the piece

**Chapter 59 Impregnated, coated, covered, laminated textile fabric; textile articles suitable for industrial use**

5901.10	Textile fabric coated with gum, of a kind used for outer covers of books or the like
5901.90	Tracing cloth; prepared painting canvas; stiffened textile fabric for hats, nes
5902.10	Tire cord fabric of high tenacity nylon or other polyamide yarn
5902.20	Tire cord fabric of high tenacity polyester yarn
5902.90	Tire cord fabric made of high tenacity viscose rayon yarn
5903.10	Textile fabric impregnated, coated, covered, or laminated with polyvinyl chloride, nes
5903.20	Textile fabric impregnated, coated, covered, or laminated with polyurethane, nes
5903.90	Textile fabric impregnated, coated, covered, or laminated with plastics, nes
5904.10	Linoleum, whether or not cut to shape
5904.91	Floor coverings, other than linoleum, with a base of needleloom felt or nonwovens
5904.92	Floor coverings, other than linoleum, with other textile base
5905.00	Textile wall coverings
5906.10	Rubberized textile adhesive tape of a width not exceeding 20 cm
5906.91	Rubberized textile knitted or crocheted fabric, nes
5906.99	Rubberized textile fabric, nes
5907.00	Textile fabric impregnated, coated, covered, nes; painted canvas for theatre use, backdrops, etc.
5908.00	Textile wicks for lamps, stoves, candles or the like; gas mantles and knitted gas mantle fabric
5909.00	Textile hosepiping and similar textile tubing



5910.00	Transmission or conveyor belts or belting of textile material whether or not reinforced
5911.10	Felt and felt-lined woven fabric combined with rubber, leather, or other material, for technical uses
5911.20	Textile bolting cloth, whether or not made up
5911.31	Textile fabric, endless or linked, for paper-making or similar machines, weighing <650 g/m <sup>2</sup>
5911.32	Textile fabric, endless or linked, for paper-making or similar machines, weighing <sup>3</sup> 650 g/m <sup>2</sup>
5911.40	Textile straining cloth used in oil presses or the like, including of human hair
5911.90	Textile products and articles for technical uses, nes

### **Chapter 60 Knitted or crocheted fabrics**

6001.10	Long pile knitted or crocheted textile fabric
6001.21	Looped pile knitted or crocheted fabric, of cotton
6001.22	Looped pile knitted or crocheted fabric, of man-made fibres
6001.29	Looped pile knitted or crocheted fabric, of other textile materials
6001.91	Pile knitted or crocheted fabric, of cotton, nes
6001.92	Pile knitted or crocheted fabric, of man-made fibre, nes
6001.99	Pile knitted or crocheted fabric, of other textile materials, nes
6002.10	Knitted or crocheted textile fabric, width <sup>2</sup> 30 cm, <sup>35</sup> % of elastomeric yarn or rubber thread, nes
6002.20	Knitted or crocheted textile fabric, width not exceeding 30 cm, nes
6002.30	Knitted or crocheted textile fabric, width > 30 cm, <sup>35</sup> % of elastomeric yarn or rubber thread, nes
6002.41	Warp knitted fabric, of wool or fine animal hair, nes
6002.42	Warp knitted fabric, of cotton, nes
6002.43	Warp knitted fabric, of man-made fibres, nes
6002.49	Warp knitted fabric, of other materials, nes
6002.91	Knitted or crocheted fabric, of wool or of fine animal hair, nes
6002.92	Knitted or crocheted fabric, of cotton, nes
6002.93	Knitted or crocheted fabric, of manmade fibres, nes
6002.99	Knitted or crocheted fabric, of other materials, nes

### **Chapter 61 Articles of apparel and clothing accessories, knitted or crocheted**

6101.10	Men's or boys' overcoats, anoraks, and sim articles, of wool or fine animal hair, knitted or crocheted
6101.20	Men's or boys' overcoats, anoraks, and similar articles, of cotton, knitted or crocheted
6101.30	Men's or boys' overcoats, anoraks, and similar articles, of man-made fibres, knitted or crocheted
6101.90	Men's or boys' overcoats, anoraks, and sim articles, of other textile materials, knitted or crocheted
6102.10	Women's or girls' overcoats, anoraks and sim art, of wool or fine animal hair, knitted or crocheted
6102.20	Women's or girls' overcoats, anoraks and similar articles, of cotton, knitted or crocheted
6102.30	Women's or girls' overcoats, anoraks and similar articles, of man-made fibres, knitted or crocheted

6102.90	Women's or girls' overcoats, anoraks and sim art, of other textile materials, knitted or crocheted
6103.11	Men's or boys' suits, of wool or fine animal hair, knitted or crocheted
6103.12	Men's or boys' suits, of synthetic fibres, knitted or crocheted
6103.19	Men's or boys' suits, of other textile materials, knitted or crocheted
6103.21	Men's or boys' ensembles, of wool or fine animal hair, knitted or crocheted
6103.22	Men's or boys' ensembles, of cotton, knitted or crocheted
6103.23	Men's or boys' ensembles, of synthetic fibres, knitted or crocheted
6103.29	Men's or boys' ensembles, of other textile materials, knitted or crocheted
6103.31	Men's or boys' jackets and blazers, of wool or fine animal hair, knitted or crocheted
6103.32	Men's or boys' jackets and blazers, of cotton, knitted or crocheted
6103.33	Men's or boys' jackets and blazers, of synthetic fibres, knitted or crocheted
6103.39	Men's or boys' jackets and blazers, of other textile materials, knitted or crocheted
6103.41	Men's or boys' trousers and shorts, of wool or fine animal hair, knitted or crocheted
6103.42	Men's or boys' trousers and shorts, of cotton, knitted or crocheted
6103.43	Men's or boys' trousers and shorts, of synthetic fibres, knitted or crocheted
6103.49	Men's or boys' trousers and shorts, of other textile materials, knitted or crocheted
6104.11	Women's or girls' suits, of wool or fine animal hair, knitted or crocheted
6104.12	Women's or girls' suits, of cotton, knitted or crocheted
6104.13	Women's or girls' suits, of synthetic fibres, knitted or crocheted
6104.19	Women's or girls' suits, of other textile materials, knitted or crocheted
6104.21	Women's or girls' ensembles, of wool or fine animal hair, knitted or crocheted
6104.22	Women's or girls' ensembles, of cotton, knitted or crocheted
6104.23	Women's or girls' ensembles, of synthetic fibres, knitted or crocheted
6104.29	Women's or girls' ensembles, of other textile materials, knitted or crocheted
6104.31	Women's or girls' jackets, of wool or fine animal hair, knitted or crocheted
6104.32	Women's or girls' jackets, of cotton, knitted or crocheted
6104.33	Women's or girls' jackets, of synthetic fibres, knitted or crocheted
6104.39	Women's or girls' jackets, of other textile materials, knitted or crocheted
6104.41	Women's or girls' dresses, of wool or fine animal hair, knitted or crocheted
6104.42	Women's or girls' dresses, of cotton, knitted or crocheted
6104.43	Women's or girls' dresses, of synthetic fibres, knitted or crocheted
6104.44	Women's or girls' dresses, of artificial fibres, knitted or crocheted
6104.49	Women's or girls' dresses, of other textile materials, knitted or crocheted
6104.51	Women's or girls' skirts, of wool or fine animal hair, knitted or crocheted
6104.52	Women's or girls' skirts, of cotton, knitted or crocheted
6104.53	Women's or girls' skirts, of synthetic fibres, knitted or crocheted
6104.59	Women's or girls' skirts, of other textile materials, knitted or crocheted
6104.61	Women's or girls' trousers and shorts, of wool or fine animal hair, knitted or crocheted

6104.62	Women's or girls' trousers and shorts, of cotton, knitted or crocheted
6104.63	Women's or girls' trousers and shorts, of synthetic fibres, knitted or crocheted
6104.69	Women's or girls' trousers and shorts, of other textile materials, knitted or crocheted
6105.10	Men's or boys' shirts, of cotton, knitted or crocheted
6105.20	Men's or boys' shirts, of man-made fibres, knitted or crocheted
6105.90	Men's or boys' shirts, of other textile materials, knitted or crocheted
6106.10	Women's or girls' blouses and shirts, of cotton, knitted or crocheted
6106.20	Women's or girls' blouses and shirts, of man-made fibres, knitted or crocheted
6106.90	Women's or girls' blouses and shirts, of other materials, knitted or crocheted
6107.11	Men's or boys' underpants and briefs, of cotton, knitted or crocheted
6107.12	Men's or boys' underpants and briefs, of man-made fibres, knitted or crocheted
6107.19	Men's or boys' underpants and briefs, of other textile materials, knitted or crocheted
6107.21	Men's or boys' nightshirts and pajamas, of cotton, knitted or crocheted
6107.22	Men's or boys' nightshirts and pajamas, of man-made fibres, knitted or crocheted
6107.29	Men's or boys' nightshirts and pajamas, of other textile materials, knitted or crocheted
6107.91	Men's or boys' underpants, briefs, robes, and similar articles of cotton, knitted or crocheted
6107.92	Men's or boys' underpants, briefs, robes, and sim articles of man-made fibres, knitted or crocheted
6107.99	Men's or boys' underwear, briefs, robes, and sim art of other textile materials, knitted or crocheted
6108.11	Women's or girls' slips and petticoats, of man-made fibres, knitted or crocheted
6108.19	Women's or girls' slips and petticoats, of other textile materials, knitted or crocheted
6108.21	Women's or girls' briefs and panties, of cotton, knitted or crocheted
6108.22	Women's or girls' briefs and panties, of man-made fibres, knitted or crocheted
6108.29	Women's or girls' briefs and panties, of other textile materials, knitted or crocheted
6108.31	Women's or girls' nightdresses and pajamas, of cotton, knitted or crocheted
6108.32	Women's or girls' nightdresses and pajamas, of man-made fibres, knitted or crocheted
6108.39	Women's or girls' nightdresses and pajamas, of other textile materials, knitted or crocheted
6108.91	Women's or girls' robes, dressing gowns, and similar articles of cotton, nes, knitted or crocheted
6108.92	Women's or girls' robes, dressing gowns, and sim art of man-made fibres, nes, knitted or crocheted
6108.99	Women's or girls' robes, dressing gowns, and sim art of other tex materials, nes, knitted or crocheted

6109.10	T-shirts, singlets, tank tops, and similar garments, of cotton, knitted or crocheted
6109.90	T-shirts, singlets, tank tops, and similar garments, of other textile materials, knitted or crocheted
6110.10	Sweaters, pullovers, sweatshirts, and sim articles of wool or fine animal hair, knitted or crocheted
6110.20	Sweaters, pullovers, sweatshirts, and similar articles of cotton, knitted or crocheted
6110.30	Sweaters, pullovers, sweatshirts, and similar articles of man-made fibres, knitted or crocheted
6110.90	Sweaters, pullovers, sweatshirts, and sim articles of other textile materials, knitted or crocheted
6111.10	Babies' garments and clothing accessories of wool or fine animal hair, knitted or crocheted
6111.20	Babies' garments and clothing accessories of cotton, knitted or crocheted
6111.30	Babies' garments and clothing accessories of synthetic fibres, knitted or crocheted
6111.90	Babies' garments and clothing accessories of other textile materials, knitted or crocheted
6112.11	Track suits, of cotton, knitted or crocheted
6112.12	Track suits, of synthetic fibres, knitted or crocheted
6112.19	Track suits, of other textile materials, knitted or crocheted
6112.20	Ski suits, of textile materials, knitted or crocheted
6112.31	Men's or boys' swimwear, of synthetic fibres, knitted or crocheted
6112.39	Men's or boys' swimwear, of other textile materials, knitted or crocheted
6112.41	Women's or girls' swimwear, of synthetic fibres, knitted or crocheted
6112.49	Women's or girls' swimwear, of other textile materials, knitted or crocheted
6113.00	Garments made up of impregnated, coated, covered or laminated textile knitted or crocheted fabric
6114.10	Garments of wool or fine animal hair, knitted or crocheted, nes
6114.20	Garments of cotton, knitted or crocheted, nes
6114.30	Garments of man-made fibres, knitted or crocheted, nes
6114.90	Garments of other textile materials, knitted or crocheted, nes
6115.11	Panty hose and tights, of synthetic fibre yarn, <67 decitex/single yarn, knitted or crocheted
6115.12	Panty hose and tights, of synthetic fibre yarn, <sup>3</sup> 67 decitex/single yarn, knitted or crocheted
6115.19	Panty hose and tights, of other textile materials, knitted or crocheted
6115.20	Women full or knee length hosiery, of textile yarn, <67 decitex/single yarn, knitted or crocheted
6115.91	Hosiery nes, of wool or fine animal hair, knitted or crocheted
6115.92	Hosiery nes, of cotton, knitted or crocheted
6115.93	Hosiery nes, of synthetic fibres, knitted or crocheted
6115.99	Hosiery nes, of other textile materials, knitted or crocheted
6116.10	Gloves or mittens, impregnated, coated or covered with plastics or rubber, knitted or crocheted
6116.91	Gloves or mittens, nes, of wool or fine animal hair, knitted or crocheted
6116.92	Gloves or mittens, nes, of cotton, knitted or crocheted
6116.93	Gloves or mittens, nes, of synthetic fibres, knitted or crocheted
6116.99	Gloves or mittens, nes, of other textile materials, knitted or crocheted

6117.10	Shawls, scarves, veils and the like, of textile materials, knitted or crocheted
6117.20	Ties, bow ties and cravats, of textile materials, knitted or crocheted
6117.80	Clothing accessories nes, of textile materials, knitted or crocheted
6117.90	Parts of garments or clothing accessories, of textile materials, knitted or crocheted

**Chapter 62: Articles of apparel and clothing accessories, not knitted or crocheted**

6201.11	Men's or boys' overcoats, and similar articles of wool or fine animal hair, not knitted or crocheted
6201.12	Men's or boys' overcoats, and similar articles of cotton, not knitted or crocheted
6201.13	Men's or boys' overcoats, and similar articles of man-made fibres, not knitted or crocheted
6201.19	Men's or boys' overcoats, and similar articles of other textile materials, not knitted or crocheted
6201.91	Men's or boys' anoraks and similar articles, of wool or fine animal hair, not knitted or crocheted
6201.92	Men's or boys' anoraks and similar articles, of cotton, not knitted or crocheted
6201.93	Men's or boys' anoraks and similar articles, of man-made fibres, not knitted or crocheted
6201.99	Men's or boys' anoraks and similar articles, of other textile materials, not knitted or crocheted
6202.11	Women's or girls' overcoats and similar articles of wool or fine animal hair not knitted or crocheted
6202.12	Women's or girls' overcoats and similar articles of cotton, not knitted or crocheted
6202.13	Women's or girls' overcoats and similar articles of man-made fibres, not knitted or crocheted
6202.19	Women's or girls' overcoats and similar articles of other textile mat, not knitted or crocheted 6202.91 Women's or girls' anoraks and similar article of wool or fine animal hair, not knitted or crocheted
6202.92	Women's or girls' anoraks and similar article of cotton, not knitted or crocheted
6202.93	Women's or girls' anoraks and similar article of man-made fibres, not knitted or crocheted
6202.99	Women's or girls' anoraks and similar article of other textile materials, not knitted or crocheted
6203.11	Men's or boys' suits, of wool or fine animal hair, not knitted or crocheted
6203.12	Men's or boys' suits, of synthetic fibres, not knitted or crocheted
6203.19	Men's or boys' suits, of other textile materials, not knitted or crocheted
6203.21	Men's or boys' ensembles, of wool or fine animal hair, not knitted or crocheted
6203.22	Men's or boys' ensembles, of cotton, not knitted or crocheted
6203.23	Men's or boys' ensembles, of synthetic fibres, not knitted or crocheted
6203.29	Men's or boys' ensembles, of other textile materials, not knitted or crocheted
6203.31	Men's or boys' jackets and blazers, of wool or fine animal hair, not knitted or crocheted
6203.32	Men's or boys' jackets and blazers, of cotton, not knitted or crocheted

6203.33	Men's or boys' jackets and blazers, of synthetic fibres, not knitted or crocheted
6203.39	Men's or boys' jackets and blazers, of other textile materials, not knitted or crocheted
6203.41	Men's or boys' trousers and shorts, of wool or fine animal hair, not knitted or crocheted
6203.42	Men's or boys' trousers and shorts, of cotton, not knitted or crocheted
6203.43	Men's or boys' trousers and shorts, of synthetic fibres, not knitted or crocheted
6203.49	Men's or boys' trousers and shorts, of other textile materials, not knitted or crocheted
6204.11	Women's or girls' suits, of wool or fine animal hair, not knitted or crocheted
6204.12	Women's or girls' suits, of cotton, not knitted or crocheted
6204.13	Women's or girls' suits, of synthetic fibres, not knitted or crocheted
6204.19	Women's or girls' suits, of other textile materials, not knitted or crocheted
6204.21	Women's or girls' ensembles, of wool or fine animal hair, not knitted or crocheted
6204.22	Women's or girls' ensembles, of cotton, not knitted or crocheted
6204.23	Women's or girls' ensembles, of synthetic fibres, not knitted or crocheted
6204.29	Women's or girls' ensembles, of other textile materials, not knitted or crocheted
6204.31	Women's or girls' jackets, of wool or fine animal hair, not knitted or crocheted
6204.32	Women's or girls' jackets, of cotton, not knitted or crocheted
6204.33	Women's or girls' jackets, of synthetic fibres, not knitted or crocheted
6204.39	Women's or girls' jackets, of other textile materials, not knitted or crocheted
6204.41	Women's or girls' dresses, of wool or fine animal hair, not knitted or crocheted
6204.42	Women's or girls' dresses, of cotton, not knitted or crocheted
6204.43	Women's or girls' dresses, of synthetic fibres, not knitted or crocheted
6204.44	Women's or girls' dresses, of artificial fibres, not knitted or crocheted
6204.49	Women's or girls' dresses, of other textile materials, not knitted or crocheted
6204.51	Women's or girls' skirts, of wool or fine animal hair, not knitted or crocheted
6204.52	Women's or girls' skirts, of cotton, not knitted or crocheted
6204.53	Women's or girls' skirts, of synthetic fibres, not knitted or crocheted
6204.59	Women's or girls' skirts, of other textile materials, not knitted or crocheted
6204.61	Women's or girls' trousers and shorts, of wool or fine animal hair, not knitted or crocheted
6204.62	Women's or girls' trousers and shorts, of cotton, not knitted or crocheted
6204.63	Women's or girls' trousers and shorts, of synthetic fibres, not knitted or crocheted
6204.69	Women's or girls' trousers and shorts, of other textile materials, not knitted or crocheted
6205.10	Men's or boys' shirts, of wool or fine animal hair, not knitted or crocheted
6205.20	Men's or boys' shirts, of cotton, not knitted or crocheted

6205.30	Men's or boys' shirts, of man-made fibres, not knitted or crocheted
6205.90	Men's or boys' shirts, of other textile materials, not knitted or crocheted
6206.10	Women's or girls' blouses and shirts, of silk or silk waste, not knitted or crocheted
6206.20	Women's or girls' blouses and shirts, of wool or fine animal hair, not knitted or crocheted
6206.30	Women's or girls' blouses and shirts, of cotton, not knitted or crocheted
6206.40	Women's or girls' blouses and shirts, of man-made fibres, not knitted or crocheted
6206.90	Women's or girls' blouses and shirts, of other textile materials, not knitted or crocheted
6207.11	Men's or boys' underpants and briefs, of cotton, not knitted or crocheted
6207.19	Men's or boys' underpants and briefs, of other textile materials, not knitted or crocheted
6207.21	Men's or boys' nightshirts and pajamas, of cotton, not knitted or crocheted
6207.22	Men's or boys' nightshirts and pajamas, of man-made fibres, not knitted or crocheted
6207.29	Men's or boys' nightshirts and pajamas, of other textile materials, not knitted or crocheted
6207.91	Men's or boys' robes, dressing gowns, and similar articles of cotton, not knitted or crocheted
6207.92	Men's or boys' robes, dressing gowns, and sim art of man-made fibres, not knitted or crocheted
6207.99	Men's or boys' robes, dressing gowns, and similar articles of other textile materials, not knit
6208.11	Women's or girls' slips and petticoats, of man-made fibres, not knitted or crocheted
6208.19	Women's or girls' slips and petticoats, of other textile materials, not knitted or crocheted
6208.21	Women's or girls' nightdresses and pajamas, of cotton, not knitted or crocheted
6208.22	Women's or girls' nightdresses and pajamas, of man-made fibres, not knitted or crocheted
6208.29	Women's or girls' nightdresses and pajamas, of other textile materials, not knitted or crocheted
6208.91	Women's or girls' panties, robes, and similar articles of cotton, not knitted or crocheted
6208.92	Women's or girls' panties, robes, and similar articles of man-made fibres, not knitted or crocheted
6208.99	Women's or girls' panties, robes, and sim art of other textile materials, not knitted or crocheted
6209.10	Babies' garments and clothing accessories of wool or fine animal hair, not knitted or crocheted
6209.20	Babies' garments and clothing accessories of cotton, not knitted or crocheted
6209.30	Babies' garments and clothing accessories of synthetic fibres, not knitted or crocheted
6209.90	Babies' garments and clothing accessories of other textile materials, not knitted or crocheted
6210.10	Garments made up of textile felts and of nonwoven textile fabric

