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CERTIFYING STATEMENT

ASEAN - Hong Kong, China Free Trade Agreement

I, THE UNDERSIGNED Deputy Secretary-General of ASEAN for Community and Corporate Affairs, hereby certify that the attached text is **a true and complete copy** of the ASEAN - Hong Kong, China Free Trade Agreement, signed on 28 March 2018 in Nay Pyi Taw, Myanmar.

Jakarta, 2 May 2018

AKP Mochtan
Deputy Secretary-General of ASEAN
Community and Corporate Affairs

ASEAN – HONG KONG, CHINA

FREE TRADE AGREEMENT



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PREAMBLE

The Governments of the Member States of the Association of Southeast Asian Nations, namely Brunei Darussalam, the Kingdom of Cambodia ("Cambodia"), the Republic of Indonesia ("Indonesia"), the Lao People's Democratic Republic ("Lao PDR"), Malaysia, the Republic of the Union of Myanmar ("Myanmar"), the Republic of the Philippines ("Philippines"), the Republic of Singapore ("Singapore"), the Kingdom of Thailand ("Thailand"), and the Socialist Republic of Viet Nam ("Viet Nam") (hereinafter referred to collectively as the "ASEAN Member States" and individually as an "ASEAN Member State"), and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong, China");

INSPIRED by their friendship and co-operation and growing economic, trade and investment relationship;

DESIRING to minimise barriers to trade in goods and services and investment flows, deepen and widen economic linkages among the Parties, lower business costs, increase trade, enhance economic efficiency, and create a larger market with more opportunities and greater economies of scale for business;

CONFIDENT that this Agreement establishing an ASEAN – Hong Kong, China Free Trade Area will strengthen economic partnerships, serve as an important building block towards regional economic integration, and support sustainable economic development;

RECOGNISING the important role and contribution of business in enhancing trade and investment among the Parties and the need to further promote and

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facilitate co-operation and utilisation of the greater business opportunities provided by this Agreement;

RECOGNISING the different levels of economic development among ASEAN Member States and between ASEAN Member States and Hong Kong, China and the need for flexibility, including special and differential treatment, especially for the newer ASEAN Member States; as well as the need to facilitate the increasing participation of newer ASEAN Member States in this Agreement and the expansion of their exports, including, *inter alia*, through strengthening of their domestic capacity, efficiency, and competitiveness;

REAFFIRMING the respective rights, obligations, and undertakings of the Parties under the WTO Agreement and other existing international agreements and arrangements; and

RECOGNISING the positive momentum that regional trade agreements and arrangements can have in accelerating regional and global trade liberalisation, and their role as building blocks for the multilateral trading system;

HAVE AGREED AS FOLLOWS:

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CHAPTER 1

ESTABLISHMENT OF THE FREE TRADE AREA, OBJECTIVES, GENERAL DEFINITIONS AND INTERPRETATIONS

Article 1

Establishment of the ASEAN – Hong Kong, China Free Trade Area

The Parties hereby establish, consistent with Article XXIV of GATT 1994 and Article V of GATS, an ASEAN - Hong Kong, China Free Trade Area.

Article 2

Objectives

The objectives of this Agreement are to:

(a) progressively liberalise and facilitate trade in goods among the Parties through, *inter alia,* progressive elimination of tariff and non-tariff barriers in substantially all trade in goods among the Parties;

(b) progressively liberalise and facilitate trade in services among the Parties, with substantial sectoral coverage;

(c) promote and enhance investment opportunities;

(d) strengthen, diversify and enhance trade, investment and economic links among the Parties; and

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(e) provide special and differential treatment to ASEAN Member States, especially to the newer ASEAN Member States, to facilitate their more effective economic integration.

Article 3

Relation to Other Agreements

1. Each Party affirms its rights and obligations with respect to another Party under the WTO Agreement and other international agreements to which both Parties are party.

2. Nothing in this Agreement shall be construed to derogate from any right or obligation of a Party with respect to another Party under the WTO Agreement and other international agreements to which both Parties are party.

3. In the event of any inconsistency between this Agreement and any other international agreement to which two or more Parties are party, such Parties shall immediately consult with a view to finding a mutually satisfactory solution.

Article 4

Definitions of General Application

For the purposes of this Agreement, unless the context otherwise requires:

(a) **Agreement** means the *ASEAN - Hong Kong, China Free Trade Agreement;*

(b) **AHK Investment Agreement** means the *Agreement on Investment among the*

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Governments of the Hong Kong Special Administrative Region of the People's Republic of China and the Member States of the Association of Southeast Asian Nations;

(c) **AHKFTA** means the ASEAN - Hong Kong, China Free Trade Area;

(d) **AHKFTA Joint Committee** means the ASEAN - Hong Kong, China Free Trade Area Joint Committee established pursuant to Article 1 (AHKFTA Joint Committee) of Chapter 12 (Institutional Provisions);

(e) **Area** in respect of:

(i) each ASEAN Member State means its territory; and

(ii) Hong Kong, China means the Hong Kong Special Administrative Region as delineated by the Order of State Council of the People's Republic of China No. 221 dated 1 July 1997, which includes Hong Kong Island, Kowloon and the New Territories;

(f) **ASEAN** means the Association of Southeast Asian Nations;

(g) **customs duties** means any duty or charge of any kind, including any tax or surcharge, imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax, including excise duties, sales tax, and goods and services taxes, imposed