6210.20	Men's or boys' overcoats and similar articles of impreg, coated, covered etc, textile fabric
6210.30	Women's or girls' overcoats and sim art, of impregnated, coated, covered, or laminated woven fabric
6210.40	Men's or boys' garments nes, made up of impregnated, coated, covered, or laminated woven fabric
6210.50	Women's or girls' garments nes, of impregnated, coated, covered, or laminated woven fabric
6211.11	Men's or boys' swimwear, of textile materials not knitted or crocheted
6211.12	Women's or girls' swimwear, of textile materials, not knitted or crocheted
6211.20	Ski suits, of textile materials, not knitted or crocheted
6211.31	Men's or boys' garments nes, of wool or fine animal hair, not knitted or crocheted
6211.32	Men's or boys' garments nes, of cotton, not knitted or crocheted
6211.33	Men's or boys' garments nes, of man-made fibres, not knitted or crocheted
6211.39	Men's or boys' garments nes, of other textile materials, not knitted or crocheted
6211.41	Women's or girls' garments nes, of wool or fine animal hair, not knitted or crocheted
6211.42	Women's or girls' garments nes, of cotton, not knitted or crocheted
6211.43	Women's or girls' garments nes, of man-made fibres, not knitted or crocheted
6211.49	Women's or girls' garments nes, of other textile materials, not knitted or crocheted
6212.10	Brassieres and parts thereof, of textile materials, whether or not knitted or crocheted
6212.20	Girdles, panty girdles and parts thereof, of textile materials, whether or not knitted or crocheted
6212.30	Corselettes and parts thereof, of textile materials, whether or not knitted or crocheted
6212.90	Corsets, braces and sim articles and parts, of textile materials, whether or not knitted or crocheted
6213.10	Handkerchiefs, of silk or silk waste, not knitted or crocheted
6213.20	Handkerchiefs, of cotton, not knitted or crocheted
6213.90	Handkerchiefs, of other textile materials, not knitted or crocheted
6214.10	Shawls, scarves, veils and the like, of silk or silk waste, not knitted or crocheted
6214.20	Shawls, scarves, veils and the like, of wool or fine animal hair, not knitted or crocheted
6214.30	Shawls, scarves, veils and the like, of synthetic fibres, not knitted or crocheted
6214.40	Shawls, scarves, veils and the like, of artificial fibres, not knitted or crocheted
6214.90	Shawls, scarves, veils and the like, of other textile materials, not knitted or crocheted
6215.10	Ties, bow ties and cravats, of silk or silk waste, not knitted or crocheted
6215.20	Ties, bow ties and cravats, of man-made fibres, not knitted or crocheted
6215.90	Ties, bow ties and cravats, of other textile materials, not knitted or crocheted
6216.00	Gloves, mittens and mitts, of textile materials, not knitted or crocheted



6217.10	Clothing accessories of textile materials, not knitted or crocheted, nes
6217.90	Parts of garments or of clothing accessories of textile materials, not knitted or crocheted, nes

**Chapter 63 Other made up textile articles; needlecraft sets; worn clothing and worn textile articles; rags**

6301.10	Electric blankets, of textile materials
6301.20	Blankets (other than electric) and travelling rugs, of wool or fine animal hair
6301.30	Blankets (other than electric) and travelling rugs, of cotton
6301.40	Blankets (other than electric) and travelling rugs, of synthetic fibres
6301.90	Blankets (other than electric) and travelling rugs, of other textile materials
6302.10	Bed linen, of textile knitted or crocheted or crocheted materials
6302.21	Bed linen, of cotton, printed, not knitted or crocheted
6302.22	Bed linen, of man-made fibres, printed, not knitted or crocheted
6302.29	Bed linen, of other textile materials, printed, not knitted or crocheted
6302.31	Bed linen, of cotton, nes
6302.32	Bed linen, of man-made fibres, nes
6302.39	Bed linen, of other textile materials, nes
6302.40	Table linen, of textile knitted or crocheted materials
6302.51	Table linen, of cotton, not knitted or crocheted
6302.52	Table linen, of flax, not knitted or crocheted
6302.53	Table linen, of man-made fibres, not knitted or crocheted
6302.59	Table linen, of other textile materials, not knitted or crocheted
6302.60	Toilet and kitchen linen, of terry toweling or similar terry fabric, of cotton
6302.91	Toilet and kitchen linen, of cotton, nes
6302.92	Toilet and kitchen linen, of flax
6302.93	Toilet and kitchen linen, of man-made fibres
6302.99	Toilet and kitchen linen, of other textile materials
6303.11	Curtains, interior blinds and curtain or bed valances, of cotton, knitted or crocheted
6303.12	Curtains, interior blinds and curtain or bed valances, of synthetic fibre, knitted or crocheted
6303.19	Curtains, interior blinds and curtain or bed valances, other textile materials, knitted or crocheted
6303.91	Curtains, interior blinds and curtain or bed valances, of cotton, not knitted or crocheted
6303.92	Curtains, interior blinds and curtain or bed valances, of synthetic fibre, not knitted or crocheted
6303.99	Curtains, interior blinds and curtain or bed valances, of other tex mat, not knitted or crocheted
6304.11	Bedspreads of textile materials, nes, knitted or crocheted
6304.19	Bedspreads of textile materials, nes, not knitted or crocheted
6304.91	Furnishing articles nes, of textile materials, knitted or crocheted
6304.92	Furnishing articles nes, of cotton, not knitted or crocheted
6304.93	Furnishing articles nes, of synthetic fibres, not knitted or crocheted
6304.99	Furnishing articles nes, of other textile materials, not knitted or crocheted
6305.10	Sacks and bags of jute or of other textile bast fibres
6305.20	Sacks and bags of cotton

6305.32	Sacks and bags of man-made textile materials - flexible intermediate bulk containers
6305.33	Sacks and bags of polyethylene or polypropylene strips
6305.39	Sacks and bags of other man-made textile materials
6305.90	Sacks and bags of other textile materials
6306.11	Tarpaulins, awnings and sunblinds, of cotton
6306.12	Tarpaulins, awnings and sunblinds, of synthetic fibres
6306.19	Tarpaulins, awnings and sunblinds, of other textile materials
6306.21	Tents, of cotton
6306.22	Tents, of synthetic fibres
6306.29	Tents, of other textile materials
6306.31	Sails, of synthetic fibres
6306.39	Sails, of other textile materials
6306.41	Pneumatic mattresses, of cotton
6306.49	Pneumatic mattresses, of other textile materials
6306.91	Camping goods nes, of cotton
6306.99	Camping goods nes, of other textile materials
6307.10	Floor-cloths, dish-cloths, dusters and similar cleaning cloths, of textile materials
6307.20	Life jackets and life belts, of textile materials
6307.90	Made up articles, of textile materials, nes, including dress patterns
6308.00	Sets of woven fabric and yarn, for rugs, tapestries, and similar textile articles, for retail sale 6309.00 Worn clothing and other worn articles

**Chapter 64 Footwear, gaiters, and the like; parts of such articles**

ex 6405.20	Footwear with soles and uppers of wool felt
ex 6406.10	Footwear uppers of which the external surface is <sup>3</sup> 50% textile material
ex 6406.99	Leg warmers and gaiters of textile materials

**Chapter 65 Headgear and parts thereof**

6501.00	Hat-forms, hat bodies and hoods of felt; plateaux and manchons of felt
6502.00	Hat-shapes, plaited or made by assembling strips of any material
6503.00	Felt hats and other felt headgear
6504.00	Hats and other headgear, plaited or made by assembling strips of any material
6505.90	Hats and other headgear, knitted or made up from lace, or other textile materials

**Chapter 66 Umbrellas, sun umbrellas, walking sticks, seatsticks, whips, riding-crops and parts thereof**

6601.10	Umbrellas and sun umbrellas, garden type
6601.91	Other umbrella types, telescopic shaft
6601.99	Other umbrellas

**Chapter 70 Glass and glassware**

ex 7019.19	Yarn of fibre glass
7019.40	Woven fabric of rovings
7019.51	Other woven fabric, of a width <sup>2</sup> 30cm
7019.52	Other woven fabric, of a width >30cm, plain weave, weighing <250g/m <sup>2</sup> , of filaments measuring per single yarn <sup>2</sup> 136 tex
7019.59	Other woven fabric, other

**Chapter 88 Aircraft, spacecraft, and parts thereof**

8804.00 Parachutes; their parts and accessories

**Chapter 91 Clocks and watches and parts thereof**

9113.90 Watch straps, bands and bracelets of textile materials

**Chapter 94 Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings**

ex 9404.90 Pillow and cushions of cotton; quilts; eiderdowns; comforters and similar articles of textile materials

**Chapter 95 Toys, games and sports requisites; parts and accessories thereof**

9502.91 Garments for dolls

**Chapter 96 Miscellaneous manufactured articles**

ex 9612.10 Woven ribbons, of man-made fibres, other than those &lt;30 mm wide and permanently in cartridges

## Appendix 4.1

Flexibility Provisions

1. Adjustments to annual specific limits (SLs), may be made as follows:
  - (a) the exporting Party may increase the SL for a calendar year by no more than six per cent ("swing").
  - (b) in addition to any increase of its SL under subparagraph (a), the exporting Party may increase its unadjusted SL for that year by no more than 11 per cent by allocating to such SL for that calendar year (the "receiving year") an unused portion ("shortfall") of the corresponding SL for the previous calendar year ("carryover") or a portion of the corresponding SL for the following calendar year ("carryforward"), as follows:
    - (i) subject to subparagraph (iii), the exporting Party may utilize carryover, as available, up to 11 per cent of the unadjusted SL for the receiving year,
    - (ii) the exporting Party may utilize carryforward charged against the corresponding SL for the following calendar year, up to six per cent of the unadjusted SL for the receiving year,
    - (iii) the combination of the exporting Party's carryover and carryforward shall not exceed 11 per cent of the unadjusted SL in the receiving year, and
    - (iv) carryover may be utilized only following confirmation by the importing Party that sufficient shortfall exists. If the importing Party does not consider that sufficient shortfall exists, it shall promptly provide data to the exporting Party to support that view. Where substantial statistical

differences exist between the import and export data on which the shortfall is computed, the Parties shall seek to resolve these differences promptly.

## Appendix 5.1

### Special Provisions

#### **Preferential Tariff Treatment for Non-Originating Goods of the Other Party**

##### **Apparel and Made-Up Goods**

1.
  - (a) Each Party shall apply the rate of duty applicable to originating goods set out in its Schedule to Annex C-02.2, up to the annual quantities specified in Schedule 5.B.1, in SME, to apparel goods provided for in Chapters 61 and 62 that are both cut (or knit to shape) and sewn or otherwise assembled in the territory of a Party from fabric or yarn produced or obtained outside the free trade area, and that meet other applicable conditions for preferred tariff treatment under this Agreement. The SME shall be determined in accordance with the conversion factors set out in Appendix 5.2.
  - (b) The annual tariff preference levels (TPLs) set out in Schedule 5.B.1 for cotton or man-made fibre apparel shall be increased annually by two per cent for six consecutive years beginning January 1, 1998.
  - (c) The annual tariff preference levels (TPLs) set out in Schedule 5.B.1 for wool apparel shall be increased annually by two per cent for six consecutive years beginning January 1, 1998.

##### **Fabric and Made-Up Goods**

2.
  - (a) Each Party shall apply the rate of duty applicable to originating goods set out in its Schedule to Annex C-02.2, up to the annual quantities specified in Schedule 5.B.2, in SME, to cotton or man-made fibre fabric and cotton or man-made fibre madeup textile goods provided for in Chapters 52 through 55 (excluding goods containing 36% or more by weight of wool or fine animal hair), 58, 60, and 63 that are woven or knit in a Party from yarn produced or obtained outside the free trade area, or knit in a Party from yarn spun in a Party from fibre produced or obtained outside the free trade area, and to goods of subheading 9404.90 that are finished and cut and sewn or otherwise assembled from fabrics of subheadings 5208.11 through 5208.29, 5209.11 through 5209.29, 5210.11 through 5210.29, 5211.11 through 5211.29, 5212.11, 5212.12, 5212.21, 5212.22, 5407.41, 5407.51, 5407.71, 5407.81, 5407.91, 5408.21, 5408.31, 5512.11, 5512.21, 5512.91, 5513.11 through 5513.19, 5514.11 through 5514.19, 5516.11, 5516.21, 5516.31, 5516.41 or 5516.91 produced or obtained outside the free trade area, and that meet other applicable conditions for preferred tariff treatment under this Agreement. The SME shall be determined in accordance with the conversion factors set out in Appendix 5.2.

- (b) Each Party shall apply the rate of duty applicable to originating goods set out in its Schedule to Annex C-02.2, up to the annual quantities specified in Schedule 5.B.2, in SME, to wool fabric and wool made-up textile goods provided for in Chapters 51 through 55 (containing 36% or more by weight of wool or fine animal hair), 58, 60 and 63 that are woven or knit in a Party from yarn produced or obtained outside the free trade area or, knit in a Party from yarn spun in a Party from fibre produced or obtained outside the free trade area, and that meet other applicable conditions for preferred tariff treatment under this Agreement. The SME shall be determined in accordance with the conversion factors set out in Appendix 5.2.

### Spun Yarn

3. Each Party shall apply the rate of duty applicable to originating goods set out in its Schedule to Annex C-02.2, up to the annual quantities specified in Schedule 5.B.3, in kilograms (kg), to cotton or man-made fibre yarns provided for in headings 52.05 through 52.07 or 55.09 through 55.11 that are spun in a Party from fibre of headings 52.01 through 52.03 or 55.01 through 55.07, produced or obtained outside the free trade area and that meet other applicable conditions for preferred tariff treatment under this Agreement.
4. Textile or apparel goods that enter the territory of a Party under paragraph 1, 2 or 3 shall not be considered to be originating goods.

### Certification Requirements

5. The Parties shall, prior to the date on which the Agreement enters into force, for purposes of determining eligibility for the TPLs provided under this Annex, consult on the documentation or certification requirements, if any, for importation of the goods for which the benefit of a TPL is being claimed.

### Review and Consultations

6. Trade in the goods referred to in paragraphs 1, 2 and 3 shall be monitored by the Parties. On request of any Party wishing to adjust any annual TPL, based on the ability to obtain supplies of particular fibres, yarns and fabrics, as appropriate, that can be used to produce originating goods, the Parties shall consult with a view to adjusting such level. Any adjustment in the TPL requires the mutual consent of the Parties.

#### Schedule 5.B.1

#### Preferential Tariff Treatment for Non-Originating

#### Apparel and Made-Up Goods

<b>Imports into Canada:</b>	<b>from Chile</b>
(a) Cotton or Man-made fibre apparel	2,000,000 SMEs
(b) Wool apparel	100,000 SMEs
<b>Imports into Chile:</b>	<b>from Canada</b>

(a) Cotton or Man-made fibre apparel	2,000,000 SMEs
(b) Wool apparel from Canada	100,000 SMEs

## Schedule 5.B.2

Preferential Tariff Treatment for Non-Originating**Fabrics and Made-Up Goods**

<b>Imports into Canada</b>	<b>from Chile</b>
(a) Cotton or Man-made fibre fabrics and made-up goods	1,000,000 SMEs
(b) Wool fabrics and made-up goods	250,000 SMEs
<b>Imports into Chile</b>	<b>from Canada</b>
(a) Cotton or Man-made fibre fabrics and made-up goods	1,000,000 SMEs
(b) Wool fabrics and made-up goods	250,000 SMEs

## Schedule 5.B.3

Preferential Tariff Treatment for Non-Originating**Cotton or Man-made Fibre Spun Yarn**

<b>Imports into Canada</b>	<b>from Chile</b>
	500,000 kg
<b>Imports into Chile</b>	<b>from Canada</b>
	500,000 kg

## Appendix 5.2

**Conversion Factors<sup>4</sup>**

1. This Schedule applies to restrictions and consultation levels applied pursuant to Sections 3 and 4 and Appendix 5.1.

2. Unless otherwise provided in this Annex, or as may be mutually agreed between the Parties with respect to trade between them, the rates of conversion into SME set out in paragraphs 3 through 6 shall apply.

3. The following conversion factors shall apply to the goods covered by the following U.S. categories:

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
200	6.60	YARN FOR RETAIL SALE, SEWING THREAD	KG
201	6.50	SPECIALTY YARNS	KG
218	1.00	FABRIC OF YARNS OF DIFFERENT COLOURS	SM
219	1.00	DUCK FABRIC	SM
220	1.00	FABRIC OF SPECIAL WEAVE	SM
222	6.00	KNIT FABRIC	KG
223	14.00	NONWOVEN FABRIC	KG
224	1.00	PILE & TUFTED FABRIC	SM
225	1.00	BLUE DENIM FABRIC	SM
226	1.00	CHEESECLOTH, BATISTE, LAWN & VOILE	SM
227	1.00	OXFORD CLOTH	SM
229	13.60	SPECIAL PURPOSE FABRIC	KG
237	19.20	PLAYSUITS, SUNSUITS, ETC	DZ
239	6.30	BABIES' GARMENTS & CLOTHING ACCESS.	KG
300	8.50	CARDED COTTON YARN	KG
301	8.50	COMBED COTTON YARN	KG
313	1.00	COTTON SHEETING FABRIC	SM
314	1.00	COTTON POPLIN & BROADCLOTH FABRIC	SM
315	1.00	COTTON PRINTCLOTH FABRIC	SM
317	1.00	COTTON TWILL FABRIC	SM
326	1.00	COTTON SATEEN FABRIC	SM
330	1.40	COTTON HANDKERCHIEFS	DZ
331	2.90	COTTON GLOVES AND MITTENS	DPR
332	3.80	COTTON HOSIERY	DPR
333	30.30	M&B SUITTYPE COATS, COTTON	DZ
334	34.50	OTHER M&B COATS, COTTON	DZ
335	34.50	W&G COTTON COATS	DZ
336	37.90	COTTON DRESSES	DZ
338	6.00	M&B COTTON KNIT SHIRTS	DZ
339	6.00	W&G COTTON KNIT SHIRTS/BLOUSES	DZ
340	20.10	M&B COTTON SHIRTS, NOT KNIT	DZ
341	12.10	W&G COTTON SHIRTS/BLOUSES,NOT KNIT	DZ
342	14.90	COTTON SKIRTS	DZ
345	30.80	COTTON SWEATERS	DZ
347	14.90	M&B COTTON TROUSERS/BREECHES/SHORTS	DZ
348	14.90	W&G COTTON TROUSERS/BREECHES/SHORTS	DZ
349	4.00	BRASSIERES, OTHER BODY SUPPORT GARMENTS	DZ
350	42.60	COTTON DRESSING GOWNS, ROBES ETC.	DZ
351	43.50	COTTON NIGHTWEAR/PAJAMAS	DZ

352	9.20	COTTON UNDERWEAR	DZ
353	34.50	M&B COTTON DOWNFILLED COATS	DZ
354	34.50	W&G COTTON DOWNFILLED COATS	DZ
359	8.50	OTHER COTTON APPAREL	KG
360	0.90	COTTON PILLOWCASES	NO
361	5.20	COTTON SHEETS	NO
362	5.80	OTHER COTTON BEDDING	NO
363	0.40	COTTON TERRY & OTHER PILE TOWELS	NO
369	8.50	OTHER COTTON MANUFACTURES	KG
400	3.70	WOOL YARN	KG
410	1.00	WOOL WOVEN FABRIC	SM
414	2.80	OTHER WOOL FABRIC	KG
431	1.80	WOOL GLOVES/MITTENS	DPR
432	2.30	WOOL HOSIERY	DPR
433	30.10	M&B WOOL SUITTYPE COATS	DZ
434	45.10	OTHER M&B WOOL COATS	DZ
435	45.10	W&G WOOL COATS	DZ
436	41.10	WOOL DRESSES	DZ
438	12.50	WOOL KNIT SHIRTS/BLOUSES	DZ
439	6.30	BABIES' WOOL GARM/CLOTHING ACCESS.	KG
440	20.10	WOOL SHIRTS/BLOUSES, NOTKNIT	DZ
442	15.00	WOOL SKIRTS	DZ
443	3.76	M&B WOOL SUITS	NO
444	3.76	W&G WOOL SUITS	NO
445	12.40	M&B WOOL SWEATERS	DZ
446	12.40	W&G WOOL SWEATERS	DZ
447	15.00	M&B WOOL TROUSERS/BREECHES/SHORTS	DZ
448	15.00	W&G WOOL TROUSERS/BREECHES/SHORTS	DZ
459	3.70	OTHER WOOL APPAREL	KG
464	2.40	WOOL BLANKETS	KG
465	1.00	WOOL FLOOR COVERINGS	SM
469	3.70	OTHER WOOL MANUFACTURES	KG
600	6.50	TEXTURED FILAMENT YARN	KG
603	6.30	YARN (c)- 85% ARTIFICIAL STAPLE FIBRE	KG
604	7.60	YARN (c)- 85% SYNTHETIC STAPLE FIBRE	KG
606	20.10	NONTEXTURED FILAMENT YARN	KG
607	6.50	OTHER STAPLE FIBRE YARN	KG
611	1.00	WOVEN FABRIC (c)- 85% ARTIFICIAL STAPLE	SM
613	1.00	MMF SHEETING FABRIC	SM
614	1.00	MMF POPLIN & BROADCLOTH FABRIC	SM
615	1.00	MMF PRINTCLOTH FABRIC	SM
617	1.00	MMF TWILL AND SATEEN FABRIC	SM
618	1.00	WOVEN ARTIFICIAL FILAMENT FABRIC	SM
619	1.00	POLYESTER FILAMENT FABRIC	SM
620	1.00	OTHER SYNTHETIC FILAMENT FABRIC	SM
621	14.40	IMPRESSION FABRIC	KG
622	1.00	GLASS FIBRE FABRIC	SM
624	1.00	WOVEN MMF FABRIC, 15% TO 36% WOOL	SM
625	1.00	MMF STAPLE/FILAMENT POPLIN & BROADCLOTH FABRIC	SM
626	1.00	MMF STAPLE/FILAMENT PRINTCLOTH FABRIC	SM
627	1.00	MMF STAPLE/FILAMENT SHEETING FABRIC	SM



628	1.00	MMF STAPLE/FILAMENT TWILL/SATEEN FABRIC	SM
629	1.00	OTHER MMF STAPLE/FILAMENT FABRIC	SM
630	1.40	MMF HANDKERCHIEFS	DZ
631	2.90	MMF GLOVES AND MITTENS	DPR
632	3.80	MMF HOSIERY	DPR
633	30.30	M&B MMF SUITTYPE COATS	DZ
634	34.50	OTHER M&B MMF COATS	DZ
635	34.50	W&G MMF COATS	DZ
636	37.90	MMF DRESSES	DZ
638	15.00	M&B MMF KNIT SHIRTS	DZ
639	12.50	W&G MMF KNIT SHIRTS & BLOUSES	DZ
640	20.10	M&B NOTKNIT MMF SHIRTS	DZ
641	12.10	W&G NOTKNIT MMF SHIRTS & BLOUSES	DZ
642	14.90	MMF SKIRTS	DZ
643	3.76	M&B MMF SUITS	NO
644	3.76	W&G MMF SUITS	NO
645	30.80	M&B MMF SWEATERS	DZ
646	30.80	W&G MMF SWEATERS	DZ
647	14.90	M&B MMF TROUSERS/BREECHES/SHORTS	DZ
648	14.90	W&G MMF TROUSERS/BREECHES/SHORTS	DZ
649	4.00	MMF BRAS & OTHER BODY SUPPORT GARMENTS	DZ
650	42.60	MMF ROBES, DRESSING GOWNS, ETC.	DZ
651	43.50	MMF NIGHTWEAR & PAJAMAS	DZ
652	13.40	MMF UNDERWEAR	DZ
653	34.50	M&B MMF DOWNFILLED COATS	DZ
654	34.50	W&G MMF DOWNFILLED COATS	DZ
659	14.40	OTHER MMF APPAREL	KG
665	1.00	MMF FLOOR COVERINGS	SM
666	14.40	OTHER MMF FURNISHINGS	KG
669	14.40	OTHER MMF MANUFACTURES	KG
670	3.70	MMF FLAT GOODS, HANDBAGS, LUGGAGE	KG
800	8.50	YARN, SILK BLENDS/VEGETABLE FIBRE	KG
810	1.00	WOVEN FABRIC, SILK BLENDS/VEGETABLE FIBRE	SM
831	2.90	GLOVES & MITTENS, SILK BLENDS/VEGETABLE FIBRE	DPR
832	3.80	HOSIERY, SILK BLENDS/VEGETABLE FIBRE	DPR
833	30.30	M&B SUITTYPE COATS, SILK BLENDS/VEGETABLE FIBRE	DZ
834	34.50	OTHER M&B COATS, SILK BLENDS/VEGETABLE FIBRE	DZ
835	34.50	W&G COATS, SILK BLENDS/VEGETABLE FIBRE	DZ
836	37.90	DRESSES, SILK BLENDS/VEGETABLE FIBRE	DZ
838	11.70	KNIT SHIRTS & BLOUSES, SILK BLENDS/VEGETABLE FIBRE	DZ
839	6.30	BABIES' GARM & CLOTHING ACCESSORIES, SILK/VEG FIBRE	KG
840	16.70	NOTKNIT SHIRTS & BLOUSES, SILK BLENDS/VEGETABLE FIBRE	DZ
842	14.90	SKIRTS, SILK BLENDS/VEGETABLE FIBRES	DZ
843	3.76	M&B SUITS, SILK BLENDS/VEGETABLE FIBRE	NO
844	3.76	W&G SUITS, SILK BLENDS/VEGETABLE FIBRE	NO
845	30.80	SWEATERS, NON-COTTON VEGETABLE FIBRES	DZ
846	30.80	SWEATERS, SILK BLENDS	DZ
847	14.90	TROUSERS/BREECHES/SHORTS, SILK BLENDS/VEGETABLE FIBRE	DZ
850	42.60	ROBES, DRESSING GOWNS, ETC, SILK BLENDS/ VEGETABLE	DZ

FIBRE			
851	43.50	NIGHTWEAR & PYJAMAS, SILK BLENDS/VEGETABLE FIBRE	DZ
852	11.30	UNDERWEAR, SILK BLENDS/VEGETABLE FIBRE	DZ
858	6.60	NECKWEAR, SILK BLENDS/VEGETABLE FIBRE	KG
859	12.50	OTHER SILK BLEND/VEGETABLE FIBRE APPAREL	KG
863	0.40	TOWELS, SILK BLENDS/VEGETABLE FIBRES	NO
870	3.70	LUGGAGE, SILK BLENDS/VEGETABLE FIBRES	KG
871	3.70	HANDBAGS & FLATGOODS, SILK BLENDS/VEGETABLE FIBRE	KG
899	11.10	OTHER SILK BLENDS/VEGETABLE FIBRE MANUFACTURES	KG

4. The following conversion factors shall apply to the following goods not covered by a U.S. category:

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
5208.31.2000	1.00	SM	WOVEN FABRIC, 85%> COTTON, <100G/M2 CERTIFIED HANDLOOM FABRIC, DYED
5208.32.1000	1.00	SM	WOVEN FABRIC, 85%> COTTON, 100200G/M2 CERTIFIED HANDLOOM FABRIC, DYED
5208.41.2000	1.00	SM	WOVEN FABRIC, (c)~ 85% COTTON (c)~100G/M2 CERTIFIED HANDLOOM, YARNS OF DIFFERENT COLOURS
5208.42.1000	1.00	SM	WOVEN FABRIC, (c)~ 85% COTTON 100200G/M2 CERTIFIED HANDLOOM, YARNS OF DIFFERENT COLOURS
5208.51.2000	1.00	SM	WOVEN FABRIC, 85%> COTTON (c)~100G/M2 PLAIN WEAVE, CERTIFIED HAND-LOOM, PRINTED
5208.52.1000	1.00	SM	WOVEN FABRIC, (c)~ 85% COTTON 100200G/M2 PLAIN WEAVE, CERTIFIED HAND-LOOM, PRINTED
5209.31.3000	1.00	SM	WOVEN FABRIC, 85%> COTTON >200G/M2 PLAIN WEAVE, CERTIFIED HAND-LOOM, DYED
5209.41.3000	1.00	SM	WOVEN FABRIC, 85%> COTTON >200G/M2, PLAIN WEAVE, YARNS OF DIFFERENT COLOURS
5209.51.3000	1.00	SM	WOVEN FABRIC, >85% COTTON >200G/M2, PLAIN WEAVE, CERTIFIED HAND-LOOM, PRINTED
5307.10.0000	8.50	KG	YARN, JUTE OR OTHER TEXTILE BAST FIBRE (EXCLUDING FLAX/HEMP/RAMIE), SINGLE
5307.20.0000	8.50	KG	YARN, JUTE OR OTHER TEXTILE BAST FIBRE (EX. FLAX/HEMP/RAMIE), MULTIPLE/CABLE
5308.10.0000	8.50	KG	YARN, COIR
5308.30.0000	8.50	KG	YARN, PAPER
5310.10.0020	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBRE (EX. FLAX/HEMP/RAMIE), (c)~130CM WIDE, UNBLEACHED
5310.10.0040	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBRE (EX. FLAX/HEMP/RAMIE) >130 TO (c)~250 CM WIDE, UNBLEACHED

5310.10.0060	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBRE (EX. FLAX/HEMP/RAMIE), >250 CM WIDE, UNBLEACHED
5310.90.0000	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBRE (EXCLUDING FLAX/HEMP/RAMIE), NES
5311.00.6000	1.00	SM	WOVEN FABRIC OF PAPER YARN
5402.10.3020	20.10	KG	NYLON HIGH TENACITY YARN, <5 TURNS PER METRE, NOT FOR RETAIL SALE
5402.20.3020	20.10	KG	POLYESTER HIGH TENACITY YARN, <5 TURNS PER METRE, NOT FOR RETAIL SALE
5402.41.0010	20.10	KG	NYLON MULTIFILAMENT YARN, PARTIALLY ORIENTED, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE
5402.41.0020	20.10	KG	NYLON MONO/MULTIFILAMENT YARN, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE, NES
5402.41.0030	20.10	KG	NYLON MONO/MULTIFILAMENT YARN, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE
5402.42.0000	20.10	KG	POLYESTER YARN, PARTIALLY ORIENTED, UNTWIST/TWIST (c)~ 50 TURNS/METRE, NOT FOR RETAIL SALE
5402.43.0020	20.10	KG	POLYESTER YARN, MONOFILAMENT, UNTWIST/TWIST (c)~5 TURNS/METRE, NOT FOR RETAIL SALE
5402.49.0010	20.10	KG	POLYETHYLENE/POLYPROPYLENE FILAMENT YARN, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE
5402.49.0050	20.10	KG	SYNTHETIC FILAMENT YARN, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE, NES
5403.10.3020	20.10	KG	VISCOSE RAYON HIGH TENACITY FILAMENT YARN, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE
5403.31.0020	20.10	KG	VISCOSE RAYON FILAMENT YARN, SINGLE, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE
5403.33.0020	20.10	KG	CELLULOSE ACETATE FILAMENT YARN, SINGLE, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE
5403.39.0020	20.10	KG	ARTIFICIAL FILAMENT YARN, UNTWIST/TWIST <5 TURNS/METRE, NOT FOR RETAIL SALE, NES
5404.10.1000	20.10	KG	SYNTHETIC MONOFILAMENT RACKET STRINGS, (c)~ 67 DECITEX, CROSS-SECT. DIMENSION >1MM
5404.10.2020	20.10	KG	NYLON MONOFILAMENT, (c)~ 67 DECITEX, CROSSECTIONAL DIMENSION >1MM,
5404.10.2040	20.10	KG	POLYESTER MONOFILAMENT, >67 DECITEX, CROSSECTIONAL DIMENSION >1MM
5404.10.2090	20.10	KG	SYNTHETIC MONOFILAMENT (c)~ 67 DECITEX, CROSSECTIONAL DIMENSION >1MM, NES
5404.90.0000	20.10	KG	SYNTHETIC STRIP WIDTH (c)~5MM
5405.00.3000	20.10	KG	ARTIFICIAL MONOFILAMENT, (c)~ 67 DECITEX, CROSSECTIONAL DIMENSION (c)~ 1MM

5405.00.6000	20.10	KG	ARTIFICIAL STRIP AND THE LIKE, WIDTH (e)~ 5MM
5407.30.1000	1.00	SM	WOVEN SYNTHETIC FILAMENT FABRIC WITH YARN AT ACUTE/RIGHT ANGLES, >60% PLASTIC
5501.10.0000	7.60	KG	NYLON/OTHER POLYAMIDE FILAMENT TOW
5501.20.0000	7.60	KG	POLYESTER FILAMENT TOW
5501.30.0000	7.60	KG	ACRYLIC OR MODACRYLIC FILAMENT TOW
5501.90.0000	7.60	KG	SYNTHETIC FILAMENT TOW, NES
5502.00.0000	6.30	KG	ARTIFICIAL FILAMENT TOW
5503.10.0000	7.60	KG	NYLON/OTHER POLYAMIDE STAPLE FIBRES NOT CARDED/COMBED OR OTHERWISE PROCESSED
5503.20.0000	7.60	KG	POLYESTER STAPLE FIBRES NOT CARDED/COMBED, OR OTHERWISE PROCESSED
5503.30.0000	7.60	KG	ACRYLIC/MODOACRYLIC STAPLE FIBRES, NOT CARDED/COMBED OR OTHERWISE PROCESSED
5503.40.0000	7.60	KG	POLYPROPYLENE STAPLE FIBRES NOT CARDED/COMBED OR OTHERWISE PROCESSED
5503.90.0000	7.60	KG	SYNTHETIC STAPLE FIBRE NOT CARDED/COMBED, OR OTHERWISE PROCESSED, NES
5504.10.0000	6.30	KG	VISCOSE RAYON STAPLE FIBRES NOT CARDED/COMBED OR OTHERWISE PROCESSED
5504.90.0000	6.30	KG	ARTIFICIAL STAPLE FIBRES NOT CARDED/COMBED OR OTHERWISE PROCESSED, NES
5505.10.0020	7.60	KG	WASTE, NYLON AND OTHER POLYAMIDES
5505.10.0040	7.60	KG	WASTE, POLYESTER
5505.10.0060	7.60	KG	WASTE, MMF SYNTHETIC FIBRES, NES
5505.20.0000	6.30	KG	WASTE, MMF ARTIFICIAL FIBRES
5506.10.0000	7.60	KG	NYLON/OTHER POLYAMIDES FIBRES, CARDED/COMBED OR OTHERWISE PROCESSED
5506.20.0000	7.60	KG	POLYESTER STAPLE FIBRE, CARDED/COMBED, OR OTHERWISE PROCESSED
5506.30.0000	7.60	KG	ACRYLIC/MODOACRYLIC STAPLE FIBRE, CARDED/COMBED OR OTHERWISE PROCESSED
5506.90.0000	7.60	KG	SYNTHETIC STAPLE FIBRE CARDED/COMBED OR OTHERWISE PROCESSED, NES
5507.00.0000	6.30	KG	ARTIFICIAL STAPLE FIBRES, CARDED/COMBED, OR OTHERWISE PROCESSED
5801.90.2010	1.00	SM	WOVEN PILE FABRIC, >85% SILK OR SILK WASTE
5802.20.0010	1.00	SM	TERRY TOWELLING FABRIC, >85% SILK OR SILK WASTE
5802.30.0010	1.00	SM	TUFTED TEXTILE FABRIC, >85% SILK OR SILK WASTE
5803.90.4010	1.00	SM	GAUZE, >85% SILK OR SILK WASTE
5804.10.0010	11.10	KG	TULLES & OTHER NETTING FABRIC, KNIT OR CROCHETED, >85% SILK OR SILK WASTE
5804.29.0010	11.10	KG	LACE IN THE PIECE/STRIP/MOTIF, >85% SILK OR SILK WASTE
5804.30.0010	11.10	KG	HANDMADE LACE IN PIECE/STRIP/MOTIF, >85% SILK OR SILK WASTE
5805.00.1000	1.00	SM	HANDWOVEN TAPESTRIES FOR WALLHANGINGS, VALUED AT >\$215\ SM
5805.00.2000	1.00	SM	HANDWOVEN TAPESTRIES, NES, WOOL, CERTIFIED HANDLOOMED

5805.00.4090	1.00	SM	HANDWOVEN TAPESTRIES, NES
5806.10.3010	11.10	KG	NARROW WOVEN PILE & CHENILLE FABRIC, >85% SILK OR SILK WASTE
5806.39.3010	11.10	KG	NARROW WOVEN FABRIC, NOT PILE, >85% SILK OR SILK WASTE
5806.40.0000	13.60	KG	NARROW FABRIC, WARP WITHOUT WEFT WITH AN ADHESIVE (BOLDUCS)
5807.10.1090	11.10	KG	WOVEN LABELS, TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON OR MMF
5807.10.2010	8.50	KG	WOVEN BADGES AND SIMILAR ARTICLES, COTTON, NOT EMBROIDERED
5807.10.2020	14.40	KG	WOVEN BADGES/SIMILAR ARTICLES, MMF, NOT EMBROIDERED
5807.10.2090	11.10	KG	WOVEN BADGES/SIMILAR ARTICLES, TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON/MMF
5807.90.10901	1.10	KG	NOT-WOVEN LABELS OF TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON/MMF
5807.90.2010	8.50	KG	NOT-WOVEN BADGES/SIMILAR ARTICLES, COTTON, NOT EMBROIDERED
5807.90.2020	14.40	KG	NOT-WOVEN BADGES/SIMILAR ARTICLES, MMF, NOT EMBROIDERED
5807.90.2090	11.10	KG	NOT-WOVEN BADGES/SIMILAR ARTICLES, TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON/MMF
5808.10.2090	11.10	KG	BRAIDS IN PIECE FOR HEADWEAR, OTHER TEXTILE MATERIALS, NES, NOT KNIT OR EMBROIDERED
5808.10.3090	11.10	KG	BRAID IN PIECE, NES, NES
5808.90.0090	11.10	KG	ORNAMENTAL TRIMMING IN PIECE, TEXTILE MATERIALS, NOT KNIT OR EMBROIDERED, NOT COTTON/MMF
5810.92.0040	14.40	KG	EMBROIDERED BADGES/EMBLEMS/MOTIFS WITH VISIBLE GROUND, MMF
5810.99.0090	11.10	KG	EMBROIDERY PIECES/STRIPS/MOTIFS WITH VISIBLE GROUND, TEXTILE MATERIALS, NES
5811.00.4000	1.00	SM	QUILTED PIECES, 1(c) LAYER TEXTILE MATERIALS, TEXTILE MATERIALS, NES
6001.99.0010	1.00	SM	KNIT OR CROCHETED PILE FABRIC (c) 85% SILK OR SILK WASTE
6002.99.0010	11.10	KG	KNIT OR CROCHETED FABRIC, NES (c) 85% SILK OR SILK WASTE
6301.90.0020	11.10	NO	BLANKET/TRAVELLING RUGS, >85% SILK OR SILK WASTE
6302.29.0010	11.10	NO	BED LINEN, PRINTED >85% SILK OR SILK WASTE
6302.39.0020	11.10	NO	BED LINEN, NES, >85% SILK OR SILK WASTE
6302.99.1000	11.10	NO	LINEN, NES, >85% SILK OR SILK WASTE
6303.99.0030	11.10	NO	CURTAINS, INTERIOR BLINDS, NOT KNIT OR CROCHETED, >85% SILK OR SILK WASTE
6304.19.3030	11.10	NO B	EDSPREADS, NOT KNIT OR CROCHETED, >85% SILK OR SILK WASTE
6304.91.0060	11.10	NO	FURNISHING ARTICLES, NES, KNIT OR CROCHETED >85% SILK OR SILK WASTE
6304.99.1000	1.00	SM	WALL HANGINGS, WOOL OR FINE ANIMAL HAIR,

6304.99.2500	11.10	KG	CERTIFIED HAND-LOOMED/FOLKLORE, NOT KNIT WALL HANGINGS, JUTE, NOT KNIT
6304.99.4000	3.70	KG	PILLOW COVERS, WOOL OR FINE ANIMAL HAIR, CERTIFIED HAND-LOOMED/FOLKLORE
6304.99.6030	11.10	KG	OTHER FURNISHING ARTICLES, NOT KNIT, NES >85% SILK OR SILK WASTE
6305.10.0000	11.10	KG	SACKS & BAGS, JUTE/BAST FIBRES
6306.21.0000	8.50	KG	TENTS OF COTTON
6306.22.1000	14.40	NO	BACKPACK TENTS, SYNTHETIC FIBRES
6306.22.9010	14.40	KG	SCREEN HOUSES, SYNTHETIC FIBRES
6306.29.0000	14.40	KG	TENTS, TEXTILE MATERIALS NES
6306.31.0000	14.40	KG	SAILS, SYNTHETIC FIBRES
6306.39.0000	8.50	KG	SAILS, TEXTILE MATERIALS NES
6306.41.0000	8.50	KG	PNEUMATIC MATTRESSES, COTTON
6306.49.0000	14.40	KG	PNEUMATIC MATTRESSES, TEXTILE MATERIALS NES
6306.91.0000	8.50	KG	CAMPING GOODS NES, COTTON
6306.99.0000	14.40	KG	CAMPING GOODS, TEXTILE MATERIALS NES
6307.10.2030	8.50	KG	CLEANING CLOTHS NES
6307.20.0000	11.40	KG	LIFEJACKETS AND LIFEBELTS
6307.90.6010	8.50	KG	PERINEAL TOWELS, FABRIC WITH PAPER BASE
6307.90.6090	8.50	KG	OTHER SURGICAL DRAPES, FABRIC WITH PAPER BASE
6307.90.7010	14.40	KG	SURGICAL DRAPES, DISPOSAL & NONWOVEN MMF
6307.90.7020	8.50	KG	SURGICAL DRAPES NES
6307.90.7500	8.50	NO	TOYS FOR PETS, TEXTILE MATERIALS
6307.90.8500	8.50	KG	WALL BANNERS, MANMADE FIBRES
6307.90.9425	14.50	NO	NATIONAL FLAGS OF THE UNITED STATES
6307.90.9435	14.50	NO	NATIONAL FLAGS OF NATIONS OTHER THAN THE UNITED STATES
6307.90.9490	14.50	KG	OTHER MADEUP ARTICLES NES
6309.00.0010	8.50	KG	WORN CLOTHING & OTHER WORN ARTICLES
6309.00.0020	8.50	KG	WORN CLOTHING & OTHER WORN ARTICLES, NES
6310.10.1000	3.70	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, WOOL OR FINE ANIMAL HAIR
6310.10.2010	8.50	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, COTTON
6310.10.2020	14.40	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, MMF
6310.10.2030	11.10	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, NOT COTTON/MMF
6310.90.1000	3.70	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, NOT SORTED, WOOL OR FINE ANIMAL HAIR
6310.90.2000	8.50	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, NOT SORTED, NOT WOOL
6501.00.30	4.4	DZ	HAT FORMS/BODIES, NOT BLOCKED, NO BRIMS, FUR, MEN'S AND BOYS'
6501.00.60	4.4	DZ	HAT FORMS/BODIES, NOT BLOCKED, NO BRIMS, FUR, WOMEN'S AND GIRLS'
6502.00.20	18.7	DZ	HAT SHAPES, ASSEMBLED FROM STRIPS, VEGETABLE FIBRE, SEWED
6502.00.40	18.7	DZ	HAT SHAPES, PLAITED OR ASSEMBLED FROM STRIPS,

			VEGETABLE FIBRE, NOT-SEWED, NOT BLEACHED/COLOURED
6502.00.60	18.7	DZ	HAT SHAPES, PLAITED OR ASSEMBLED FROM STRIPS, VEGETABLE FIBRE, NOT-SEWED, BLEACHED/COLOURED
6503.00.30	5.8	DZ	FELT HATS AND OTHER HEADGEAR, MEN'S AND BOYS'
6503.00.60	5.8	DZ	FELT HATS AND OTHER HEADGEAR, NES
6504.00.30	7.5	DZ	HATS AND OTHER HEADGEAR, ASSEMBLED FROM STRIPS, VEGETABLE FIBRE, SEWED
6504.00.60	7.5	DZ	HATS AND OTHER HEADGEAR, ASSEMBLED FROM STRIPS
6601.10.00	17.9	DZ	GARDEN OR SIMILAR UMBRELLAS
6601.91.00	17.8	DZ	OTHER UMBRELLAS, TELESCOPIC SHAFT
6601.99.00	11.2	DZ	OTHER UMBRELLAS, NES

5.