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consistently with the provisions of paragraph 2 of Article III of GATT 1994, in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(ii) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, as may be amended, and the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement, as may be amended; or

(iii) fee or charge that is covered by Article VIII of GATT 1994;

(h) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

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

(j) **GATS** means the *General Agreement on Trade in Services* in Annex 1B to the WTO Agreement;

(k) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

(l) **Harmonized System**, **HS Code or HS** means the Harmonized Commodity Description and

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Coding System established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

(m) **import licensing** means administrative procedures requiring the submission of an application or other documentation (other than those required for customs purpose) to the relevant administrative body as a prior condition for importation of goods into the Area of the importing Party;

(n) **Newer ASEAN Member States** means Cambodia, Lao PDR, Myanmar and Viet Nam;

(o) **originating good** means a good that qualifies as originating under Chapter 3 (Rules of Origin);

(p) **Parties** means Hong Kong, China and those ASEAN Member States for which this Agreement has entered into force collectively;

(q) **Party** means either Hong Kong, China or an ASEAN Member State for which this Agreement has entered into force;

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

(s) **WTO** means the World Trade Organization;

(t) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994; and

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(u) **WTO Dispute Settlement Understanding** means the *Understanding on Rules and Procedures Governing the Settlement of Disputes* in Annex 2 to the WTO Agreement.

Article 5

Interpretations

In this Agreement, unless the context otherwise requires:

(a) in the case of Hong Kong, China, where an expression is qualified by the term "national", such expression shall be interpreted as pertaining to Hong Kong, China;

(b) in the case of Hong Kong, China, any reference to an international agreement to which a Party is a party shall include an international agreement made applicable to Hong Kong, China, and any reference to the rights, obligations or undertakings of a Party under an international agreement or arrangement shall include the rights, obligations or undertakings made applicable to Hong Kong, China under such an international agreement or arrangement; and

(c) where anything under this Agreement is to be done within a number of days from, after, before, or of a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.

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CHAPTER 2

TRADE IN GOODS

Article 1

Scope

Except as otherwise provided, this Chapter shall apply to trade in all goods among the Parties.

Article 2

Reduction and/or Elimination of Customs Duties

Except as otherwise provided in this Agreement, each Party shall progressively reduce and/or eliminate customs duties on originating goods of the other Parties in accordance with its schedule of tariff commitments in Annex 2-1 (Schedules of Tariff Commitments).

Article 3

Standstill

Except as otherwise provided in this Agreement, no Party shall increase customs duty on an originating good of any other Party in a manner inconsistent with its schedule of tariff commitments in Annex 2-1 (Schedules of Tariff Commitments).

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Article 4

Acceleration of Commitments

Nothing in this Agreement shall preclude the Parties from negotiating and entering into arrangements to accelerate the implementation of commitments made under this Agreement, provided that such arrangements are mutually agreed and implemented by all the Parties.

Article 5

National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of the other Parties in accordance with Article III of GATT 1994. To this end, Article III of GATT 1994 is incorporated into and shall form part of this Agreement, *mutatis mutandis*.

Article 6

Fees and Charges Connected with Importation and Exportation

1. Each Party shall ensure that fees and charges connected with importation and exportation shall be consistent with its rights and obligations under Article VIII of GATT 1994.

2. Each Party shall make available details of the fees and charges that it imposes in connection with importation and exportation and, to the extent possible and in accordance with its internal law, make such information available on the internet.

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3. Each Party shall not require legalisation or authentication of customs documentation, including related fees and charges, in connection with the importation of any good of any other Party.

Article 7

Measures to Safeguard the Balance of Payments

Nothing in this Chapter shall be construed to prevent a Party from taking any measure for balance-of-payments purposes in accordance with Article XII of GATT 1994 and the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement.

Article 8

Publication and Administration of Trade Regulations

1. Article X of GATT 1994 is incorporated into and shall form part of this Agreement, *mutatis mutandis*.

2. In accordance with its internal law and to the extent possible, each Party shall make its laws, regulations, decisions and rulings of the kind referred to in paragraph 1 available on the internet.

Article 9

Quantitative Restrictions and Non-Tariff Measures

1. No Party shall adopt or maintain any prohibition or quantitative restriction on the importation of any good of any other Party or on the exportation of any good destined for the Area of any other Party, except

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in accordance with its WTO rights and obligations or in accordance with this Agreement. To this end, Article XI of GATT 1994 is incorporated into and shall form part of this Agreement, *mutatis mutandis.*

2. Except as otherwise provided in this Agreement, a Party shall not adopt or maintain any non-tariff measure on the importation of any good of any other Party or on the exportation of any good destined for the Area of any other Party except in accordance with its WTO rights and obligations.

3. Each Party shall ensure transparency of its non-tariff measures permitted under paragraph 2 and that any such measures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade among the Parties.

Article 10

Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import licensing measures are implemented in a transparent and predictable manner, and applied in accordance with the *Agreement on Import Licensing Procedures* in Annex 1A to the WTO Agreement.

2. Upon request of another Party, a Party shall, promptly and to the extent possible, respond to the request of that Party for information on import licensing requirements of general application.

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Article 11

Modification of Concessions

1. Each Party shall not nullify or impair any of its concessions under this Agreement, except as otherwise provided in this Agreement.