- (a) The primary unit of measure for the following tariff items in U.S. category 666 shall be NO and shall be converted into SME by a factor of 5.5:

6301.10.0000	ELECTRIC BLANKETS
6301.40.0010	BLANKETS (NOT ELECTRIC) & TRAVEL RUGS OF SYNTHETIC FIBRE, WOVEN
6301.40.0020	BLANKETS (NOT ELECTRIC) & TRAVEL RUGS OF SYNTHETIC FIBRE, NES
6301.90.0010	BLANKETS AND TRAVELLING RUGS OF ARTIFICIAL FIBRE
6302.10.0020	BED LINEN, KNITTED OR CROCHETED FABRIC, EXCLUDING COTTON
6302.22.1030	SHEETS WITH TRIM, NAPPED, PRINTED, MANMADE FIBRE
6302.22.1040	SHEETS WITH TRIM, NOT NAPPED, PRINTED, MANMADE FIBRE
6302.22.1050	BOLSTER CASES WITH TRIM, PRINTED, MANMADE FIBRE
6302.22.1060	BED LINEN WITH TRIM, PRINTED, MANMADE FIBRE, NES
6302.22.2020	SHEETS, NOT TRIMMED, PRINTED, MANMADE FIBRE
6302.22.2030	BED LINEN, NOT TRIMMED, PRINTED, MANMADE FIBRE, NES
6302.32.1030	SHEETS WITH TRIM, NAPPED, MANMADE FIBRE
6302.32.1040	SHEETS WITH TRIM, NOT NAPPED, MANMADE FIBRE
6302.32.1050	BOLSTER CASES WITH TRIM, MANMADE FIBRE
6302.32.1060	BED LINEN WITH TRIM, MANMADE FIBRE, NES
6302.32.2030	SHEETS, NOT TRIMMED, NAPPED, MANMADE FIBRE
6302.32.2040	SHEETS NOT TRIMMED, NOT NAPPED, MANMADE FIBRE
6302.32.2050	BOLSTER CASES, NOT TRIMMED, MANMADE FIBRE
6302.32.2060	BED LINEN NES, MANMADE FIBRE
6304.11.2000	BEDSPREADS, KNIT/CROCHETED, MANMADE FIBRE
6304.19.1500	BEDSPREADS WITH TRIM, MANMADE FIBRE, NES
6304.19.2000	BEDSPREADS, MANMADE FIBRE, NES

- (b) The primary unit of measure for the following tariff items in U.S. category 666 shall be NO and shall be converted into SME by a factor of 0.9:

6302.22.1010	PILLOWCASES WITH TRIM, PRINTED, NAPPED, MANMADE FIBRE
6302.22.1020	PILLOWCASES WITH TRIM, PRINTED, NOT NAPPED, MANMADE FIBRE
6302.22.2010	PILLOWCASES, NOT TRIMMED, PRINTED, MANMADE FIBRE

6302.32.1010	PILLOWCASES WITH TRIM, NAPPED, MANMADE FIBRE
6302.32.1020	PILLOWCASES WITH TRIM, NOT NAPPED, MANMADE FIBRE
6302.32.2010	PILLOWCASES, NOT TRIMMED, NAPPED, MANMADE FIBRE
6302.32.2020	PILLOWCASES NOT TRIMMED, NOT NAPPED, MANMADE FIBRE

6. The primary unit of measure for garment parts of subheadings 6117.90 and 6217.90 shall be KG and shall be converted into SME by applying the following factors:

Cotton apparel	8.50
Wool apparel	3.70
Man-made fibre apparel	14.40
Other non-cotton vegetable fibre apparel	12.50

For the purposes of this Schedule:

- DPR** means dozen pair;
- DZ** means dozen;
- KG** means kilogram;
- NO** means number; and
- SM** means square metre.

#### Appendix 6

#### Country-Specific Definitions

##### *Definitions Specific to Canada*

**general import statistics** means statistics issued by Statistics Canada or, where available, import permit data provided by the Export and Import Permits Bureau of the Department of Foreign Affairs and International Trade, or their successors.

##### *Definitions Specific to Chile*

**general import statistics** means statistics issued by the Central Bank (Banco Central) provided by the Ministry of Foreign Affairs of Chile, or their successors.

### CHAPTER D: RULES OF ORIGIN

#### Article D-01:

##### Originating Goods

Except as otherwise provided in this Chapter, a good shall originate in the territory of a Party where:

- (a) the good is wholly obtained or produced entirely in the territory of one or both of the Parties, as defined in Article D-16;
- (b) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification set out in Annex D-01 as a result of production occurring entirely in the territory of one or both of the Parties, or the good otherwise satisfies the applicable requirements of that Annex



where no change in tariff classification is required, and the good satisfies all other applicable requirements of this Chapter;

- (c) the good is produced entirely in the territory of one or both of the Parties exclusively from originating materials; or
- (d) except for a good provided for in Chapters 61 through 63 of the Harmonized System, the good is produced entirely in the territory of one or both of the Parties but one or more of the non-originating materials that are used in the production of the good do not undergo a change in tariff classification because
  - (i) the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System, or
  - (ii) the heading for the good provides for and specifically describes both the good itself and its parts and is not further subdivided into subheadings, or the subheading for the good provides for and specifically describes both the good itself and its parts, provided that the regional value content of the good, determined in accordance with Article D-02, is not less than 35 per cent where the transaction value method is used, or is not less than 25 per cent where the net cost method is used, and that the good satisfies all other applicable requirements of this Chapter<sup>1</sup>.

Article D-02:

Regional Value Content

1. Except as provided in paragraph 5, each Party shall provide that the regional value content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of either the transaction value method set out in paragraph 2 or the net cost method set out in paragraph 3.

2. Each Party shall provide that an exporter or producer may calculate the regional value content of a good on the basis of the following transaction value method:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

TV is the transaction value of the good adjusted to a F.O.B. basis; and

VNM is the value of non-originating materials used by the producer in the production of the good.

3. Each Party shall provide that an exporter or producer may calculate the regional value content of a good on the basis of the following net cost method:

$$\text{RVC} = \frac{\text{NC} - \text{VNM}}{\text{NC}} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

NC is the net cost of the good; and

VNM is the value of non-originating materials used by the producer in the production of the good.

4. The value of non-originating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under paragraph 2 or 3, include the value of non-originating materials used to produce originating materials that are subsequently used in the production of the good<sup>2</sup>.

5. Each Party shall provide that an exporter or producer shall calculate the regional value content of a good solely on the basis of the net cost method set out in paragraph 3 where:

- (a) there is no transaction value for the good;
- (b) the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code;
- (c) the good is sold by the producer to a related person and the volume, by units of quantity, of sales of identical or similar goods to related persons during the six-month period immediately preceding the month in which the good is sold exceeds 85 per cent of the producer's total sales of such goods during that period;
- (d) the good is
  - (i) a motor vehicle,
  - (ii) identified in Annex D-03.1 and is for use in a motor vehicle, or
  - (iii) provided for in subheading 6401.10 through 6406.10;
- (e) the exporter or producer chooses to accumulate the regional value content of the good in accordance with Article D-04; or
- (f) the good is designated as an intermediate material under paragraph 10 and is subject to a regional value-content requirement.

6. If an exporter or producer of a good calculates the regional value content of the good on the basis of the transaction value method set out in paragraph 2 and a Party subsequently notifies the exporter or producer, during the course of a verification pursuant to Chapter E (Customs

Procedures), that the transaction value of the good, or the value of any material used in the production of the good, is required to be adjusted or is unacceptable under Article 1 of the Customs Valuation Code, the exporter or producer may then also calculate the regional value content of the good on the basis of the net cost method set out in paragraph 3.

7. Nothing in paragraph 6 shall be construed to prevent any review or appeal available under Article E-10 (Review and Appeal) of an adjustment to or a rejection of:

- (a) the transaction value of a good; or
- (b) the value of any material used in the production of a good.

8. For purposes of calculating the net cost of a good under paragraph 3, the producer of the good may:

- (a) calculate the total cost incurred with respect to all goods produced by that producer, subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocate the resulting net cost of those goods to the good;
- (b) calculate the total cost incurred with respect to all goods produced by that producer, reasonably allocate the total cost to the good, and then subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs that are included in the portion of the total cost allocated to the good; or
- (c) reasonably allocate each cost that forms part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs, provided that the allocation of all such costs is consistent with the provisions regarding the reasonable allocation of costs set out in the Uniform Regulations, established under Article E-11 (Customs Procedures - Uniform Regulations)<sup>3</sup>.

9. Except as provided in paragraph 11, the value of a material used in the production of a good shall:

- (a) be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Code; or
- (b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, be determined in accordance with Articles 2 through 7 of the Customs Valuation Code; and
- (c) where not included under subparagraph (a) or (b), include
  - (i) freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer,

- (ii) duties, taxes and customs brokerage fees on the material paid in the territory of one or both of the Parties, and
- (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

10. Any self-produced material that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value content of the good under paragraph 2 or 3, provided that where the intermediate material is subject to a regional value-content requirement, no other self-produced material subject to a regional value-content requirement used in the production of that intermediate material may itself be designated by the producer as an intermediate material<sup>4</sup>.

11. The value of an intermediate material shall be:

- (a) the total cost incurred with respect to all goods produced by the producer of the good that can be reasonably allocated to that intermediate material; or
- (b) the aggregate of each cost that forms part of the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material.

12. The value of an indirect material shall be based on the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

13. Notwithstanding the regional value-content requirement specified in an applicable rule in Annex D-01 for the tariff provision under which a good is classified, a good shall be an originating good where:

- (a) the good is provided in tariff item 6402.19.aa (sports footwear with rubber or plastic soles and uppers, for golf, hiking, running or curling), subheading 6402.99, tariff item 6403.19.aa (sports footwear with leather uppers, for riding, golf, hiking, climbing, curling, bowling, skating or training), subheading 6403.40 or 6403.91, tariff item 6404.11.aa (hiking footwear with rubber soles and canvas uppers), 6404.11.bb (hiking footwear with plastic soles and canvas uppers) or 6404.19.aa (shoes or sandals with plastic soles and canvas uppers) or subheading 6406.10;
- (b) each of the non-originating materials used in the production of the good undergoes the change of tariff classification specified in the applicable rule in Annex D-01 for that tariff provision;
- (c) the regional value content of that good is not less than
  - (i) 40 per cent under the net cost method for the period January 1, 1997, to December 31, 1997,
  - (ii) 45 per cent under the net cost method for the period January 1, 1998, to December 31, 1998,

- (iii) 50 per cent under the net cost method for the period January 1, 1999, to December 31, 1999, and
- (iv) 55 per cent under the net cost method on January 1, 2000, and thereafter; and
- (d) the good meets any other applicable requirements set out in this Chapter.

14. Notwithstanding the regional value-content requirement specified in an applicable rule in Annex D-01 for the tariff provision under which a good is classified, a good shall be an originating good where:

- (a) the good is provided for in heading 64.01, subheading 6402.12, tariff item 6402.19.bb (sports footwear with rubber or plastic soles and uppers, for soccer, other football, baseball or bowling), subheading 6402.20 through 6402.91 or 6403.12, tariff item 6403.19.bb (sports footwear with leather uppers, for soccer, other football or baseball) or 6403.19.cc (sports footwear with leather uppers, for other purposes), subheading 6403.20 through 6403.30, 6403.51 through 6403.59 or 6403.99, tariff item 6404.11.cc (sports footwear with rubber soles and canvas uppers, for soccer, training or tennis), 6404.11.dd (sports footwear with plastic soles and canvas uppers, for soccer, training or tennis) or 6404.19.bb (shoes or sandals with rubber soles and canvas uppers), subheading 6404.20, heading 64.05 or subheading 6406.20 through 6406.99;
- (b) each of the non-originating materials used in the production of the good undergoes the change of tariff classification specified in the applicable rule in Annex D-01 for that tariff provision;
- (c) the regional value content of that good is not less than
  - (i) 40 per cent under the net cost method for the period January 1, 1997, to December 31, 1997,
  - (ii) 47.5 per cent under the net cost method for the period January 1, 1998, to December 31, 1998, and
  - (iii) 55 per cent under the net cost method on January 1, 1999, and thereafter; and
- (d) the good meets any other applicable requirements set out in this Chapter.

#### Article D-03:

#### Automotive Goods

1. Notwithstanding the regional value-content requirement specified in an applicable rule in Annex D-01 for the tariff provision under which a good is classified, a good shall be an originating good where:

- (a) the good is provided for in a tariff provision identified in Annex D-03.1;

- (b) the good is for use in a motor vehicle;
  - (c) each of the non-originating materials used in the production of the good undergoes the change of tariff classification specified in the applicable rule in Annex D-01 for that tariff provision;
  - (d) the regional value content of that good is not less than 30 per cent under the net cost method; and
  - (e) the good meets any other applicable requirements set out in this Chapter.
2. For purposes of calculating the regional value content of a motor vehicle, the producer may average its calculation over its fiscal year, using any one of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of the other Party:
- (a) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a Party;
  - (b) the same class of motor vehicles produced in the same plant in the territory of a Party;
  - (c) the same model line of motor vehicles produced in the territory of a Party; or
  - (d) if applicable, the basis set out in Annex D-03.2.
3. For purposes of calculating the regional value content for any or all goods provided for in a tariff provision listed in Annex D-03.1 produced in the same plant, the producer of the good may:
- (a) average its calculation
    - (i) over the fiscal year of the motor vehicle producer to whom the good is sold,
    - (ii) over any quarter or month, or
    - (iii) over its fiscal year, if the good is sold as an aftermarket part;
  - (b) calculate the average referred to in subparagraph (a) separately for any or all goods sold to one or more motor vehicle producers; or
  - (c) with respect to any calculation under this paragraph, calculate separately for those goods that are exported to the territory of the other Party.

#### Article D-04:

#### Accumulation

1. For purposes of determining whether a good is an originating good, the production of the good in the territory of one or both of the Parties by one or more producers shall, at the choice of

the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of either of the Parties by that exporter or producer, provided that:

- (a) all non-originating materials used in the production of the good undergo an applicable tariff classification change set out in Annex D-01, and the good satisfies any applicable regional value-content requirement, entirely in the territory of one or both of the Parties; and
  - (b) the good satisfies all other applicable requirements of this Chapter.
2. For purposes of Article D-02(10), the production of a producer that chooses to accumulate its production with that of other producers under paragraph 1 shall be considered to be the production of a single producer.

#### Article D-05:

##### De Minimis

1. Except as provided in paragraphs 3 through 6, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex D-01 is not more than 9 per cent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all such non-originating materials is not more than 9 per cent of the total cost of the good, provided that:

- (a) if the good is subject to a regional value-content requirement, the value of such nonoriginating materials shall be taken into account in calculating the regional value content of the good; and
  - (b) the good satisfies all other applicable requirements of this Chapter.
2. A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy such requirement if the value of all non-originating materials used in the production of the good is not more than 9 per cent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all non-originating materials is not more than 9 per cent of the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.

3. Paragraph 1 does not apply to:

- (a) a non-originating material provided for in Chapter 4 of the Harmonized System or tariff item 1901.90.aa (dairy preparations containing over 10 per cent by weight of milk solids) that is used in the production of a good provided for in Chapter 4 of the Harmonized System;
- (b) a non-originating material provided for in Chapter 4 of the Harmonized System or tariff item 1901.90.aa (dairy preparations containing over 10 per cent by weight of milk solids) that is used in the production of a good provided for in

tariff item 1901.10.aa (infant preparations containing over 10 per cent by weight of milk solids), 1901.20.aa (mixes and doughs, containing over 25 per cent by weight of butterfat, not put up for retail sale), 1901.90.aa (dairy preparations containing over 10 per cent by weight of milk solids), heading 21.05 or tariff item 2106.90.dd (preparations containing over 10 per cent by weight of milk solids), 2202.90.cc (beverages containing milk) or 2309.90.aa (animal feeds containing over 10 per cent by weight of milk solids);

- (c) a non-originating material provided for in Chapter 15 of the Harmonized System that is used in the production of a good provided for in heading 15.01 through 15.08, 15.12, 15.14 or 15.15;
  - (d) a non-originating material provided for in heading 17.01 that is used in the production of a good provided for in heading 17.01 through 17.03;
  - (e) a non-originating material provided for in Chapter 17 of the Harmonized System or heading 18.05 that is used in the production of a good provided for in subheading 1806.10;
  - (f) a non-originating material provided for in heading 22.03 through 22.07 that is used in the production of a good provided for in heading 22.03 through 22.07 or subheading 2208.20;
  - (g) a non-originating material used in the production of a good provided for in tariff item 7321.11.aa (gas stove or range), subheading 8415.10, 8415.20 through 8415.83, 8418.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 or 8451.21 through 8451.29, heading 84.56 through 84.63 or 84.77, tariff item 8516.60.aa (electric stove or range) or subheading 8526.10;
  - (h) a non-originating material provided for in tariff item 8548.10.aa (spent primary cells, spent primary batteries and spent electric accumulators) that is used in the production of a good provided for in heading 85.06 or 85.07; or
  - (i) a printed circuit assembly, including a part that incorporates a printed circuit assembly, that is a non-originating material used in the production of a good where the applicable change in tariff classification for the good, as set out in Annex D-01, places restrictions on the use of such non-originating material.
4. Paragraph 1 does not apply to a non-originating single juice ingredient provided for in heading 20.09 that is used in the production of a good provided for in tariff item 2106.90.cc (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins) or 2202.90.bb (mixtures of fruit or vegetable juices, fortified with minerals or vitamins).
5. Paragraph 1 does not apply to a non-originating material used in the production of a good provided for in Chapter 1 through 21 of the Harmonized System unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this Article.
6. A good provided for in Chapter 50 through 63 of the Harmonized System that does not originate because certain fibres or yarns used in the production of the component of the good that



determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex D-01, shall nonetheless be considered to originate if the total weight of all such fibres or yarns in that component is not more than 9 per cent of the total weight of that component.<sup>5</sup>

Article D-06:

Fungible Goods and Materials

For purposes of determining whether a good is an originating good:

- (a) where originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating need not be made through the identification of any specific fungible material, but may be determined on the basis of any of the inventory management methods set out in the Uniform Regulations; and
- (b) where originating and non-originating fungible goods are commingled and exported in the same form, the determination may be made on the basis of any of the inventory management methods set out in the Uniform Regulations.

Article D-07:

Accessories, Spare Parts and Tools

Accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools, shall be considered as originating if the good originates and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex D-01, provided that:

- (a) the accessories, spare parts or tools are not invoiced separately from the good;
- (b) the quantities and value of the accessories, spare parts or tools are customary for the good; and
- (c) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article D-08:

Indirect Materials

An indirect material shall be considered to be an originating material without regard to where it is produced.

## Article D-09:

Packaging Materials and Containers for Retail Sale

Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex D-01, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value content of the good.

## Article D-10:

Packing Materials and Containers for Shipment

Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether:

- (a) the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex D-01; and
- (b) the good satisfies a regional value-content requirement.

## Article D-11:

Transshipment

A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of Article D-01 if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party.