2. In exceptional circumstances where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, by negotiation and agreement with any Party to which it has made a concession under this Agreement, modify or withdraw its concession contained in its schedule of tariff commitments in Annex 2-1 (Schedules of Tariff Commitments). In such negotiations and agreement, which may include compensatory adjustment with respect to other goods, the Parties concerned shall maintain a general level of reciprocal and mutually advantageous concessions not less favourable to the trade than that provided for in this Agreement prior to such negotiations.

Article 12

Contact Points and Consultations

1. Each Party shall designate a contact point to facilitate communication among the Parties on any matter relating to this Chapter. A Party shall notify the other Parties promptly of any amendment to the details of its contact point.

2. Where a Party considers that any proposed or actual measure of another Party or Parties may materially affect trade in goods among the Parties, that Party may, through the contact points, request detailed information relating to that measure and, if necessary,

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request consultations with a view to resolving any concern about the measure. The requested Party or Parties shall respond promptly to such requests for information and consultations.

3. Any action taken pursuant to paragraph 2 shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Consultations and Dispute Settlement) or under the WTO Dispute Settlement Understanding.

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ANNEX 2-1

SCHEDULES OF TARIFF COMMITMENTS

Part 1

General Notes

1. This Annex is based on the Harmonized System, as amended on 1 January 2012.

2. The base rate for tariff reduction and/or elimination shall be the most-favoured-nation (MFN) applied rate in effect on 1 January 2014, except that for Indonesia, the base rate shall be the MFN applied rate in effect on 1 January 2016.

3. The tariff lines subject to tariff reduction and/or elimination under this Annex shall be categorised according to the following modality:

<table>
<tr><th colspan="2" rowspan="2">Category</th><th rowspan="2">End Rate</th><th colspan="4">ASEAN 6</th><th colspan="2" rowspan="2">Cambodia/ Lao PDR/ Myanmar</th></tr>
<tr><th colspan="2">Brunei Darussalam/ Malaysia/ Philippines/ Thailand</th><th colspan="2">Indonesia/ Viet Nam</th></tr>
<tr><td rowspan="2">Normal Track</td><td>Normal Track1</td><td>0%</td><td rowspan="2">85%</td><td>65% within 3 years</td><td rowspan="2">75%</td><td>50% within 3 years</td><td rowspan="2">65%</td><td>50% within 8 years</td></tr>
<tr><td>Normal Track 2</td><td>0%</td><td>20% within 10 years</td><td>25% within 10 years</td><td>15% within 15 years</td></tr>
<tr><td rowspan="2">Sensitive Track</td><td>Sensitive List</td><td>0-5%</td><td rowspan="2">10%</td><td>5% within 12 years</td><td rowspan="2">10%</td><td>5% within 12 years</td><td rowspan="2">20%</td><td>10% within 17 years</td></tr>
<tr><td>Highly Sensitive List</td><td>≤50%</td><td>5% within 14 years</td><td>5% within 14 years</td><td>10% within 20 years</td></tr>
<tr><td colspan="2">Exclusion List</td><td>no tariff commitments</td><td colspan="2">5%</td><td colspan="2">15%</td><td colspan="2">15%</td></tr>
</table>

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4. For the purposes of this Annex, the term "the date of entry into force of this Agreement" means the date of entry into force of this Agreement pursuant to paragraph 1 or paragraph 2 of Article 4 (Entry into Force) of Chapter 14 (Final Provisions), whichever is applicable.

5. For a Party for which this Agreement enters into force at a later date pursuant to paragraph 3 of Article 4 (Entry into Force) of Chapter 14 (Final Provisions), the initial reduction or elimination of customs duties shall be implemented at the level specified in that Party's schedule of tariff commitment for the year in which the Agreement enters into force for that Party.

6. In the case of *ad valorem* tariffs, the tariff rates that result from the tariff reduction schedule should be expressed in whole number. Any fraction less than 0.5 of a percentage point shall be rounded down, and any fraction equal to or greater than 0.5 of a percentage point shall be rounded up. In the case of specific tariffs, any fraction smaller than 0.01 of the official monetary unit of a Party shall be rounded to the nearest two decimal places (any fraction equal to or greater than 0.005 shall be rounded to 0.01).

Modality for Products in the Normal Track

7. The Parties shall classify the tariff lines they commit under the Normal Track into Normal Track 1 and Normal Track 2, and shall reduce and eliminate the applied MFN tariff rates on such tariff lines according to the following modality:

(a) Normal Track 1: Unless otherwise provided in subparagraph 8 (b), the applied MFN tariff rates shall be reduced in equal proportions to 0% within three years for ASEAN 6 and within

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eight years for Cambodia, Lao PDR, and Myanmar.

(i) The first reduction shall take place on the date of entry into force of this Agreement; and

(ii) The subsequent reductions shall take place on 1 January of each following year.

(b) Normal Track 2: Unless otherwise provided in subparagraph 8 (b), the applied MFN tariff rates shall be reduced every two years in equal proportions to 0% within 10 years for ASEAN 6 and within 15 years for Cambodia, Lao PDR, and Myanmar.

(i) The first reduction shall take place on the date of entry into force of this Agreement; and

(ii) The subsequent reductions shall take place on 1 January of every two years after the date of entry into force of this Agreement.

8. For the purposes of implementing tariff reduction under Normal Track 1 and Normal Track 2, the following shall apply:

(a) Tariff rates above 5% shall be reduced in equal proportions; and

(b) Tariff rates less than or equal to 5% shall be reduced to 0% at the latest by the end of the tariff reduction period.