## Article D-12:

Non-Qualifying Operations

A good shall not be considered to be an originating good merely by reason of:

- (a) mere dilution with water or another substance that does not materially alter the characteristics of the good; or
- (b) any production or pricing practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent this Chapter.

## Article D-13:

Interpretation and Application

For purposes of this Chapter:

- (a) the basis for tariff classification in this Chapter is the Harmonized System<sup>6</sup>;
- (b) where a good referred to by a tariff item number is described in parentheses following the tariff item number, the description is provided for purposes of reference only;
- (c) where applying Article D-01(d), the determination of whether a heading or subheading under the Harmonized System provides for and specifically describes both a good and its parts shall be made on the basis of the nomenclature of the heading or subheading and the relevant Section or Chapter Notes, in accordance with the General Rules for the Interpretation of the Harmonized System;
- (d) in applying the Customs Valuation Code under this Chapter
  - (i) the principles of the Customs Valuation Code shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions,
  - (ii) the provisions of this Chapter shall take precedence over the Customs Valuation Code to the extent of any difference, and
  - (iii) the definitions in Article D-16 shall take precedence over the definitions in the Customs Valuation Code to the extent of any difference; and
- (e) all costs referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

Article D-14:

Consultation and Modifications

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter in accordance with Chapter E.
2. A Party that considers that this Chapter requires modification to take into account developments in production processes or other matters may submit a proposed modification along with supporting rationale and any studies to the other Party for consideration and any appropriate action under Chapter E.

Article D-15:

NAFTA Accession

Upon the accession of Chile to the NAFTA, the rules of origin in this Chapter shall be replaced by the rules of origin to be negotiated as part of the terms of the accession of Chile to the NAFTA.

## Article D-16:

Definitions

For purposes of this Chapter:

**class of motor vehicles** means any one of the following categories of motor vehicles:

- (a) motor vehicles provided for in subheading 8701.20, tariff item 8702.10.aa or 8702.90.aa (vehicles for the transport of 16 or more persons), subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90 or heading 87.05;
- (b) motor vehicles provided for in subheading 8701.10 or 8701.30 through 8701.90;
- (c) motor vehicles provided for in tariff item 8702.10.bb or 8702.90.bb (vehicles for the transport of 15 or fewer persons) or subheading 8704.21 or 8704.31; or
- (d) motor vehicles provided for in subheading 8703.21 through 8703.90;

**F.O.B.** means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer;

**fungible goods or fungible materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

**goods wholly obtained or produced entirely in the territory of one or both of the Parties** means:

- (a) mineral goods extracted in the territory of one or both of the Parties;
- (b) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of one or both of the Parties;
- (c) live animals born and raised in the territory of one or both of the Parties;
- (d) goods obtained from hunting, trapping or fishing in the territory of one or both of the Parties;
- (e) goods (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;
- (f) goods produced on board factory ships from the goods referred to in subparagraph (e) provided such factory ships are registered or recorded with that Party and fly its flag;
- (g) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;

- (h) goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in a non-Party;
  - (i) waste and scrap derived from
    - (i) production in the territory of one or both of the Parties, or
    - (ii) used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials; and
- (j) goods produced in the territory of one or both of the Parties exclusively from goods referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production;

**identical or similar goods** means "identical goods" and "similar goods", respectively, as defined in the Customs Valuation Code;

**indirect material** means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

- (a) fuel and energy;
- (b) tools, dies and moulds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices, and supplies used for testing or inspecting the goods;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

**intermediate material** means a material that is self-produced and used in the production of a good, and designated pursuant to Article D-02(10);

**material** means a good that is used in the production of another good, and includes a part or an ingredient;

**model line** means a group of motor vehicles having the same platform or model name;

**motor vehicle** means a motor vehicle provided for in heading 87.01 or 87.02, subheading 8703.21 through 8703.90 or heading 87.04 and 87.05;

**net cost** means total cost minus sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

**net cost of a good** means the net cost that can be reasonably allocated to a good using one of the methods set out in Article D-02(8);

**non-allowable interest costs** means interest costs incurred by a producer that exceed 700 basis points above the applicable national government interest rate identified in the Uniform Regulations for comparable maturities;

**non-originating good or non-originating material** means a good or material that does not qualify as originating under this Chapter;

**producer** means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good;

**production** means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good;

**reasonably allocate** means to apportion in a manner appropriate to the circumstances;

**related person** means a person related to another person on the basis that:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 25 per cent or more of the outstanding voting stock or shares of each of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person; or
- (g) they are members of the same family (members of the same family are natural or adoptive children, brothers, sisters, parents, grandparents, or spouses);

**royalties** means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use or right to use any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula

or process, excluding those payments under technical assistance or similar agreements that can be related to specific services such as:

- (a) personnel training, without regard to where performed; and
- (b) if performed in the territory of one or both of the Parties, engineering, tooling, die-setting, software design and similar computer services, or other services;

**sales promotion, marketing and after-sales service costs** means the following costs related to sales promotion, marketing and after-sales service:

- (a) sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after-sales service literature (product brochures, catalogues, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;
- (b) sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;
- (c) salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), travelling and living expenses, membership and professional fees, for sales promotion, marketing and after-sales service personnel;
- (d) recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;
- (e) product liability insurance;
- (f) office supplies for sales promotion, marketing and after-sales service of goods, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;
- (g) telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;
- (h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centres;

- (i) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centres, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer; and
- (j) payments by the producer to other persons for warranty repairs;

**self-produced material** means a material that is produced by the producer of a good and used in the production of that good;

**shipping and packing costs** means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding costs of preparing and packaging the good for retail sale;

**total cost** means all product costs, period costs and other costs incurred in the territory of one or both of the Parties;

**transaction value** means the price actually paid or payable for a good or material with respect to a transaction of the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Code, regardless of whether the good or material is sold for export; and

**used** means used or consumed in the production of goods.

#### Annex D-03.1

##### List of Tariff Provisions for Article D-03(1)

**Note:** For purposes of reference only, descriptions are provided next to the corresponding tariff provision.

<b>TARIFF PROVISION</b>	<b>DESCRIPTION</b>
4009.50	Tubes, pipes and hoses, of vulcanized rubber
4016.99.aa	Vibration control goods, of a kind used in the vehicles of heading 87.01 through 87.05
8301.20.00	Locks of a kind used for motor vehicles
8407.33.00	Engines of a cylinder capacity exceeding 250cc but not exceeding 1000cc, for vehicles of Chapter 87
8407.34	Engines of a cylinder capacity exceeding 1000cc, for vehicles of Chapter 87 Diesel engines, for vehicles of Chapter 87
8408.20	Parts of engines
8409.91	Parts of engines
8413.30.aa	Fuel pumps for internal combustion piston engines



8413.60.00	Rotary positive displacement pumps
8414.59.00	Fans
8414.80.aa	Turbo-chargers and superchargers, for motor vehicles
8415.20	Air conditioning machines, for motor vehicles
8421.23.00	Oil or petrol-filters for internal combustion engines
8421.31.aa	Air filters for motor vehicles
8421.39.aa	Catalytic converters
8425.39.aa	Automotive winches
8425.42.00	Jacks and hoists, hydraulic, for raising vehicles
8425.49.00	Jacks and hoists, for raising vehicles
8431.10.aa	Parts used with certain machinery of heading 84.25
8481.20.00	Valves for oleohydraulic or pneumatic transmissions
8481.30.aa	Check valves, for automotive use
8481.80.aa	Valves, for automotive use
8482.10	Ball bearings
8482.20	Tapered roller bearings
8482.30.00	Spherical roller bearings
8482.40.00	Needle roller bearings
8482.50.00	Cylindrical roller bearings
8482.80.aa	Other ball/roller bearings, for use in motor vehicles of Chapter 87
8483.10.aa	Transmission shafts and cranks, for automotive use
8483.20.00	Bearing housings
8483.30.00	Bearing housings and plain shaft bearings
8483.40	Gears and gearing
8483.50.aa	Flywheels and pulleys, for automotive use
8483.60.aa	Clutches and shaft couplings, for automotive use
8501.10	Electric motors of an input not exceeding 37.5 W
8501.20	Universal AC/DC motors of an output exceeding 37.5 W
8501.31	DC motors and generators of an output not exceeding 750 W
8501.32	DC motors and generators of an output exceeding 750 W but not exceeding 75 KW
8507.10.00	Batteries (lead-acid)
8507.20	Batteries (lead-acid)
8507.30	Batteries (nickel-cadmium)
8507.40	Batteries (nickel-iron)
8507.80	Other batteries
8511.10.00	Spark plugs
8511.20.aa	Ignition magnetos, magneto-dynamos and magnetic flywheels for internal combustion

	engines
8511.30.00	Distributors and ignition coils
8511.40.00	Starter motors and dual purpose starter-generators
8511.50.00	Other generators
8511.80.00	Other electrical ignition or starting equipment
8512.20.00	Lighting or visual signalling equipment
8512.30.00	Sound signalling equipment
8512.40.00	Windscreen wipers, defrosters and demisters
8516.10.aa	Immersion heaters designed for automotive installation
8536.41.aa	Relays (automotive signalling flashers)
8536.50.aa	Motor starters, for automotive use
8536.50.bb	Other switches, for automotive use
8536.90.aa	Other apparatus, for automotive use
8537.10.bb	Motor control centres, for automotive use
8539.10.aa	Sealed beam lamp units for use in motor vehicles of Chapter 87
8539.21.aa	Tungsten halogen, for automotive use
8539.29.aa	Other filament lamps for voltage not exceeding 31 V
8544.30	Wiring sets
8544.41.aa	Electric conductors fitted with connectors for a voltage not exceeding 80 V, for automotive use
87.06	Chassis fitted with engines, for motor vehicles of 87.01 to 87.05
87.07	Bodies (including cabs), for motor vehicles of 87.01 to 87.05
8708.10.aa	Bumpers, but not parts thereof
8708.29.aa	Body stampings
8708.29.bb	Inflators and modules for airbags
8708.29.cc	Door assemblies
8708.29.dd	Airbags for use in motor vehicles
8708.29.ee	Other parts and accessories not elsewhere classified under subheading 8708.29
8708.50.aa	For vehicles of heading 87.03
8708.60.aa	For vehicles of heading 87.03
8708.70.aa	Road wheels, but not parts or accessories thereof
8708.80.aa	McPherson Struts
8708.93.aa	Clutches, but not parts thereof
8708.99.aa	Vibration control goods containing rubber
8708.99.bb	Doubled flanged wheel hub units incorporating ball bearings
8708.99.cc	Airbags for use in motor vehicles, where not provided for under subheading 8708.29
8708.99.dd	Half-shafts and drive shafts
8708.99.ee	Other parts for powertrains
8708.99.ff	Parts for suspension systems

8708.99.gg	Parts for steering systems
8708.99.hh	Other parts and accessories not elsewhere classified under subheading 8708.99
9017.80	Other instruments, for measuring
9026.10	Instruments for measuring or checking the flow or level of liquids
9031.80	Other instruments, appliances and machines
9032.10	Thermostats
9032.20.00	Manostats
9032.89	Other instruments and apparatus
9104.00.00	Instrument panel clocks
9401.20.00	Seats for motor vehicles

## Annex D-03.2

Regional Value-Content Calculation for Related Motor Vehicle Producer

1. For the purpose of Article D-03, in determining whether motor vehicles produced by a motor vehicle producer in the territory of a Party and imported into the territory of the other Party qualify as originating goods, the producer may average its calculation of the regional value content of a class of motor vehicles or a model line of motor vehicles produced in a fiscal year in the territory of a Party ("the territory of production") by that producer for sale in the territory of the other Party with the calculation of the regional value content of the corresponding class of motor vehicles or model line of motor vehicles produced in the territory of production by a related producer in the fiscal year that corresponds most closely to the producer's fiscal year, provided that:

- (a) the related group acquires 75 per cent or more by unit of quantity of the class of motor vehicles or model line of motor vehicles, as the case may be, that the producer has produced in the territory of a Party in that fiscal year for sale in the territory of the other Party;
- (b) the producer and the related producer each produced motor vehicles in the territory of the same Party at any time up to two years from the date of coming into force of this Agreement; and
- (c) where a producer otherwise qualifies under this Annex, notice of such qualification has been provided by the Party referred to in paragraph (b) to the other Party no later than two years from the date of coming into force of this Agreement.

2. If the related group acquires less than 75 per cent by unit by quantity of the class of motor vehicles or model line of motor vehicles, as the case may be, that the producer has produced in the territory of a Party in that fiscal year for sale in the territory of the other Party, the producer may average in the manner set out in paragraph 1 only those motor vehicles that are acquired by the related producer for distribution under the marque of either the producer or the related group.

3. In calculating the regional value content of motor vehicles produced by the producer in the territory of a Party, the producer may choose to average the calculation in paragraph 1 or 2

over a period of two fiscal years in the event that any motor vehicle assembly plant operated by the producer or any motor vehicle assembly plant operated by the related producer with which the producer is averaging its regional value content is closed for more than two consecutive months:

- (a) for the purpose of re-tooling for a model change, or
- (b) as the result of any event or circumstance (other than the imposition of anti-dumping and countervailing duties, or an interruption of operations resulting from a labour strike, lock-out, labour dispute, picketing or boycott of or by employees), that the producer or the related producer could not reasonably have been expected to avert by corrective action or by exercise of due care and diligence, including a shortage of materials, failure of utilities, or inability to obtain or delay in obtaining raw materials, parts, fuel or utilities.

The averaging may be for the producer's fiscal year in which a motor vehicle producer's or a related producer's plant with which the producer is averaging is closed and either the previous or subsequent fiscal year. In the event that the period of closure spans two fiscal years, the averaging may be only for those two fiscal years.

4. For the purposes of this Annex, where as a result of an amalgamation, reorganization, division or similar transaction:

- (a) a motor vehicle producer (the "successor producer") acquires all or substantially all of the assets used by the related group; and
- (b) the successor producer, directly or indirectly controls, or is controlled by, the related group, or both the successor producer and the related group are controlled by the same person, the successor producer shall be deemed to be the related producer.

5. For the purposes of this Annex:

- (a) a motor vehicle producer is related to another motor vehicle producer when it owns 50 per cent or more of the common voting stock of the other motor vehicle producer at the beginning of the other motor vehicle producer's fiscal year;
- (b) marque means the trade name used by a separate marketing division of a producer of motor vehicles and any related persons or joint ventures in which the producer participates;
- (c) producer means a motor vehicle producer;
- (d) related group means a related producer and any subsidiary directly or indirectly owned by it or by any combination thereof; and
- (e) related producer means a motor vehicle producer that is related to another motor vehicle producer within the meaning of subparagraph (a).

## **CHAPTER E: CUSTOMS PROCEDURES**

### **Section I - Certification of Origin**

Article E-01:

Certificate of Origin

1. The Parties shall establish by the date of entry into force of this Agreement, a Certificate of Origin for the purpose of certifying that a good being exported from the territory of a Party into the territory of the other Party qualifies as an originating good, and may thereafter revise the Certificate by agreement.
2. Each Party may require that a Certificate of Origin for a good imported into its territory be completed in a language required under its law.
3. Each Party shall:
  - (a) require an exporter in its territory to complete and sign a Certificate of Origin for any exportation of a good for which an importer may claim preferential tariff treatment on importation of the good into the territory of the other Party; and
  - (b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate on the basis of
    - (i) its knowledge of whether the good qualifies as an originating good,
    - (ii) its reasonable reliance on the producer's written representation that the good qualifies as an originating good, or
    - (iii) a completed and signed Certificate for the good voluntarily provided to the exporter by the producer.
4. Nothing in paragraph 3 shall be construed to require a producer to provide a Certificate of Origin to an exporter.
5. Each Party shall provide that a Certificate of Origin that has been completed and signed by an exporter or a producer in the territory of the other Party that is applicable to:
  - (a) a single importation of a good into the Party's territory; or
  - (b) multiple importations of identical goods into the Party's territory that occur within a specified period, not exceeding 12 months, set out therein by the exporter or producer, shall be accepted by its customs administration for four years after the date on which the Certificate was signed.
6. For any originating good that is imported into the territory of a Party on or after the date of entry into force of this Agreement, each Party shall accept a Certificate of Origin that has been completed and signed prior to that date by the exporter or producer of that good.

Article E-02:

Obligations Regarding Importations

1. Except as otherwise provided in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment for a good imported into its territory from the territory of the other Party to:

- (a) make a written declaration, based on a valid Certificate of Origin, that the good qualifies as an originating good;
- (b) have the Certificate in its possession at the time the declaration is made;
- (c) provide, on the request of that Party's customs administration, a copy of the Certificate; and
- (d) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a Certificate on which a declaration was based contains information that is not correct.

2. Each Party shall provide that, where an importer in its territory claims preferential tariff treatment for a good imported into its territory from the territory of the other Party:

- (a) the Party may deny preferential tariff treatment to the good if the importer fails to comply with any requirement under this Chapter; and
- (b) the importer shall not be subject to penalties for the making of an incorrect declaration, if it voluntarily makes a corrected declaration pursuant to paragraph 1(d).

3. Each Party shall provide that, where a good would have qualified as an originating good when it was imported into the territory of that Party but no claim for preferential tariff treatment was made at that time, the importer of the good may, no later than one year after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment, on presentation of:

- (a) a written declaration that the good qualified as an originating good at the time of importation;
- (b) a copy of the Certificate of Origin; and
- (c) such other documentation relating to the importation of the good as that Party may require.

Article E-03:

Exceptions

Each Party shall provide that a Certificate of Origin shall not be required for:

- (a) a commercial importation of a good whose value does not exceed US\$1,000 or its equivalent amount in the Party's currency, or such higher amount as it may establish, except that it may require that the invoice accompanying the importation include a statement certifying that the good qualifies as an originating good;

- (b) a non-commercial importation of a good whose value does not exceed US\$1,000 or its equivalent amount in the Party's currency, or such higher amount as it may establish; or
- (c) an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a Certificate of Origin,

provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of Articles E-01 and E-02.

Article E-04:

Obligations Regarding Exportations

1. Each Party shall provide that:
  - (a) an exporter in its territory, or a producer in its territory that has provided a copy of a Certificate of Origin to that exporter pursuant to Article E-01(3)(b)(iii), shall provide a copy of the Certificate to its customs administration on request; and
  - (b) an exporter or a producer in its territory that has completed and signed a Certificate of Origin, and that has reason to believe that the Certificate contains information that is not correct, shall promptly notify in writing all persons to whom the Certificate was given by the exporter or producer of any change that could affect the accuracy or validity of the Certificate.
2. Each Party:
  - (a) shall provide that a false certification by an exporter or a producer in its territory that a good to be exported to the territory of the other Party qualifies as an originating good shall have the same legal consequences, with appropriate modifications, as would apply to an importer in its territory for a contravention of its customs laws and regulations regarding the making of a false statement or representation; and
  - (b) may apply such measures as the circumstances may warrant where an exporter or a producer in its territory fails to comply with any requirement of this Chapter.
3. Neither Party may impose penalties on an exporter or a producer in its territory that voluntarily provides written notification pursuant to paragraph (1)(b) with respect to the making of an incorrect certification.

**Section II - Administration and Enforcement**

Article E-05:

Records

Each Party shall provide that:

- (a) an exporter or a producer in its territory that completes and signs a Certificate of Origin shall maintain in its territory, for five years after the date on which the Certificate was signed or for such longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with
  - (i) the purchase of, cost of, value of, and payment for, the good that is exported from its territory,
  - (ii) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory, and
  - (iii) the production of the good in the form in which the good is exported from its territory; and
- (b) an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for five years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the Certificate, as the Party may require relating to the importation of the good.

Article E-06:

Origin Verifications

1. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may, through its customs administration, conduct a verification solely by means of:
  - (a) written questionnaires to an exporter or a producer in the territory of the other Party;
  - (b) visits to the premises of an exporter or a producer in the territory of the other Party to review the records referred to in Article E-05(a) and observe the facilities used in the production of the good; or
  - (c) such other procedure as the Parties may agree.
2. Prior to conducting a verification visit pursuant to paragraph (1)(b), a Party shall, through its customs administration:
  - (a) deliver a written notification of its intention to conduct the visit to
    - (i) the exporter or producer whose premises are to be visited,
    - (ii) the customs administration of the other Party, and
    - (iii) if requested by the other Party, the embassy of the other Party in the territory of the Party proposing to conduct the visit; and



- (b) obtain the written consent of the exporter or producer whose premises are to be visited.
- 3. The notification referred to in paragraph 2 shall include:
  - (a) the identity of the customs administration issuing the notification;
  - (b) the name of the exporter or producer whose premises are to be visited;
  - (c) the date and place of the proposed verification visit;
  - (d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification;
  - (e) the names and titles of the officials performing the verification visit; and
  - (f) the legal authority for the verification visit.
- 4. Where an exporter or a producer has not given its written consent to a proposed verification visit within 30 days of receipt of notification pursuant to paragraph 2, the notifying Party may deny preferential tariff treatment to the good that would have been the subject of the visit.
- 5. Each Party shall provide that, where its customs administration receives notification pursuant to paragraph 2, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as the Parties may agree.
- 6. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraph 5.
- 7. Each Party shall permit an exporter or a producer whose good is the subject of a verification visit by the other Party to designate two observers to be present during the visit, provided that:
  - (a) the observers do not participate in a manner other than as observers; and
  - (b) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit.
- 8. Each Party shall, through its customs administration, where conducting a verification of origin involving a regional value content, de minimis calculation or any other provision in Chapter D (Rules of Origin) to which Generally Accepted Accounting Principles may be relevant, apply such principles as are applicable in the territory of the Party from which the good was exported.
- 9. The Party conducting a verification shall provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.