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Modality for Products in the Sensitive Track

9. Sensitive List: The Parties shall reduce and, where applicable, eliminate the applied MFN tariff rates of tariff lines placed in the Sensitive List according to the following modality:

(a) ASEAN 6 shall reduce the applied MFN tariff rates of tariff lines placed in their respective Sensitive Lists to 0-5% within 12 years of the date of entry into force of this Agreement: The reduction of these tariff rates shall commence from 1 January of the sixth year; and subsequently, the tariff rates shall be reduced to 0-5% at the latest by the twelfth year, unless specified in the respective Parties' schedules as agreed with Hong Kong, China.

(b) Cambodia, Lao PDR, and Myanmar shall reduce the applied MFN tariff rates of tariff lines placed in their respective Sensitive Lists to 0-5% within 17 years of the date of entry into force of this Agreement: The reduction of these tariff rates shall commence from 1 January of the ninth year; and subsequently, the tariff rates shall be reduced to 0-5% at the latest by the seventeenth year, unless specified in the respective Parties' schedules as agreed with Hong Kong, China.

10. Highly Sensitive List: The Parties shall reduce and, where applicable, eliminate the applied MFN tariff rates of tariff lines placed in the Highly Sensitive List according to the following modality:

(a) ASEAN 6 shall reduce the applied MFN tariff rates of tariff lines placed in their respective Highly Sensitive Lists to not more than 50%

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within 14 years of the date of entry into force of this Agreement.

(b) Cambodia, Lao PDR, and Myanmar shall reduce the applied MFN tariff rates of tariff lines placed in their respective Highly Sensitive Lists to not more than 50% within 20 years of the date of entry into force of this Agreement.

(c) The reduction shall not apply for tariff rates that are equal or less than 50% on the date of entry into force of this Agreement.

11. Notwithstanding the above:

(a) Hong Kong, China shall eliminate customs duties on originating goods of the other Parties covering all goods classified under HS Chapters 1 to 97, with effect from the date of entry into force of this Agreement; and

(b) Singapore shall eliminate customs duties on all originating goods of the other Parties under this Agreement, with effect from the date on which this Agreement enters into force for Singapore.

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Part 2: Schedule of Brunei Darussalam

Part 3: Schedule of Cambodia

Part 4: Schedule of Indonesia

Part 5: Schedule of Lao PDR

Part 6: Schedule of Malaysia

Part 7: Schedule of Myanmar

Part 8: Schedule of the Philippines

Part 9: Schedule of Singapore

Part 10: Schedule of Thailand

Part 11: Schedule of Viet Nam

Part 12: Schedule of Hong Kong, China

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CHAPTER 3

RULES OF ORIGIN

Article 1

Eligibility for Preferential Tariff Treatment

In determining the origin of a good eligible for preferential tariff treatment pursuant to Chapter 2 (Trade in Goods) of this Agreement, the provisions under this Chapter shall apply.

Article 2

Definitions

For the purposes of this Chapter:

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

(b) **Costs, Insurance and Freight (CIF)** means the value of the good imported, and includes the cost of freight and insurance up to the port or place of entry into the importing Party;

(c) **Free-on-board (FOB)** means the free-on-board value of the good, inclusive of the cost of transport to the port or site of final shipment

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abroad;

(d) **generally accepted accounting principles (GAAP)** means the recognised consensus or substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

(e) **good** means a material or product, which can be wholly obtained or produced, even if it is intended for later use as a material in another production process. For the purposes of this Chapter, the terms "good" and "product" can be used interchangeably;

(f) **identical and interchangeable materials** means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which after being incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings, or mere visual examination, etc.;

(g) **material** means any matter or substance used or consumed in the production of a good or physically incorporated into another good or subjected to a process in the production of another good;

(h) **non-originating good or non-originating material** means a good or material that does not qualify as originating in accordance with

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the provisions of this Chapter;

(i) **originating good or originating material** means a good or material that qualifies as originating in accordance with the provisions of this Chapter;

(j) **packing material and container for transportation** means the good used to protect a good during its transportation, different from that container or material used for its retail sale;

(k) **preferential tariff treatment** means tariff concessions granted to originating goods as reflected by the tariff rates applicable under this Agreement;

(l) **production** means methods of obtaining goods, including growing, mining, harvesting, raising, breeding, extracting, gathering, aquaculture, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling goods; and

(m) **Product Specific Rules** means the rules set out in Annex 3-2 (Product Specific Rules) that specify that the materials used to produce a good have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a regional value content criterion or a combination of any of these criteria.

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Article 3

Origin Criteria

For the purposes of this Chapter, a good imported into a Party from another Party shall be treated as an originating good if it conforms to the origin requirements under any one of the following conditions:

(a) a good which is wholly obtained or produced in the exporting Party as set out in Article 4 (Wholly Obtained or Produced Goods);

(b) a good produced in the exporting Party exclusively from originating materials from one or more of the Parties; or

(c) a good not wholly obtained or produced in the exporting Party, provided that the good is eligible under Article 5 (Not Wholly Obtained or Produced Goods);

and meets all other applicable requirements of this Chapter.

Article 4

Wholly Obtained or Produced Goods

For the purposes of subparagraph (a) of Article 3 (Origin Criteria), the following goods shall be considered as wholly obtained or produced in the exporting Party:

(a) plants and plant products, including fruits, flowers, vegetables, trees, seaweed, fungi

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and live plants, grown, harvested, picked or gathered in a Party[1];

(b) live animals including mammals, birds, fish, crustaceans, molluscs, reptiles, bacteria and viruses, born and raised in a Party;

(c) goods obtained from live animals in a Party;

(d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering or capturing conducted in a Party;

(e) minerals and other naturally occurring substances, not included in subparagraphs (a) to (d), extracted or taken from the soil, waters, seabed or beneath the seabed in a Party;

(f) products of sea-fishing extracted or taken by vessels registered with the exporting Party and entitled to fly the flag of that Party, and minerals and other naturally occurring substances extracted or taken from the waters, seabed or beneath the seabed outside the waters of the exporting Party, provided that that Party has the rights to

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[1] For the purposes of this Article, "in a Party" means:

(i) for ASEAN Member States, the land, territorial sea, exclusive economic zone, continental shelf over which a Party exercises sovereignty, sovereign rights or jurisdiction, as the case may be, in accordance with international law.

(ii) for Hong Kong, China, the Area of Hong Kong, China.

For the avoidance of doubt, nothing contained in the above definition shall be construed as conferring recognition or acceptance by one Party of the outstanding maritime and territorial claims made by any other Party, nor shall be taken as pre-judging the determination of such claims.

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exploit such waters, seabed and beneath the seabed in accordance with international law[2];

(g) products of sea-fishing and other marine products taken from the high seas by vessels registered with a Party and entitled to fly the flag of that Party;

(h) products processed or made on board factory ships registered with a Party or entitled to fly the flag of that Party, exclusively from products referred to in subparagraph (g);

(i) goods which are:

(i) waste and scrap derived from production and consumption in a Party, provided that such goods are fit only for the recovery of raw materials or for recycling purposes; or

(ii) used goods collected in a Party, provided that such goods are fit only for the recovery of raw materials or for recycling purposes; and

(j) goods obtained or produced in the exporting Party from products referred to in subparagraphs (a) to (i).

Article 5

Not Wholly Obtained or Produced Goods

1. For the purposes of subparagraph (c) of Article 3 (Origin Criteria), except for those goods covered under

[2] "International law" refers to generally accepted international law such as the *United Nations Convention on the Law of the Sea*, 1982.

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paragraph 2, a good shall be treated as an originating good if the good has a regional value content ("Regional Value Content" or "RVC") of not less than 40 per cent calculated using the formula set out in Article 6 (Calculation of Regional Value Content).

2. In accordance with paragraph 1, a good subject to the Product Specific Rules shall be treated as an originating good if it meets those Product Specific Rules as specified in Annex 3-2 (Product Specific Rules):

(a) Where a Product Specific Rule provides a choice of rules from a RVC-based rule of origin, a change in tariff classification ("CTC")-based rule of origin, a specific manufacturing or processing operation, or a combination of any of these criteria, each Party shall permit the exporter of the good to decide which rule to use in determining whether the good qualifies as an originating good of the Party.

(b) Where a Product Specific Rule specifies a certain RVC, the RVC of a good shall be calculated using the formula set out in Article 6 (Calculation of Regional Value Content).

(c) Where a Product Specific Rule requires that the materials used have undergone CTC or a specific manufacturing or processing operation, the rules shall apply only to non-originating materials.

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Article 6

Calculation of Regional Value Content

1. For the purposes of Article 5 (Not Wholly Obtained or Produced Goods), the formula for calculating RVC is as follows:

(a) *Direct /Build-up Method*

$$RVC = \frac{\text{AHKFTA Material Cost} + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Other Costs} + \text{Profit}}{\text{FOB Price}} \times 100\%$$

or

(b) *Indirect /Build-down Method*

$$RVC = \frac{\text{FOB Price} - \text{Value of Non-Originating Materials, Parts or Produce}}{\text{FOB Price}} \times 100\%$$

2. For the purposes of calculating the RVC provided in paragraph 1:

(a) **AHKFTA Material Cost** is the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good;

(b) **Value of Non-Originating Materials, Parts or Produce** is the CIF value at the time of

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importation or the earliest ascertained price paid for all non-originating materials, parts or produce that are acquired by the producer in the production of the good; non-originating materials include materials of undetermined origin;

(c) **Direct labour cost** includes wages, remuneration and other employee benefits associated with the manufacturing process;

(d) **Direct overhead cost** includes, but is not limited to, real property items associated with the production process (insurance, factory rent and leasing, depreciation on buildings, repair and maintenance, taxes, interests on mortgage); leasing of and interest payments for plant and equipment; factory security; insurance (plant, equipment and materials used in the manufacture of the goods); utilities (energy, electricity, water and other utilities directly attributable to the production of the goods); research, development, design and engineering; dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment; royalties or licences (in connection with patented machines or processes used in the manufacture of the goods or the right to manufacture the goods); inspection and testing of materials and the goods; storage and handling in the factory; disposal of recyclable wastes; and cost elements in computing the value of raw materials, i.e. port and clearance charges and import duties paid for dutiable component; and

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(e) **Other Costs** are the costs incurred in placing the good in the ship or other means of transport for export including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges.

3. The value of goods under this Chapter shall be determined in accordance with the Customs Valuation Agreement. The Parties shall harmonise, to the extent possible, administrative procedures and practices in the assessment of value of goods for customs purposes.

Article 7

Accumulation

Unless otherwise provided in this Agreement, a good which complies with the origin requirements provided herein and which is used in another Party as a material for a finished good eligible for preferential tariff treatment shall be considered to be originating in the latter Party where working or processing of the finished goods has taken place.