10. Where verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by such person until that person establishes compliance with Chapter D (Rules of Origin).

11. Each Party shall provide that where it determines that a certain good imported into its territory does not qualify as an originating good based on a tariff classification or a value applied by the Party to one or more materials used in the production of the good, which differs from the tariff classification or value applied to the materials by the other Party, the Party's determination shall not become effective until it notifies in writing both the importer of the good and the person that completed and signed the Certificate of Origin for the good of its determination.

12. A Party shall not apply a determination made under paragraph 11 to an importation made before the effective date of the determination where:

- (a) the customs administration of the other Party has issued an advance ruling under Article E-09 or any other ruling on the tariff classification or on the value of such materials, or has given consistent treatment to the entry of the materials under the tariff classification or value at issue, on which a person is entitled to rely; and
- (b) the advance ruling, other ruling or consistent treatment was given prior to notification of the determination.

13. If a Party denies preferential tariff treatment to a good pursuant to a determination made under paragraph 11, it shall postpone the effective date of the denial for a period not exceeding 90 days where the importer of the good, or the person who completed and signed the Certificate of Origin for the good, demonstrates that it has relied in good faith to its detriment on the tariff classification or value applied to such materials by the customs administration of the other Party.

Article E-07:  
Confidentiality

1. Each Party shall maintain, in accordance with its law, the confidentiality of confidential business information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. The confidential business information collected pursuant to this Chapter may only be disclosed to those authorities responsible for the administration and enforcement of determinations of origin, and of customs and revenue matters.

Article E-08:

Penalties

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

2. Nothing in Article E-02(2), E-04(3) or E-06(6) shall be construed to prevent a Party from applying such measures as the circumstances may warrant.

### Section III - Advance Rulings

#### Article E-09:

#### Advance Rulings

1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of the other Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning:
  - (a) whether materials imported from a non-Party used in the production of a good undergo an applicable change in tariff classification set out in Annex D-01 as a result of production occurring entirely in the territory of one or both of the Parties;
  - (b) whether a good satisfies a regional value-content requirement under either the transaction value method or the net cost method set out in Chapter D (Rules of Origin);
  - (c) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter D, the appropriate basis or method for value to be applied by an exporter or a producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Code, for calculating the transaction value of the good or of the materials used in the production of the good;
  - (d) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter D, the appropriate basis or method for reasonably allocating costs, in accordance with the allocation methods set out in the Uniform Regulations, for calculating the net cost of the good or the value of an intermediate material;
  - (e) whether a good qualifies as an originating good under Chapter D;
  - (f) whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment in accordance with Article C-06 (Goods Re-Entered after Repair or Alteration);
  - (g) whether a good referred to in Annex C-00-B (Textiles and Apparel Goods) satisfies the conditions set out in Appendix 5.1 of that Annex regarding eligibility for a tariff preference level (TPL) referred to therein; or
  - (h) such other matters as the Parties may agree.
2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.

3. Each Party shall provide that its customs administration:
  - (a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;
  - (b) shall, after it has obtained all necessary information from the person requesting an advance ruling, issue the ruling within the periods specified in the Uniform Regulations; and
  - (c) shall, where the advance ruling is unfavourable to the person requesting it, provide to that person a full explanation of the reasons for the ruling.
4. Subject to paragraph 6, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or such later date as may be specified in the ruling.
5. Each Party shall provide to any person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter D regarding a determination of origin, as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.
6. The issuing Party may modify or revoke an advance ruling:
  - (a) if the ruling is based on an error
    - (i) of fact,
    - (ii) in the tariff classification of a good or a material that is the subject of the ruling,
    - (iii) in the application of a regional value-content requirement under Chapter D, or
    - (iv) in the application of the rules for determining whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment under Article C-06;
  - (b) if the ruling is not in accordance with an interpretation agreed by the Parties regarding Chapter C (National Treatment and Market Access for Goods) or Chapter D;
  - (c) if there is a change in the material facts or circumstances on which the ruling is based;
  - (d) to conform with a modification of Chapter C, Chapter D, this Chapter or the Uniform Regulations; or
  - (e) to conform with a judicial decision or a change in its domestic law.

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

8. Notwithstanding paragraph 7, the issuing Party shall postpone the effective date of such modification or revocation for a period not exceeding 90 days where the person to whom the advance ruling was issued demonstrates that it has relied in good faith to its detriment on that ruling.

9. Each Party shall provide that where its customs administration examines the regional value content of a good for which it has issued an advance ruling pursuant to subparagraph 1(c), (d) or (f), it shall evaluate whether:

- (a) the exporter or producer has complied with the terms and conditions of the advance ruling;
- (b) the exporter's or producer's operations are consistent with the material facts and circumstances on which the advance ruling is based; and
- (c) the supporting data and computations used in applying the basis or method for calculating value or allocating cost were correct in all material respects.

10. Each Party shall provide that where its customs administration determines that any requirement in paragraph 9 has not been satisfied, it may modify or revoke the advance ruling as the circumstances may warrant.

11. Each Party shall provide that, where the person to whom an advance ruling was issued demonstrates that it used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based, and where the customs administration of a Party determines that the ruling was based on incorrect information, the person to whom the ruling was issued shall not be subject to penalties.

12. Each Party shall provide that where it issues an advance ruling to a person that has misrepresented or omitted material facts or circumstances on which the ruling is based or has failed to act in accordance with the terms and conditions of the ruling, the Party may apply such measures as the circumstances may warrant.

#### **Section IV - Review and Appeal of Origin Determinations and Advance Rulings**

##### Article E-10:

##### Review and Appeal

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

- (a) who completes and signs a Certificate of Origin for a good that has been the subject of a determination of origin; or

- (b) who has received an advance ruling pursuant to Article E-09(1).
2. Further to Articles L-04 (Administrative Proceedings) and L-05 (Review and Appeal), each Party shall provide that the rights of review and appeal referred to in paragraph 1 shall include access to:
- (a) at least one level of administrative review independent of the official or office responsible for the determination under review; and
  - (b) in accordance with its domestic law, judicial or quasi-judicial review of the determination or decision taken at the final level of administrative review.

### **Section V - Uniform Regulations**

#### Article E-11:

##### Uniform Regulations

1. The Parties shall establish, and implement through their respective laws or regulations by the date of entry into force of this Agreement, and at any time thereafter, upon agreement of the Parties, Uniform Regulations regarding the interpretation, application and administration of Chapter D, this Chapter and other matters as may be agreed by the Parties.
2. Each Party shall implement any modification of or addition to the Uniform Regulations no later than 180 days after the Parties agree on such modification or addition, or such other period as the Parties may agree.

### **Section VI - Cooperation**

#### Article E-12:

##### Cooperation

1. Each Party shall notify the other Party of the following determinations, measures and rulings, including to the greatest extent practicable those that are prospective in application:
  - (a) a determination of origin issued as the result of a verification conducted pursuant to Article E-06(1);
  - (b) a determination of origin that the Party is aware is contrary to
    - (i) a ruling issued by the customs administration of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin, or
    - (ii) consistent treatment given by the customs administration of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation

of costs where calculating the net cost of a good, that is the subject of a determination of origin;

- (c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin; and
  - (d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article E-09.
2. The Parties shall cooperate:
- (a) in the enforcement of their respective customs-related laws or regulations implementing this Agreement, and under any customs mutual assistance agreement or other customs-related agreement to which they are party;
  - (b) for purposes of the detection and prevention of unlawful transshipments of textile and apparel goods of a non-Party, in the enforcement of prohibitions or quantitative restrictions, including the verification by a Party, in accordance with the procedures set out in this Chapter, of the capacity for production of goods by an exporter or a producer in the territory of the other Party, provided that the customs administration of the Party proposing to conduct the verification, prior to conducting the verification
    - (i) obtains the consent of the other Party, and
    - (ii) provides notification to the exporter or producer whose premises are to be visited, except that procedures for notifying the exporter or producer whose premises are to be visited shall be in accordance with such other procedures as the Parties may agree;
  - (c) to the extent practicable and for purposes of facilitating the flow of trade between them, in such customs-related matters as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade, the standardization of data elements, the acceptance of an international data syntax and the exchange of information; and
  - (d) to the extent practicable, in the storage and transmission of customs-related documentation.

#### Article E-13:

##### The Customs Sub-Committee

1. The Parties hereby establish a Customs Sub-Committee, comprising representatives of each Party's customs administration. The Sub-Committee shall meet at least once each year, and at any other time on the request of either Party and shall:
- (a) endeavour to agree on

- (i) the uniform interpretation, application and administration of Article C-04, C-05 and C-06, Chapter D, this Chapter, and the Uniform Regulations,
  - (ii) tariff classification and valuation matters relating to determinations of origin,
  - (iii) equivalent procedures and criteria for the request, approval, modification, revocation and implementation of advance rulings,
  - (iv) revisions to the Certificate of Origin,
  - (v) any other matter referred to it by a Party or the Committee on Trade in Goods and Rules of Origin established under Article C-15(1), and
  - (vi) any other customs-related matter arising under this Agreement;
- (b) consider
- (i) the harmonization of customs-related automation requirements and documentation, and
  - (ii) proposed customs-related administrative and operational changes that may affect the flow of trade between the Parties' territories;
- (c) report periodically to the Committee on Trade in Goods and Rules of Origin and notify it of any agreement reached under this paragraph; and
- (d) refer to the Committee on Trade in Goods and Rules of Origin any matter on which it has been unable to reach agreement within 60 days of referral of the matter to it pursuant to subparagraph (a)(v).

2. Nothing in this Chapter shall be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to a matter under consideration by the Customs Sub-Committee or from taking such other action as it considers necessary, pending a resolution of the matter under this Agreement.

#### Article E-14:

##### Definitions

For purposes of this Chapter:

**commercial importation** means the importation of a good into the territory of a Party for the purpose of sale, or any commercial, industrial or other like use;

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

**determination of origin**<sup>1</sup> means a determination as to whether a good qualifies as an originating good in accordance with Chapter D;



**exporter in the territory of a Party** means an exporter located in the territory of a Party and an exporter required under this Chapter to maintain records in the territory of that Party regarding exportations of a good;

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

**importer in the territory of a Party** means an importer located in the territory of a Party and an importer required under this Chapter to maintain records in the territory of that Party regarding importations of a good;

**intermediate material** means "intermediate material" as defined in Article D-16;

**material** means "material" as defined in Article D-16;

**net cost of a good** means "net cost of a good" as defined in Article D-16;

**preferential tariff treatment** means the duty rate applicable to an originating good;

**producer** means "producer" as defined in Article D-16;

**production** means "production" as defined in Article D-16;

**transaction value** means "transaction value" as defined in Article D-16;

**Uniform Regulations** means "Uniform Regulations" established under Article E-11;

**used** means "used" as defined in Article D-16; and

**value** means value of a good or material for purposes of calculating customs duties or for purposes of applying Chapter D.

## **CHAPTER F: EMERGENCY ACTION**

### Article F-01:

#### Bilateral Actions

1. Subject to paragraphs 2 through 4, and during the transition period only, if a good originating in the territory of a Party, as a result of the reduction or elimination of a duty provided for in this Agreement, is being imported into the territory of the other Party in such increased quantities, in absolute terms, and under such conditions that the imports of the good from that Party alone constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party into whose territory the good is being imported may, to the minimum extent necessary to remedy or prevent the injury:

- (a) suspend the further reduction of any rate of duty provided for under this Agreement on the good;

- (b) increase the rate of duty on the good to a level not to exceed the lesser of
  - (i) the mostfavourednation (MFN) applied rate of duty in effect at the time the action is taken, and
  - (ii) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement; or
- (c) in the case of a duty applied to a good on a seasonal basis, increase the rate of duty to a level not to exceed the MFN applied rate of duty that was in effect on the good for the corresponding season immediately preceding the date of entry into force of this Agreement.

2. The following conditions and limitations shall apply to a proceeding that may result in emergency action under paragraph 1:

- (a) a Party shall, without delay, deliver to the other Party written notice of, and a request for consultations regarding, the institution of a proceeding that could result in emergency action against a good originating in the territory of the other Party;
- (b) any such action shall be initiated no later than one year after the date of institution of the proceeding;
- (c) no action may be maintained
  - (i) for a period exceeding three years, or
  - (ii) beyond the expiration of the transition period, except with the consent of the Party against whose good the action is taken;
- (d) no action may be taken by a Party against any particular good originating in the territory of the other Party more than once during the transition period; and
- (e) on the termination of the action, the rate of duty shall be the rate that, according to the Party's Schedule to Annex C-02.2 for the staged elimination of the tariff, would have been in effect one year after the initiation of the action, and beginning January 1 of the year following the termination of the action, at the option of the Party that has taken the action
  - (i) the rate of duty shall conform to the applicable rate set out in its Schedule to Annex C-02.2, or
  - (ii) the tariff shall be eliminated in equal annual stages ending on the date set out in its Schedule to Annex C-02.2 for the elimination of the tariff.

3. A Party may take a bilateral emergency action after the expiration of the transition period to deal with cases of serious injury, or threat thereof, to a domestic industry arising from the operation of this Agreement only with the consent of the other Party.

4. The Party taking an action under this Article shall provide to the other Party mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties are unable to agree on compensation, the Party against whose good the action is taken may take tariff action having trade effects substantially equivalent to the action taken under this Article. The Party taking the tariff action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects.

5. This Article does not apply to emergency actions respecting goods covered by Annex C-00-B (Textile and Apparel Goods).

#### Article F-02:

#### Global Actions

1. Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards of the WTO Agreement except those regarding compensation or retaliation and exclusion from an action to the extent that such rights or obligations are inconsistent with this Article. Any Party taking an emergency action under Article XIX of the GATT 1994 and the Agreement on Safeguards of the WTO Agreement shall exclude imports of a good from the other Party from the action unless:

- (a) imports from the other Party account for a substantial share of total imports; and
- (b) imports from the other Party contribute importantly to the serious injury, or threat thereof, caused by imports.

2. In determining whether:

- (a) imports from the other Party account for a substantial share of total imports, those imports normally shall not be considered to account for a substantial share of total imports if that Party is not among the top five suppliers of the good subject to the proceeding, measured in terms of import share during the most recent three-year period; and
- (b) imports from the other Party contribute importantly to the serious injury, or threat thereof, the competent investigating authority shall consider such factors as the change in the import share of the other Party, and the level and change in the level of imports of the other Party. In this regard, imports from a Party normally shall not be deemed to contribute importantly to serious injury, or the threat thereof, if the growth rate of imports from a Party during the period in which the injurious surge in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.

3. A Party taking such action, from which a good from the other Party is initially excluded pursuant to paragraph 1, shall have the right subsequently to include that good from the other Party in the action in the event that the competent investigating authority determines that a surge in imports of such good from the other Party undermines the effectiveness of the action.

4. A Party shall, without delay, deliver written notice to the other Party of the institution of a proceeding that may result in emergency action under paragraph 1 or 3.

5. Neither Party may impose restrictions on a good in an action under paragraph 1 or 3:
  - (a) without delivery of prior written notice to the Commission, and without adequate opportunity for consultation with the other Party, as far in advance of taking the action as practicable; and
  - (b) that would have the effect of reducing imports of such good from the other Party below the trend of imports of the good from that Party over a recent representative base period with allowance for reasonable growth.
  
6. The Party taking an action pursuant to this Article shall provide to the other Party mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties are unable to agree on compensation, the Party against whose good the action is taken may take action having trade effects substantially equivalent to the action taken under paragraph 1 or 3.

Article F-03:

Administration of Emergency Action Proceedings

1. Each Party shall ensure the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing all emergency action proceedings.
  
2. Each Party shall entrust determinations of serious injury, or threat thereof, in emergency action proceedings to a competent investigating authority, subject to review by judicial or administrative tribunals, to the extent provided by domestic law. Negative injury determinations shall not be subject to modification, except by such review. The competent investigating authority empowered under domestic law to conduct such proceedings should be provided with the necessary resources to enable it to fulfill its duties.
  
3. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures for emergency action proceedings, in accordance with the requirements set out in Annex F-03.3.
  
4. This Article does not apply to emergency actions taken under Annex C-00-B (Textile and Apparel Goods).

Article F-04:

Dispute Settlement in Emergency Action Matters

Neither Party may request the establishment of an arbitral panel under Article N-08 (Request for an Arbitral Panel) regarding any proposed emergency action.

## Article F-05:

Definitions

For purposes of this Chapter:

**competent investigating authority** means the "competent investigating authority" of a Party as defined in Annex F-05;

**contribute importantly** means an important cause, but not necessarily the most important cause;

**critical circumstances** means circumstances where delay would cause damage that would be difficult to repair;

**domestic industry** means the producers as a whole of the like or directly competitive good operating in the territory of a Party;

**emergency action** does not include any emergency action pursuant to a proceeding instituted prior to the entry into force of this Agreement;

**good originating in the territory of a Party** means an originating good;

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

**surge** means a significant increase in imports over the trend for a recent representative base period;

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

**transition period** means the 6-year period beginning on January 1, 1997, except where the tariff elimination for the good against which the action is taken occurs over a longer period of time, in which case the transition period shall be the period of the staged tariff elimination for that good.

## Annex F-03.3

Administration of Emergency Action Proceedings*Institution of a Proceeding*

1. An emergency action proceeding may be instituted by a petition or complaint by entities specified in domestic law. The entity filing the petition or complaint shall demonstrate that it is representative of the domestic industry producing a good like or directly competitive with the imported good.
2. A Party may institute a proceeding on its own motion or request the competent investigating authority to conduct a proceeding.

*Contents of a Petition or Complaint*

3. Where the basis for an investigation is a petition or complaint filed by an entity representative of a domestic industry, the petitioning entity shall, in its petition or complaint, provide the following information to the extent that such information is publicly available from governmental or other sources, or best estimates and the basis there for if such information is not available:

- (a) product description - the name and description of the imported good concerned, the tariff subheading under which that good is classified, its current tariff treatment and the name and description of the like or directly competitive domestic good concerned;
- (b) representativeness -
  - (i) the names and addresses of the entities filing the petition or complaint, and the locations of the establishments in which they produce the domestic good,
  - (ii) the percentage of domestic production of the like or directly competitive good that such entities account for and the basis for claiming that they are representative of an industry, and
  - (iii) the names and locations of all other domestic establishments in which the like or directly competitive good is produced;
- (c) import data - import data for each of the five most recent full years that form the basis of the claim that the good concerned is being imported in increased quantities, either in absolute terms or relative to domestic production as appropriate;
- (d) domestic production data - data on total domestic production of the like or directly competitive good for each of the five most recent full years;
- (e) data showing injury - quantitative and objective data indicating the nature and extent of injury to the concerned industry, such as data showing changes in the level of sales, prices, production, productivity, capacity utilization, market share, profits and losses, and employment;
- (f) cause of injury - an enumeration and description of the alleged causes of the injury, or threat thereof, and a summary of the basis for the assertion that increased imports, either actual or relative to domestic production, of the imported good are causing or threatening to cause serious injury, supported by pertinent data; and
- (g) criteria for inclusion - quantitative and objective data indicating the share of imports accounted for by imports from the territory of the other Party and the petitioner's views on the extent to which such imports are contributing importantly to the serious injury, or threat thereof, caused by imports of that good.

4. Petitions or complaints, except to the extent that they contain confidential business information, shall promptly be made available for public inspection on being filed.

*Notice Requirement*

5. On instituting an emergency action proceeding, the competent investigating authority shall publish notice of the institution of the proceeding in the official journal of the Party. The notice shall identify the petitioner or other requester, the imported good that is the subject of the proceeding and its tariff subheading, the nature and timing of the determination to be made, the time and place of the public hearing, dates of deadlines for filing briefs, statements and other documents, the place at which the petition and any other documents filed in the course of the proceeding may be inspected, and the name, address and telephone number of the office to be contacted for more information.

6. With respect to an emergency action proceeding instituted on the basis of a petition or complaint filed by an entity asserting that it is representative of the domestic industry, the competent investigating authority shall not publish the notice required by paragraph 5 without first assessing carefully that the petition or complaint meets the requirements of paragraph 3, including representativeness.

*Public Hearing*

7. In the course of each proceeding, the competent investigating authority shall:
- (a) hold a public hearing, after providing reasonable notice, to allow all interested parties, and any association whose purpose is to represent the interests of consumers in the territory of the Party instituting the proceeding, to appear in person or by counsel, to present evidence and to be heard on the questions of serious injury, or threat thereof, and the appropriate remedy; and
  - (b) provide an opportunity to all interested parties and any such association appearing at the hearing to cross question interested parties making presentations at that hearing.

*Confidential Information*

8. The competent investigating authority shall adopt or maintain procedures for the treatment of confidential information, protected under domestic law, that is provided in the course of a proceeding, including a requirement that interested parties and consumer associations providing such information furnish non-confidential written summaries thereof, or where they indicate that the information cannot be summarized, the reasons why a summary cannot be provided.