Article 8

Minimal Operations and Processes

1. Notwithstanding any provisions in this Chapter, a good shall not be considered to be originating in the Area of a Party if the following operations are undertaken exclusively by itself or in combination in the Area of that Party:

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(a) preserving operations to ensure that the good remains in good condition during transport and storage;

(b) changes of packaging, breaking-up and assembly of packages;

(c) simple[3] washing, cleaning, removal of dust, oxide, oil, paint or other coverings;

(d) simple[3] painting and polishing operations;

(e) husking, partial or total bleaching, polishing and glazing of cereals and rice;

(f) operations to colour sugar or form sugar lumps;

(g) simple[3] peeling, stoning, or un-shelling;

(h) sharpening, simple[3] grinding or simple[3] cutting;

(i) sifting, screening, sorting, classifying, grading, matching;

(j) simple[3] placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple[3] packaging operations;

(k) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

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[3] "simple" means an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity.

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(l) simple mixing[4] of products, whether or not of different kinds;

(m) simple[3] assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(n) simple[3] testing or calibrations; or

(o) slaughtering[5] of animals.

2. A good originating in the Area of a Party shall retain its initial originating status, when exported from another Party, where operations undertaken have not gone beyond those referred to in paragraph 1.

Article 9

Direct Consignment

1. Preferential tariff treatment shall be applied to goods satisfying the requirements of this Chapter and which are consigned directly between the exporting Party and the importing Party.

2. The following shall be considered as consigned directly from the exporting Party to the importing Party:

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[4] "simple mixing" means an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity and does not include chemical reaction. Chemical reaction means a process (including a biochemical process) which result in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

[5] "slaughtering" means the mere killing of animals and subsequent processes such as cutting, chilling, freezing, salting, drying or smoking, for the purpose of preservation for storage and transport.

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(a) goods transported from the exporting Party to the importing Party; or

(b) goods transported through one or more Parties, other than the exporting Party and the importing Party, or through a non-Party, provided that:

(i) the transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;

(ii) the goods have not entered into trade or consumption there; and

(iii) the goods have not undergone any operation there other than unloading and reloading or any other operation to preserve them in good condition.

Article 10

De Minimis

1. A good that does not satisfy a CTC requirement shall be considered as originating if the value of all non-originating materials used in its production that do not undergo the required CTC does not exceed 10 per cent of the FOB value of the good and the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good.

2. The value of non-originating materials referred to in paragraph 1 shall be included in the value of non-originating materials for any applicable RVC requirement for the good.

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Article 11

Treatment of Packing and Packaging Materials and Containers

1. Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of any good.

2. Packaging materials and containers in which the good is packaged for retail sale, which are classified with the good pursuant to Rule 5 of the General Rules for the Interpretation of the Harmonized System, shall be disregarded in determining the origin of the good, provided that:

(a) the good is wholly obtained as set out in subparagraph (a) of Article 3 (Origin Criteria);

(b) the good is produced entirely in the Area of a Party as set out in subparagraph (b) of Article 3 (Origin Criteria); or

(c) the good is subject to a CTC requirement set out in Annex 3-2 (Product Specific Rules).

3. If a good is subject to a RVC requirement, the value of the packaging materials and containers in which the good is packaged for retail sale shall be taken into account as originating or non-originating materials, as the case may be, in calculating the RVC of the good.

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Article 12

Accessories, Spare Parts and Tools

1. If a good is subject to the requirements of CTC or specific manufacturing or processing operation, the origin of accessories, spare parts, tools and instructional or other information materials presented with the good shall not be taken into account in determining whether the good qualifies as an originating good, provided that:

(a) the accessories, spare parts, tools and instructional or other information materials are not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials are customary for the good.

2. If a good is subject to a RVC-based rule of origin, the value of the accessories, spare parts, tools and instructional or information materials shall be taken into account as the value of the originating or non-originating materials, as the case may be, in calculating the RVC of the good.

Article 13

Neutral Elements

In order to determine whether a good is an originating good, it shall not be necessary to determine the origin of the following which might be used in its production and not incorporated into the good:

(a) fuel and energy;

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(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 good;

(g) catalysts and solvents; and

(h) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

Article 14

Identical and Interchangeable Materials

1. The determination of whether identical and interchangeable materials are originating materials shall be made either by physical segregation of each of the materials or by the use of GAAP of stock control applicable, or inventory management method, in the exporting Party.

2. Once a decision has been taken on the inventory management method, that method shall be used throughout the fiscal year.

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Article 15

Certificate of Origin

Unless otherwise provided for in this Chapter, a claim that a good is eligible for preferential tariff treatment shall be supported by a Certificate of Origin (Form AHK) issued by an issuing authority designated by the exporting Party and notified to the other Parties in accordance with Annex 3-1 (Operational Certification Procedures).

Article 16

Amendments of Annexes and Appendix

1. The AHKFTA Joint Committee may, upon recommendation of the Sub-Committee on Rules of Origin, amend in writing Annex 3-1 (Operational Certification Procedures), and Appendix (List of Data Requirements).

2. The amendments to Annex 3-1 (Operational Certification Procedures) and the Appendix (List of Data Requirements) adopted in accordance with paragraph 1 shall be promptly published and shall come into effect on the date determined by the Parties through the AHKFTA Joint Committee.

3. The AHKFTA Joint Committee shall, upon recommendation of the Sub-Committee on Rules of Origin, adopt the transposition that is in the revised nomenclature of the HS following the World Customs Organization's periodic amendments to the HS nomenclature in Annex 3-2 (Product Specific Rules). Such transposition shall be carried out without impairing the existing commitments and shall be completed in a timely manner.

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Article 17

Sub-Committee on Rules of Origin

1. For the purposes of effective and uniform implementation of this Chapter, a Sub-Committee on Rules of Origin shall be established.

2. The functions of the Sub-Committee on Rules of Origin shall be to:

(a) monitor the implementation and operation of this Chapter;

(b) review, as and when necessary, this Chapter to provide appropriate recommendations with the view to enhancing this Chapter to make it responsive to the dynamic changes in the regional and global production processes so as to facilitate trade and investment among Parties, promote a regional production network, encourage the development of Small and Medium Enterprises and narrow the development gaps;

(c) review, as and when necessary, the operational procedures of this Chapter with the view to simplifying the procedures and making them transparent, predictable and standardised, taking into account the best practices of other regional and international trade agreements;

(d) consider any other matter as the Parties may agree related to this Chapter; and

(e) carry out other functions as may be delegated by the AHKFTA Joint Committee or other

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higher-level body.

3. The Sub-Committee on Rules of Origin shall be composed of government representatives of the Parties, and may invite representatives of non-governmental entities of the Parties with necessary expertise relevant to the issues to be discussed, upon agreement of all Parties.

4. The Sub-Committee on Rules of Origin shall meet as mutually determined by the Parties. The meetings of the Sub-Committee on Rules of Origin may be conducted in person, or by any other means as mutually determined by the Parties.

5. The Sub-Committee on Rules of Origin shall, immediately after the date of entry into force of this Agreement, continue the negotiations on the Product Specific Rules of the tariff lines listed in Annex 3-3 (Product Specific Rules to be Reviewed).

6. The negotiations referred to in paragraph 5 shall be concluded within one year from the date of entry into force of this Agreement, unless otherwise agreed upon by the Parties. The outcome of the negotiations shall be incorporated into this Agreement in accordance with Article 2 (Amendments) of Chapter 14 (Final Provisions).

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ANNEX 3-1

OPERATIONAL CERTIFICATION PROCEDURES

For the purposes of implementing Chapter 3 (Rules of Origin), the following operational certification procedures and other related administrative matters shall apply:

Rule 1

Definitions

For the purposes of this Annex:

(a) **Movement Confirmation (MC)** means a Certificate of Origin (Form AHK) as defined in Rule 7 (Certificate of Origin (Form AHK)) issued by the issuing authority of an intermediate Party based on the Certificate of Origin (Form AHK) issued by the first exporting Party;

(b) **exporter** means a natural or juridical person located in the Area of a Party where a good is exported from by such a person;

(c) **competent authority** means the government authority or other entity authorised under the internal laws and regulations of a Party;

(d) **importer** means a natural or juridical person located in the Area of a Party where a good is imported into by such a person;

(e) **issuing authority** means the government

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authority or authority designated by the government of the exporting Party to issue a Certificate of Origin (Form AHK) or MC and notified to all other Parties in accordance with this Annex; and

(f) **producer** means a natural or juridical person who carries out production in the Area of a Party.

Rule 2

Specimen Signatures and Official Seals of the Issuing Authorities

1. Each Party shall inform all other Parties of the names and addresses of its respective issuing authorities and shall provide specimen signatures, specimen of official seals and specimen of correction stamps, if any, used by its issuing authorities.

2. The information in paragraph 1 of a Party shall be provided by its contact point electronically to all other Parties through the ASEAN Secretariat and, to the extent possible, one month before they take effect. A Party shall promptly inform all other Parties of any change in names, addresses, or official seals in the same manner.

3. All Parties shall promptly provide confirmation that they have received the information to the ASEAN Secretariat, which will forward the compiled confirmation to the Party providing the information.

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Rule 3

Supporting Documents

For the purposes of determining originating status, the competent authorities shall have the right to request for supporting documentary evidence or to carry out checks considered appropriate in accordance with the internal laws and regulations of a Party.

Rule 4

Pre-exportation Verification

The producer or exporter of the good, or its authorised representative, subject to the internal laws and regulations of a Party, shall apply to the issuing authority of the Party requesting pre-exportation examination of the origin of the good. The result of pre-exportation examination of a Party, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in determining the origin of the said good to be exported thereafter. The pre-exportation examination may not apply to the good of which, by its nature, origin can be easily determined.

Rule 5

Application for Certificate of Origin (Form AHK)

At the time of carrying out the formalities for exporting the good under preferential tariff treatment, the exporter or its authorised representative shall submit a written application or an application by electronic means for the Certificate of Origin (Form AHK), and in accordance with the internal laws and regulations of the exporting Party, appropriate supporting documents

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proving that the good to be exported qualifies for the issuance of a Certificate of Origin (Form AHK).

Rule 6

Examination of Application for Certificate of Origin (Form AHK)

The issuing authority of a Party shall, to the best of its competence and ability, carry out proper examination in accordance with its internal laws and regulations on each application for a Certificate of Origin (Form AHK) to ensure that:

(a) the origin of the good is in conformity with the provisions of this Chapter;

(b) the other details in the Certificate of Origin (Form AHK) correspond to the supporting documentary evidence submitted;

(c) the description, quantity and weight of the good, marks and number of packages, number and kinds of packages, as specified, conform to the good to be exported; and

(d) the application and the Certificate of Origin (Form AHK) are duly completed and signed either manually or electronically by the authorised signatory.