*Evidence of Injury and Causation*

9. In conducting its proceeding the competent investigating authority shall gather, to the best of its ability, all relevant information appropriate to the determination it must make. It shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, including the rate and amount of the increase in imports of the good concerned, in absolute and relative terms as appropriate, the share of the domestic market taken by increased imports, and changes in the level of sales, production, productivity, capacity

utilization, profits and losses, and employment. In making its determination, the competent investigating authority may also consider other economic factors, such as changes in prices and inventories, and the ability of firms in the industry to generate capital.

10. The competent investigating authority shall not make an affirmative injury determination unless its investigation demonstrates, on the basis of objective evidence, the existence of a clear causal link between increased imports of the good concerned and serious injury, or threat thereof. Where factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

*Deliberation and Report*

11. Except in critical circumstances and in global actions involving perishable agricultural goods, the competent investigating authority, before making an affirmative determination in an emergency action proceeding, shall allow sufficient time to gather and consider the relevant information, hold a public hearing and provide an opportunity for all interested parties and consumer associations to prepare and submit their views.

12. The competent investigating authority shall publish promptly a report, including a summary thereof in the official journal of the Party, setting out its findings and reasoned conclusions on all pertinent issues of law and fact. The report shall describe the imported good and its tariff item number, the standard applied and the finding made. The statement of reasons shall set out the basis for the determination, including a description of:

- (a) the domestic industry seriously injured or threatened with serious injury;
- (b) information supporting a finding that imports are increasing, the domestic industry is seriously injured or threatened with serious injury, and increasing imports are causing or threatening serious injury; and
- (c) if provided for by domestic law, any finding or recommendation regarding the appropriate remedy and the basis therefore.

13. In its report, the competent investigating authority shall not disclose any confidential information provided pursuant to any undertaking concerning confidential information that may have been made in the course of the proceedings.

Annex F-05

Country-Specific Definitions

For purposes of this Chapter:

**competent investigating authority** means:

- (a) in the case of Canada, the Canadian International Trade Tribunal, or its successor; and
- (b) in the case of Chile, the National Commission in Charge of the Investigation of the Existence of Price Distortions in Imported Goods ( "Comisión Nacional



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 Coverage<sup>1</sup>

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 Requirements<sup>2</sup>

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 trades-persons 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 valueadded 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:

##### Monopolies<sup>1</sup>

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 value-added 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 cross-subsidization, 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) requirements for structural separation;
- (c) rules to ensure that the monopoly accords its 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 Law<sup>1</sup>

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 Enterprises<sup>2</sup>

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 charges<sup>3</sup>;
  - (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 sale<sup>4</sup>;
  - (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

PROFESSION<sup>1</sup>

MINIMUM EDUCATION  
REQUIREMENTS AND  
ALTERNATIVE  
CREDENTIALS<sup>2</sup>

**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)<sup>3</sup>

Architect	Baccalaureate or Licenciatura Degree; or state/provincial licence <sup>4</sup>
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma <sup>5</sup> or Post-Secondary Certificate <sup>6</sup> , 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 <sup>7</sup>	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) <sup>8</sup>	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
<b>Teacher</b>	
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.

Article L-03:

Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any proposed or actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.
2. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure, whether or not the other Party has been previously notified of that measure.
3. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Article L-04:

Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that in its administrative proceedings applying measures referred to in Article L-02 to particular persons, goods or services of the other Party in specific cases that:

- (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;
- (b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and
- (c) its procedures are in accordance with domestic law.

Article L-05:

Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.
2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:
  - (a) a reasonable opportunity to support or defend their respective positions; and

- (b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article L-06:

Definitions

For purposes of this Chapter:

**administrative ruling of general application** means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

**CHAPTER M: ANTI-DUMPING AND COUNTERVAILING DUTY MATTERS**

Article M-01:

Reciprocal Exemption from the Application of Anti-dumping Duty Laws

1. Subject to Article M-03, as of the date of entry into force of this Agreement each Party agrees not to apply its domestic anti-dumping law to goods of the other Party. Specifically:

- (a) neither Party shall initiate any anti-dumping investigations or reviews with respect to goods of the other Party;
- (b) each Party shall terminate any ongoing anti-dumping investigations or inquiries in respect of such goods;
- (c) neither Party shall impose new anti-dumping duties or other measures in respect of such goods; and
- (d) each Party shall revoke all existing orders levying anti-dumping duties in respect of such goods.

2. Each Party shall amend, and publish as appropriate, its relevant domestic anti-dumping law in relation to goods of the other Party to ensure that the objectives of this Article are achieved.

Article M-02:

Rules of Origin

Article M-01 applies only to goods that the competent investigating authority of the importing Party, applying the importing Party's anti-dumping law to the facts of a specific case, determines are goods of the other Party.

Article M-03:

Phase-in Provisions

1. Article M-01 applies to all goods of the other Party as of:
  - (a) the date on which the tariff of both Parties is eliminated at the subheading level;  
or
  - (b) January 1, 2003, whichever comes first.
2. For the purpose of paragraph 1, elimination at the subheading level occurs when the tariff for each eight-digit tariff line under the six-digit subheading is zero under this Agreement.

Article M-04:

Exceptional Circumstances

1. Either Party may request, in writing, consultations with the other Party regarding exceptional circumstances that may arise with respect to the operation of this Chapter.
2. Exceptional circumstances may include significant changes in recent trading conditions.
3. The Parties shall enter into consultations within 10 days of receipt of a request and shall conclude such consultations within 30 days of such receipt, except where the matter involves perishable goods, in which case the consultations shall be concluded within 20 days.
4. In the consultations, the Parties shall make every attempt to arrive at a mutually satisfactory resolution of the particular matter, with a view to promptly restoring recent trading conditions. To this end, the Parties shall:
  - (a) provide sufficient information to enable a full examination of the exceptional circumstances; and
  - (b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.
5. These consultations shall be without prejudice to a Party's right to invoke any applicable government-to-government dispute settlement procedures available under this Agreement or the WTO Agreement.

Article M-05:

Committee on Anti-dumping and Countervailing Measures

The Parties hereby establish a Committee on Anti-dumping and Countervailing Measures to:

- (a) consult with a view to defining subsidy disciplines further and eliminating the need for domestic countervailing duty measures on trade between them;
- (b) work together in multilateral fora, including the World Trade Organization, and in the context of negotiating Chile's full accession to the NAFTA and the establishment of a Free Trade Area of the Americas, with a view to improving trade remedy regimes to minimize their potential to impede trade;
- (c) consult on opportunities for working together with other like-minded countries with a view to expanding agreement on the elimination of the application of anti-dumping measures within free trade areas;
- (d) facilitate Chile's full accession to the NAFTA, and in particular Chapter Nineteen, by examining the current domestic anti-dumping and countervailing duty regimes and the operation of the Parties' legal systems, including judicial review of administrative agency decisions; and
- (e) meet annually, and on the request of either Party, to review the operation of this Chapter and other related matters including competition laws and policies.

Article M-06:

Review

The Parties shall, not later than 5 years after the coming into force of this Agreement, meet to review this Chapter and to determine whether any changes should be made to its provisions.

Article M-07:

Dispute Resolution

1. The dispute settlement provisions of Chapter N (Institutional Arrangements and Dispute Settlement Procedures) shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of Articles M-01, M-02, M-03 or M-04 and paragraphs 7 through 9 of this Article.
2. Apart from this Chapter, no provision of this Agreement shall be construed as imposing obligations on a Party with respect to either Party's anti-dumping or countervailing duty law.
3. Except as otherwise provided in paragraph 1, all disputes between the Parties arising in respect of the application of anti-dumping measures or countervailing duty measures by either Party shall be settled in accordance with the WTO Agreement.



4. Where a dispute referred to in paragraph 3 involves, as disputing Parties, Canada and Chile exclusively, the Parties shall act in accordance with the following procedures consistent with the DSU:

- (a) if a request for consultations under Article 4 of the DSU is made, the Parties shall enter into consultations within 10 days of receipt of the request and shall conclude such consultations within 30 days of such receipt, except where the matter involves perishable goods, in which case consultations shall be concluded within 20 days;
- (b) a Party shall not object to the establishment of a panel that has been requested by the other Party under Article 6(1) of the DSU at the first meeting of the DSB at which the request is examined; and
- (c) unless the Parties otherwise agree, the terms of reference of the panel shall be to determine whether the imposition of an anti-dumping measure or a countervailing duty measure against a good of the complaining Party by the Party complained against is in accordance with Article VI of the GATT 1994, or the Agreement on Subsidies and Countervailing Measures or the Agreement on Implementation of Article VI of the GATT 1994.

5. Unless the Parties otherwise agree, where a DSU panel issues a final report concluding that the imposition by either Canada or Chile of an anti-dumping measure or a countervailing duty measure against a good of the other Party is not in accordance with Article VI of the GATT 1994, or the Agreement on Subsidies and Countervailing Measures or the Agreement on Implementation of Article VI of the GATT 1994, the Party complained against shall direct its competent authorities to take action not inconsistent with the panel report with respect to the goods of the complaining Party, including, where appropriate, the refund, with interest, of the whole or part of the duty paid.

6. The final report of the DSU panel shall be deemed to be a final report of a panel under Article N-16.

7. The Party complained against shall not be required to take action pursuant to paragraph 5 until:

- (a) the time period for notification to the DSB of a decision to appeal under Article 16(4) of the DSU has expired; or
- (b) the panel report is adopted following completion of the appeal procedure under Article 17 of the DSU.

8. Following the expiration of the time period referred to in subparagraph 7(a) or the adoption of the panel report referred to in subparagraph 7(b), if the Party complained against fails to comply with the final report of a DSU panel pursuant to paragraph 4 within a reasonable period of time, and no compensation has been offered in lieu thereof and no other mutually satisfactory resolution of the matter has been reached, the complaining Party may suspend the application to the Party complained against of benefits of equivalent effect under Article N-18 until such time as the matter is resolved.

9. If a Party chooses to suspend benefits in accordance with Article N-18 as well as under the DSU, the combined effect of such suspension of benefits may not be greater than the effect of the violation.

Article M-08:

Definitions

For purposes of this Chapter:

**Agreement on Implementation of Article VI of the GATT 1994** means the *Agreement on Implementation of Article VI of the General Agreement on Tariff and Trade 1994*, which forms part of the WTO Agreement;

**Agreement on Subsidies and Countervailing Measures** means the *Agreement on Subsidies and Countervailing Measures*, which forms part of the WTO Agreement;

**Competent investigating authority** means:

- (a) in the case of Canada
  - (i) the Canadian International Trade Tribunal or its successor; or
  - (ii) the Deputy Minister of National Revenue as defined in the Special Import Measures Act, as amended, or the Deputy Minister's successor; and
- (b) in the case of Chile, the National Commission for the Investigation of the Existence of Price Distortions in Imported Goods ("Comisión Nacional Encargada de Investigar la Existencia de Distorsiones en el Precio de las Mercaderías Importadas"), or its successor;

**domestic anti-dumping law** means a Party's relevant statutes, regulations and administrative guidelines;

**DSB** means the Dispute Settlement Body established in Article 2 of the DSU; and

**reasonable period of time** means the period necessary for review and the taking of action not inconsistent with the panel report, taking into account the factual and legal issues involved. In no event shall the reasonable period of time exceed an amount of time equal to the maximum permitted for investigation (from initiation to final order) to be carried out under the relevant WTO Agreements.

**CHAPTER N: INSTITUTIONAL ARRANGEMENTS AND DISPUTE SETTLEMENT PROCEDURES**

**Section I: Institutions**

Article N-01:

The Free Trade Commission

1. The Parties hereby establish the Free Trade Commission, comprising cabinet-level representatives of the Parties or their designees.
2. The Commission shall:
  - (a) supervise the implementation of this Agreement;
  - (b) oversee its further elaboration;
  - (c) resolve disputes that may arise regarding its interpretation or application;
  - (d) supervise the work of all committees and working groups established under this Agreement, referred to in Annex N-01.2; and
  - (e) consider any other matter that may affect the operation of this Agreement.
3. The Commission may:
  - (a) establish, and delegate responsibilities to, ad hoc or standing committees, working groups or expert groups;
  - (b) seek the advice of nongovernmental persons or groups; and
  - (c) take such other action in the exercise of its functions as the Parties may agree.
4. The Commission shall establish its rules and procedures. All decisions of the Commission shall be taken by mutual agreement.
5. The Commission shall convene at least once a year in regular session. Regular sessions of the Commission shall be chaired alternately by each Party.

Article N-02:

The Secretariat

1. The Commission shall establish and oversee a Secretariat comprising national Sections.
2. Each Party shall:
  - (a) establish a permanent office of its Section;
  - (b) be responsible for
    - (i) the operation and costs of its Section, and

- (ii) the remuneration and payment of expenses of panelists and members of committees and scientific review boards established under this Agreement, as set out in Annex N-02.2;
  - (c) designate an individual to serve as Secretary for its Section, who shall be responsible for its administration and management; and
  - (d) notify the Commission of the location of its Section's office.
- 3. The Secretariat shall:
  - (a) provide assistance to the Commission;
  - (b) provide administrative assistance to panels established under this Chapter, in accordance with procedures established pursuant to Article N-12; and
  - (c) as the Commission may direct
    - (i) support the work of other committees and groups established under this Agreement, and
    - (ii) otherwise facilitate the operation of this Agreement.

## **Section II: Dispute Settlement**

Article N-03:

### Cooperation

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Article N-04:

### Recourse to Dispute Settlement Procedures

Except as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that an actual or proposed measure of the other Party is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex N-04.

Article N-05:

### WTO Dispute Settlement

1. Subject to paragraph 2, disputes regarding any matter arising under both this Agreement and the WTO Agreement, any agreement negotiated thereunder, or any successor agreement, may be settled in either forum at the discretion of the complaining Party.

2. In any dispute referred to in paragraph 1 where the responding Party claims that its action is subject to Article A-04 (Relation to Environmental and Conservation Agreements) and requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

3. The responding Party shall deliver a copy of a request made pursuant to paragraph 2 to its Section of the Secretariat and the other Party. Where the complaining Party has initiated dispute settlement proceedings regarding any matter subject to paragraph 2, the responding Party shall deliver its request no later than 15 days thereafter. On receipt of such request, the complaining Party shall promptly withdraw from participation in those proceedings and may initiate dispute settlement procedures under Article N-07.

4. Once dispute settlement procedures have been initiated under Article N-07 or dispute settlement proceedings have been initiated under the WTO Agreement, the forum selected shall be used to the exclusion of the other, unless a Party makes a request pursuant to paragraph 2.

5. For purposes of this Article, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for a panel, such as under Article 6 of the DSU.

*Consultations*

Article N-06:

Consultations

1. A Party may request in writing consultations with the other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement.

2. The requesting Party shall deliver the request to its Section of the Secretariat and the other Party.

3. Consultations on matters regarding perishable agricultural goods shall commence within 15 days of the date of delivery of the request.

4. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement. To this end, the Parties shall:

- (a) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation of this Agreement; and
- (b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

*Initiation of Procedures*

## Article N-07:

Commission - Good Offices, Conciliation and Mediation

1. If the Parties fail to resolve a matter pursuant to Article N-06 within:
  - (a) 30 days of delivery of a request for consultations;
  - (b) 15 days of delivery of a request for consultations in matters regarding perishable agricultural goods; or
  - (c) such other period as they may agree, either Party may request in writing a meeting of the Commission.
2. A Party may also request in writing a meeting of the Commission where:
  - (a) it has initiated dispute settlement proceedings under the WTO Agreement regarding any matter subject to Article N-05(2), and has received a request pursuant to Article N-05(3) for recourse to dispute settlement procedures under this Chapter; or
  - (b) consultations have been held in the Committee on Trade in Goods and Rules of Origin pursuant to Article C-15.
3. The requesting Party shall state in the request the measure or other matter complained of and indicate the provisions of this Agreement that it considers relevant, and shall deliver the request to its Section of the Secretariat and the other Party.
4. Unless it decides otherwise, the Commission shall convene within 10 days of delivery of the request and shall endeavour to resolve the dispute promptly.
5. The Commission may:
  - (a) call on such technical advisers or create such working groups or expert groups as it deems necessary;
  - (b) have recourse to good offices, conciliation, mediation or such other dispute resolution procedures; or
  - (c) make recommendations, as may assist the Parties to reach a mutually satisfactory resolution of the dispute.
6. Unless it decides otherwise, the Commission shall consolidate two or more proceedings before it pursuant to this Article regarding the same measure. The Commission may consolidate two or more proceedings regarding other matters before it pursuant to this Article that it determines are appropriate to be considered jointly.

*Panel Proceedings*

Article N-08:

Request for an Arbitral Panel

1. If the Commission has convened pursuant to Article N-07(4), and the matter has not been resolved within:
  - (a) 30 days thereafter;
  - (b) 30 days after the Commission has convened in respect of the matter most recently referred to it, where proceedings have been consolidated pursuant to Article N-07(6); or
  - (c) such other period as the Parties may agree, a Party may request in writing the establishment of an arbitral panel. The requesting Party shall deliver the request to its Section of the Secretariat and the other Party.
2. On delivery of the request, the Commission shall establish an arbitral panel.
3. Unless otherwise agreed by the Parties, the panel shall be established and perform its functions in a manner consistent with the provisions of this Chapter.

Article N-09:

Roster

1. The Parties shall establish by January 1, 1998 at the latest and maintain a roster of up to 20 individuals, 4 of whom must not be citizens of either of the Parties, who are willing and able to serve as panelists. The roster members shall be appointed by agreement of the Parties for terms of three years, and may be reappointed.
2. Roster members shall:
  - (a) have expertise or experience in law, international trade, other matters covered by this Agreement or the resolution of disputes arising under international trade agreements, and shall be chosen strictly on the basis of objectivity, reliability and sound judgment;
  - (b) be independent of, and not be affiliated with or take instructions from, any Party; and
  - (c) comply with a code of conduct to be established by the Commission.

Article N-10:

Qualifications of Panelists

1. All panelists shall meet the qualifications set out in Article N-09(2).

2. Individuals may not serve as panelists for a dispute in which they have participated pursuant to Article N-07(5).

Article N-11:

Panel Selection

1. The following procedures shall apply to panel selection:
  - (a) The panel shall comprise five members;
  - (b) The Parties shall endeavour to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the Parties are unable to agree on the chair within this period, the Party chosen by lot shall select within five days as chair an individual who is not a citizen of a Party;
  - (c) Within 15 days of selection of the chair, each Party shall select two panelists who are citizens of the other Party; and
  - (d) If a Party fails to select its panelists within such period, such panelists shall be selected by lot from among the roster members who are citizens of the other Party.
2. Panelists shall normally be selected from the roster. A Party may exercise a peremptory challenge against any individual not on the roster who is proposed as a panelist by the other Party within 15 days after the individual has been proposed.
3. If a Party believes that a panelist is in violation of the code of conduct, the Parties shall consult and if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

Article N-12:

Rules of Procedure

1. The Commission shall establish, by the date of entry into force of this Agreement, Model Rules of Procedure, in accordance with the following principles:
  - (a) the procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide initial and rebuttal written submissions; and
  - (b) the panel's hearings, deliberations and initial report, and all written submissions to and communications with the panel shall be confidential.
2. The Commission may amend from time to time the Model Rules of Procedure referred to in paragraph 1.
3. Unless the Parties otherwise agree, the panel shall conduct its proceedings in accordance with the Model Rules of Procedure.



4. Unless the Parties otherwise agree within 20 days from the date of the delivery of the request for the establishment of the panel, the terms of reference shall be:

"To examine, in the light of the relevant provisions of the Agreement, the matter referred to the Commission (as set out in the request for a Commission meeting) and to make findings, determinations and recommendations as provided in Article N-15(2)."

5. If the complaining Party wishes to argue that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

6. If a Party wishes the panel to make findings as to the degree of adverse trade effects on a Party of any measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Annex N-04, the terms of reference shall so indicate.

Article N-13:

Role of Experts

On request of a Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties so agree and subject to such terms and conditions as the Parties may agree.

Article N-14:

Scientific Review Boards

1. On request of a Party or, unless the Parties disapprove, on its own initiative, the panel may request a written report of a scientific review board on any factual issue concerning environmental, health, safety or other scientific matters raised by a Party in a proceeding, subject to such terms and conditions as the Parties may agree.

2. The board shall be selected by the panel from among highly qualified, independent experts in the scientific matters, after consultations with the Parties and the scientific bodies set out in the Model Rules of Procedure established pursuant to Article N-12(1).

3. The Parties shall be provided:

- (a) advance notice of, and an opportunity to provide comments to the panel on, the proposed factual issues to be referred to the board; and
- (b) a copy of the board's report and an opportunity to provide comments on the report to the panel.

4. The panel shall take the board's report and any comments by the Parties on the report into account in the preparation of its report.

Article N-15:

Initial Report

1. Unless the Parties otherwise agree, the panel shall base its report on the submissions and arguments of the Parties and on any information before it pursuant to Article N-13 or N-14.
2. Unless the Parties otherwise agree, the panel shall, within 90 days after the last panellist is selected or such other period as the Model Rules of Procedure established pursuant to Article N-12(1) may provide, present to the Parties an initial report containing:
  - (a) findings of fact, including any findings pursuant to a request under Article N-12(6);
  - (b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex N-04, or any other determination requested in the terms of reference; and
  - (c) its recommendations, if any, for resolution of the dispute.
3. Panelists may furnish separate opinions on matters not unanimously agreed.
4. A Party may submit written comments to the panel on its initial report within 14 days of presentation of the report.
5. In such an event, and after considering such written comments, the panel, on its own initiative or on the request of a Party, may:
  - (a) request the views of a Party;
  - (b) reconsider its report; and
  - (c) make any further examination that it considers appropriate.

Article N-16:

Final Report

1. The panel shall present to the Parties a final report, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the Parties otherwise agree.
2. No panel may, either in its initial report or its final report, disclose which panelists are associated with majority or minority opinions.
3. The Parties shall transmit to the Commission the final report of the panel, including any report of a scientific review board established under Article N-14, as well as any written views that a Party desires to be appended, on a confidential basis within a reasonable period of time after it is presented to them.

4. Unless the Commission decides otherwise, the final report of the panel shall be published 15 days after it is transmitted to the Commission.

*Implementation of Panel Reports*

Article N-17:

Implementation of Final Report

1. On receipt of the final report of a panel, the Parties shall agree on the resolution of the dispute, which normally shall conform with the determinations and recommendations of the panel, and shall notify their Sections of the Secretariat of any agreed resolution of any dispute.
2. Wherever possible, the resolution shall be nonimplementation or removal of a measure not conforming with this Agreement or causing nullification or impairment in the sense of Annex N-04 or, failing such a resolution, compensation.

Article N-18:

Non-Implementation - Suspension of Benefits

1. If in its final report a panel has determined that a measure is inconsistent with the obligations of this Agreement or causes nullification or impairment in the sense of Annex N-04 and the Party complained against has not reached agreement with the complaining Party on a mutually satisfactory resolution pursuant to Article N-17(1) within 30 days of receiving the final report, the complaining Party may suspend the application to the Party complained against of benefits of equivalent effect until such time as they have reached agreement on a resolution of the dispute.
2. In considering what benefits to suspend pursuant to paragraph 1:
  - (a) the complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Annex N-04; and
  - (b) if the complaining Party considers that it is not practicable or effective to suspend benefits in the same sector or sectors, it may suspend benefits in other sectors.
3. On the written request of a Party delivered to its Section of the Secretariat and the other Party, the Commission shall establish a panel to determine whether the level of benefits suspended by a Party pursuant to paragraph 1 is manifestly excessive.
4. The panel proceedings shall be conducted in accordance with the Model Rules of Procedure. The panel shall present its determination within 60 days after the last panelist is selected or such other period as the Parties may agree.

### **Section III: Domestic Proceedings and Private Commercial Dispute Settlement**

#### Article N-19:

##### Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises, in any domestic judicial or administrative proceeding of a Party, that either Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify its Section of the Secretariat and the other Party. The Commission shall endeavour to agree on an appropriate response as expeditiously as possible.
2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Commission to the court or administrative body in accordance with the rules of that forum.
3. If the Commission is unable to agree, each Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

#### Article N-20:

##### Private Rights

Neither Party may provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

#### Article N-21:

##### Alternative Dispute Resolution

1. Each Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.
2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.
3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the 1975

*Inter-American Convention on International Commercial Arbitration.*

4. The Commission shall establish an Advisory Committee on Private Commercial Disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. The Committee shall report and provide recommendations to the Commission on general issues referred to it by the Commission respecting the availability, use and effectiveness of arbitration and other procedures for the resolution of such disputes in the free trade area.

## Annex N-01.2:

Committees and Working Groups**A. Committees:**

1. Committee on Trade in Goods and Rules of Origin (Article C-15)
  - \* Sub-Committee on Agriculture (Article C-15(4))
  - \* Customs Sub-Committee (Article E-13)
2. Committee on Telecommunications Standards (Article I-04(7))
3. Committee on Anti-dumping and Countervailing Measures (Article M-05)
4. Advisory Committee on Private Commercial Disputes (Article N-21(4))

**B. Working Group:**

Temporary Entry Working Group (Article K-05)

## Annex N-02.2:

Remuneration and Payment of Expenses

1. The Commission shall establish the amounts of remuneration and expenses that will be paid to the panelists, committee members and members of scientific review boards.
2. The remuneration of panelists or committee members and their assistants, members of scientific review boards, their travel and lodging expenses, and all general expenses of panels, committees or scientific review boards shall be borne equally by the Parties.
3. Each panelist or committee member shall keep a record and render a final account of the person's time and expenses, and the panel, committee or scientific review board shall keep a record and render a final account of all general expenses.

## Annex N-04:

Nullification and Impairment

1. If a Party considers that any benefit it could reasonably have expected to accrue to it under any provision of:
  - (a) Part Two (Trade in Goods), except for those provisions of Annex C-00-A (Trade and Investment in the Automotive Sector) relating to investment; or
  - (b) Chapter H (Cross-Border Trade in Services), is being nullified or impaired as a result of the application of any measure that is not inconsistent with this Agreement, the Party may have recourse to dispute settlement under this Chapter.
2. A Party may not invoke:

- (a) paragraph 1(a), to the extent that the benefit arises from any cross-border trade in services provision of Part Two or Three; or
- (b) paragraph 1(b), with respect to any measure subject to an exception under Article O-01 (General Exceptions).

**PART FIVE:**

**OTHER PROVISIONS**

**CHAPTER O: EXCEPTIONS**

Article O-01:

General Exceptions

1. For purposes of Part Two (Trade in Goods), except to the extent that a provision of that Part applies to services or investment, Article XX of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement. The Parties understand that the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

2. Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on trade between the Parties, nothing in:

- (a) Part Two (Trade in Goods), to the extent that a provision of that Part applies to services;
- (b) Chapter H (Cross-Border Trade in Services); and
- (c) Chapter I (Telecommunications),

shall be construed to prevent the adoption or enforcement by either Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with the provisions of this Agreement, including those relating to health and safety and consumer protection.

Article O-02:

National Security

1. Nothing in this Agreement shall be construed:

- (a) to require either Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests;
- (b) to prevent either Party from taking any actions that it considers necessary for the

protection of its essential security interests

- (i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,
  - (ii) taken in time of war or other emergency in international relations, or
  - (iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or
- (c) to prevent either Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article O-03:

Taxation

1. Except as set out in this Article and in Annex O-03.1, nothing in this Agreement shall apply to taxation measures.
2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.
3. Notwithstanding paragraph 2:
  - (a) Article C-01 (Market Access - National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the GATT 1994; and
  - (b) Article C-12 (Market Access - Export Taxes) shall apply to taxation measures.
4. Subject to paragraph 2:
  - (a) Article H-02 (Cross-Border Trade in Services - National Treatment) shall apply to taxation measures on income, capital gains or the taxable capital of corporations that relate to the purchase or consumption of particular services; and
  - (b) Articles G-02 and G-03 (Investment - National Treatment and Most-Favoured Nation Treatment) and Articles H-02 and H-03 (Cross-Border Trade in Services - National Treatment and Most-Favoured-Nation Treatment) shall apply to all taxation measures, other than those on income, capital gains or on the taxable capital of corporations, taxes on estates, inheritances, gifts and generation-skipping transfers,

except that nothing in those Articles shall apply:

- (c) any most-favoured-nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;
- (d) to a non-conforming provision of any existing taxation measure;
- (e) to the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;
- (f) to an amendment to a non-conforming provision of any existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles; or
- (g) to any new taxation measure aimed at ensuring the equitable and effective imposition or collection of taxes and that does not arbitrarily discriminate between persons, goods or services of the Parties or arbitrarily nullify or impair benefits accorded under those Articles, in the sense of Annex N-04.

5. Subject to paragraph 2 and without prejudice to the rights and obligations of the Parties under paragraph 3, Article G-06(3), (4) and (5) (Performance Requirements) shall apply to taxation measures.

6. Article G-10 (Expropriation and Compensation) shall apply to taxation measures except that no investor may invoke that Article as the basis for a claim under Article G-17 (Claim by an Investor of a Party on Its Own Behalf) or G-18 (Claim by an Investor of a Party on Behalf of an Enterprise), where it has been determined pursuant to this paragraph that the measure is not an expropriation. The investor shall refer the issue of whether the measure is not an expropriation for a determination to the appropriate competent authorities set out in Annex O-03.6 at the time that it gives notice under Article G-20 (Notice of Intent to Submit a Claim to Arbitration). If the competent authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of six months of such referral, the investor may submit its claim to arbitration under Article G-21 (Submission of a Claim to Arbitration).

#### Article O-04:

##### Balance of Payments

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining measures that restrict transfers where the Party experiences serious balance of payments difficulties, or the threat thereof, and such restrictions are consistent with this Article.
2. As soon as practicable after a Party imposes a measure under this Article, the Party shall:
  - (a) submit any current account exchange restrictions to the IMF for review under Article VIII of the Articles of Agreement of the IMF;
  - (b) enter into good faith consultations with the IMF on economic adjustment measures to address the fundamental underlying economic problems causing the difficulties; and
  - (c) adopt or maintain economic policies consistent with such consultations.



3. A measure adopted or maintained under this Article shall:
  - (a) avoid unnecessary damage to the commercial, economic or financial interests of the other Party;
  - (b) not be more burdensome than necessary to deal with the balance of payments difficulties or threat thereof;
  - (c) be temporary and be phased out progressively as the balance of payments situation improves;
  - (d) be consistent with paragraph 2(c) and with the Articles of Agreement of the IMF; and
  - (e) be applied on a national treatment or mostfavourednation treatment basis, whichever is better.
  
4. A Party may adopt or maintain a measure under this Article that gives priority to services that are essential to its economic program, provided that a Party may not impose a measure for the purpose of protecting a specific industry or sector unless the measure is consistent with paragraph 2(c) and with Article VIII(3) of the Articles of Agreement of the IMF.
  
5. Restrictions imposed on transfers:
  - (a) where imposed on payments for current international transactions, shall be consistent with Article VIII(3) of the Articles of Agreement of the IMF;
  - (b) where imposed on international capital transactions, shall be consistent with Article VI of the Articles of Agreement of the IMF and be imposed only in conjunction with measures imposed on current international transactions under paragraph 2(a);
  - (c) where imposed on transfers covered by Article G-09 (Investment -Transfers) and transfers related to trade in goods, may not substantially impede transfers from being made in a freely usable currency at a market rate of exchange; and
  - (d) may not take the form of tariff surcharges, quotas, licences or similar measures.

Article O-05:

Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions.

Article O-06:

Cultural Industries

Annex O-06 applies to the Parties with respect to cultural industries.

Article O-07:

Definitions

For purposes of this Chapter:

**cultural industries** means persons engaged in any of the following activities:

- (a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;
- (b) the production, distribution, sale or exhibition of film or video recordings;
- (c) the production, distribution, sale or exhibition of audio or video music recordings;
- (d) the publication, distribution or sale of music in print or machine readable form; or
- (e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services;

**international capital transactions** means "international capital transactions" as defined under the Articles of Agreement of the IMF;

**IMF** means the International Monetary Fund;

**payments for current international transactions** means "payments for current international transactions" as defined under the Articles of Agreement of the IMF;

**tax convention** means a convention for the avoidance of double taxation or other international taxation agreement or arrangement;

**taxes and taxation measures** do not include:

- (a) a "customs duty" as defined in Article C-18 (Market Access - Definitions); or
- (b) the measures listed in exceptions (b), (c) and (d) of that definition; and

**transfers** means international transactions and related international transfers and payments.

Annex O-03.1

Double Taxation

1. The Parties agree to conclude a bilateral double taxation agreement within a reasonable time after the date that this Agreement enters into force.
2. The Parties agree that upon conclusion of a bilateral double taxation agreement, they will agree to an exchange of letters setting out the relationship between the double taxation agreement and Article O-03 of the Agreement.

Annex O-03.6

Competent Authorities

For purposes of this Chapter:

**competent authority** means

- (a) in the case of Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance; and
- (b) in the case of Chile, the Director of the Internal Revenue Service, Ministry of Finance ("Director del Servicio de Impuestos Internos, Ministerio de Hacienda").

Annex O-06

Cultural Industries

Nothing in this Agreement shall be construed to apply to measures adopted or maintained by either Party with respect to cultural industries except as specifically provided in Article C-02 (Market Access - Tariff Elimination).

**CHAPTER P: FINAL PROVISIONS**

Article P-01:

Annexes, Appendices and Notes

The Annexes, Appendices and Notes to this Agreement constitute integral parts of this Agreement.

Article P-02:

Amendments

1. The Parties may agree on any modification of or addition to this Agreement.

2. When so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement.

Article P-03:

Entry into Force

This Agreement shall enter into force on June 2, 1997, on an exchange of written notifications certifying the completion of necessary legal procedures.

Article P-04:

Accession of Chile to the NAFTA

The Parties shall work toward the early accession of Chile to the NAFTA.

Article P-05:

Duration and Termination

This Agreement shall remain in force unless terminated by either Party on six months' notice to the other Party.

Article P-06:

Authentic Texts

The English, French and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in Santiago, on the 5th day of December, one thousand nine hundred ninety six, in duplicate, in the English, French and Spanish languages.

FOR THE GOVERNMENT  
OF CANADA

FOR THE GOVERNMENT  
OF THE REPUBLIC OF CHILE

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## NOTES

### Chapter B

1. A good of a Party may include materials of other countries.
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### Chapter C

1. "Goods of the Party" includes goods produced in a province of that Party.
2. For the purpose of Article C-02, a good may refer to an originating good or a good which benefits from tariff elimination under a TPL.
3. This paragraph is not intended to prevent either Party from modifying its tariffs outside this Agreement on goods for which no tariff preference is claimed under this Agreement. This paragraph does not prevent either Party from raising a tariff back to an agreed level in accordance with the phase-out schedule in this Agreement following a unilateral reduction.
4. Paragraphs 1 and 2 of this Article are not intended to prevent either Party from maintaining or increasing a customs duty as may be authorized by any dispute settlement provision of the WTO Agreement or any agreement under the WTO Agreement.
5. Where another form of monetary security is used, it shall not be more burdensome than the bonding requirement referred to in this subparagraph. Where a Party uses a non-monetary form of security, it shall not be more burdensome than existing forms of security used by that Party.
6. This paragraph does not cover goods imported in bond, into foreign-trade zones, or in similar status, that are exported for repair and are not re-imported in bond, into foreign trade zones, or in similar status.
7. For purposes of reference only, descriptions are provided next to the corresponding tariff provision.
8. An operation or process that is part of the production or assembly of an unfinished good into a finished good is not a repair or alteration of the unfinished good; a component of a good is a good that may be subject to repair or alteration.
9. The elimination of the MFN tariff is as follows:

"a" denotes elimination by November 18, 1996;

"b" denotes elimination on the date of entry into force of this Agreement;

"c" denotes elimination not later than January 1, 1999;

"n.a." denotes that the Item does not exist in the Party's tariff schedule.

10. Oil Seed Seeds. The following products are mentioned in this Law, but the Price Band System is not applied to them nor have they been subject to this System: 1201.0000; 1202.1000; 1202.2000; 1203.0000; 1204.0000; 1205.0000; 1206.0000; 1207.1000; 1207.2000; 1207.3000; 1207.4000; 1207.5000; 1207.6000; 1207.9100; 1207.9200; 1207.9900.

11. Paragraphs 1 and 2 shall not be construed to modify the rights and obligations set out in Chapter Ten of the *Canada-United States Free Trade Agreement*.
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### **Annex C-00-B**

1. The general provisions of Chapter B (Definitions), Chapter C (Market Access), Chapter D (Rules of Origin) and Chapter F (Emergency Action) are subject to the specific rules for textiles and apparel goods set out in this Annex.
  2. For purposes of Sections 3 and 4:
    - (a) "increased quantities" is intended to be interpreted more broadly than the standard provided in Article F-01.1, which considers imports "in absolute terms" only. For purposes of these Sections, "increased quantities" is intended to be interpreted in the same manner as this standard is interpreted in the *WTO Agreement on Textiles and Clothing*; and
    - (b) "serious damage" is intended as a less stringent standard than "serious injury" under Article F-01.1. The "serious damage" standard is drawn from the *WTO Agreement on Textiles and Clothing*. The factors to be considered in determining whether the standard has been met are set out in Section 3.2 and are also drawn from that Agreement. "Serious damage" is to be interpreted in the light of its meaning in that Agreement.
  3. In paragraph 5(c), the term "equitable treatment" is intended to have the same meaning as it has in customary practice under the *WTO Agreement on Textiles and Clothing*.
  4. For purposes of this Appendix only, references to U.S. Harmonized System Statistical Provisions are based on the 1992 Harmonized System.
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### **Chapter D**

1. The phrase "specifically describes" is intended solely to prevent Article D-01(d) from being used to qualify a part of another part, where the heading or subheading covers the final good, the part made from the other part and the other part.
2. Article D-02(4) applies to intermediate materials, and VNM in paragraphs 2 and 3 does not include:
  - (i) the value of any non-originating materials used by another producer to produce an originating material that is subsequently acquired and used in the production of the good by the producer of the good, and
  - (ii) the value of non-originating materials used by the producer to produce an originating self-produced material that is designated by the producer as an intermediate material pursuant to Article D-02(10).

With respect to paragraph 4, where an originating intermediate material is subsequently used by the producer with non-originating materials (whether or not produced by the producer) to produce the good, the value of such non-originating materials shall be included in the VNM of the good.

Under paragraph 4, with respect to any self-produced material that is not designated as an intermediate material, only the value of non-originating materials used to produce the self-produced material shall be included in the VNM of the good.

3. With respect to paragraph 8, sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs included in the value of materials used in the production of the good are not subtracted out of the net cost in the calculation under Article D-02(3).
4. With respect to paragraph 10, an intermediate material used by another producer in the production of a material that is subsequently acquired and used by the producer of the good shall not be taken into account in applying the proviso set out in that paragraph, except where two or more producers accumulate their production under Article D-04.

With respect to paragraph 10, if a producer designates a self-produced material as an originating intermediate material and the Customs Administration of the importing Party subsequently determines that the intermediate material is not originating, the producer may rescind the designation and recalculate the value content of the good accordingly. In such a case, the producer shall retain its rights of appeal or review with regard to the determination of the origin of the intermediate material.

5. For purposes of applying paragraph 6, the determination of the component that determines the tariff classification of the good shall be based on General Rules for the Interpretation of the Harmonized System. When the component that determines the tariff classification is a blend of two or more yarns or fibres, all yarns and, where applicable, fibres, in that component are to be taken into account.
6. The rules of origin under Chapter D are based on the 1996 Harmonized System, with each Party's tariff schedule amended to incorporate the new tariff items created for rules of origin purposes.

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## Chapter E

1. The Uniform Regulations will clarify that "determination of origin" includes a denial of preferential tariff treatment under Article E-06(4), and that such denial is subject to review and appeal.
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## Chapter G

1. This Chapter covers investments existing on the date of entry into force of this Agreement as well as investments made or acquired thereafter.
  2. Article G-06 does not preclude enforcement of any commitment, undertaking or requirement between private parties.
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### **Chapter I**

1. For purposes of this Article, "monopoly" means an entity, including a consortium or government agency, that in any relevant market in the territory of a Party is maintained or designated as the sole provider of public telecommunications transport networks or services.
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### **Chapter J**

1. No investor may have recourse to investor-state arbitration under the Investment Chapter for any matter arising under this Article.
  2. Nothing in this Article shall be construed to prevent a monopoly from charging different prices in different geographic markets, where such differences are based on normal commercial considerations, such as taking account of supply and demand conditions in those markets.
  3. A "delegation" includes a legislative grant, and a government order, directive or other act transferring to the monopoly, or authorizing the exercise by the monopoly of, governmental authority.
  4. Differences in pricing between classes of customers, between affiliated and non-affiliated firms, and cross-subsidization are not in themselves inconsistent with the provision; rather, they are subject to this subparagraph when they are used as instruments of anticompetitive behaviour by the monopoly firm.
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### **Chapter K**

1. A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.
2. **Accountant:**

C.P.A.: Certified Public Accountant; C.A.:Chartered Accountant; C.G.A.: Certified General Accountant; C.M.A.: Certified Management Accountant

**Dentist:**

D.D.S.: Doctor of Dental Surgery; D.M.D.: Doctor of Dental Medicine



**Lawyer:**

LL.B.: Bachelor of Laws; J.D.: Doctor of Jurisprudence (not a doctorate); LL.L: Licence en Droit (Québec universities and University of Ottawa); B.C.L.: Bachelor of Civil Law

**Librarian:**

M.L.S.: Master of Library Science; B.L.S.: Bachelor of Library Science

**Physician:**

M.D.: Medical Doctor

**Veterinarian:**

D.V.M.: Doctor of Veterinary Medicine; D.M.V.: Docteur en Médecine Vétérinaire

3. "University Title" means any document conferred by universities recognized by the Government of Chile and shall be deemed to be equivalent to the Minimum Education Requirements and Alternative Credentials for that profession. In the case of the profession of Lawyer (Abogado), the title is conferred by the Supreme Court of Chile.
4. "State/provincial licence" and "state/provincial/national licence" mean any document issued by a provincial or national government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.
5. "Post-Secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States of America.
6. "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution:
  - o in the case of Mexico, by the federal government or a state government, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law; and
  - o in the case of Chile, by an academic institution recognized by the Government of Chile.
7. A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.
8. A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.