Rule 7

Certificate of Origin (Form AHK)

1. The format of the Certificate of Origin (Form AHK) is to be determined by the Parties and it shall

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contain the data requirements listed in the Appendix (List of Data Requirements).

2. The Certificate of Origin (Form AHK) shall comprise one original and two copies.

3. The Certificate of Origin (Form AHK) shall:

(a) be in hardcopy;

(b) bear a unique reference number separately given by each place or office of issuance;

(c) be in the English language; and

(d) bear an authorised signature and official seal of the issuing authority and the signature and official seal may be applied electronically.

4. The FOB value of goods, when the Regional Value Content origin criterion is applied, needs to be indicated on the Certificate of Origin (Form AHK) for goods that are exported from one ASEAN Member State to another ASEAN Member State, and from Hong Kong, China to ASEAN Member States, but need not be indicated if the goods are exported from ASEAN Member States to Hong Kong, China.

5. The original Certificate of Origin (Form AHK) shall be forwarded by the exporter to the importer for submission to the customs authority of the importing Party. Copies shall be retained by the issuing authority and the exporter.

6. Multiple goods declared on the same Certificate of Origin (Form AHK) shall be allowed, provided that each good is originating in its own right.

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Rule 8

Treatment of Erroneous Declaration in the Certificate of Origin (Form AHK)

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin (Form AHK). Any alteration shall be made by:

(a) striking out the erroneous materials and making any addition required; such alteration shall be approved by an official authorised to sign the Certificate of Origin (Form AHK) and certified by the issuing authority; and any unused spaces shall be crossed out to prevent any subsequent addition; or

(b) issuing a new Certificate of Origin (Form AHK) to replace the erroneous one.

Rule 9

Issuance of the Certificate of Origin (Form AHK)

1. Subject to the submission of all documentary requirements, in accordance with the internal laws and regulations of the exporting Party, the Certificate of Origin (Form AHK) shall be issued by the issuing authority of the exporting Party prior to shipment or at the time of shipment but shall not be issued more than three working days after the declared shipment date whenever the good to be exported is considered to be originating in that Party within the meaning set out in this Chapter.

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2. In exceptional case where a Certificate of Origin (Form AHK) has not been issued in accordance with paragraph 1 due to involuntary errors or omissions or other valid causes, the Certificate of Origin (Form AHK) may be issued retroactively but no longer than one year from the date of shipment and shall be duly marked "Issued Retroactively".

Rule 10

Movement Confirmation

An issuing authority of an intermediate exporting Party shall issue an MC, if an application is made by the exporter while the good is passing through that intermediate exporting Party, provided that:

(a) a valid original Certificate of Origin (Form AHK) or its certified true copy is presented;

(b) the period of validity of the MC does not exceed the period of validity of the original Certificate of Origin (Form AHK);

(c) the goods which are to be re-exported using the MC shall remain under the supervision of the competent authority[6] of the intermediate exporting Party in accordance with its internal laws and regulations and the goods shall not undergo any further processing in the intermediate exporting Party, except for repacking or logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve them in good condition or to transport them to the importing

[6] The supervision of the competent authority of the intermediate exporting Party includes documentary controls or any risk management procedures as deemed necessary by that competent authority.

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Party;

(d) the MC contains relevant information from the original Certificate of Origin (Form AHK) pursuant to the data requirements listed in the Appendix (List of Data Requirements) and the FOB value shall be the FOB value of the goods exported from the intermediate exporting Party;

(e) in the event that the information is not complete or circumvention is suspected, the final importing Party may request the original Certificate of Origin (Form AHK) be submitted to its respective competent authority; and

(f) the verification procedures in Rule 17 (Retroactive Check) and Rule 18 (Verification Visit) shall also apply to the MC.

Rule 11

Loss of the Certificate of Origin (Form AHK)

In the event of theft, loss or destruction of a Certificate of Origin (Form AHK), the exporter may apply in writing to the issuing authority for a certified true copy of the original Certificate of Origin (Form AHK) or its copies. The certified true copy shall be made on the basis of the export documents in their possession and bear the words "CERTIFIED TRUE COPY". This copy shall bear the date of issuance of the original Certificate of Origin (Form AHK). The certified true copy of a Certificate of Origin (Form AHK) shall be issued no longer than one year from the date of issuance of the original Certificate of Origin (Form AHK).

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Rule 12

Presentation of the Certificate of Origin (Form AHK)

1. For the purposes of claiming preferential tariff treatment, the importer shall submit to the customs authority of the importing Party at the time of import, a declaration, a Certificate of Origin (Form AHK) including supporting documents (i.e. invoices and, when required, Bill of Lading or other related transportation documents) issued in the Area of the exporting Party and other documents as required in accordance with the internal laws and regulations of the importing Party.

2. In the case where a Certificate of Origin (Form AHK) is rejected by the customs authority of the importing Party, the subject Certificate of Origin (Form AHK) shall be marked accordingly and the original Certificate of Origin (Form AHK) shall be returned to the issuing authority within a reasonable period but not exceeding 60 days from the date of rejection. The issuing authority shall be duly notified of the grounds for the denial of preferential tariff treatment.

3. In the case where a Certificate of Origin (Form AHK) is rejected, as stated in paragraph 2, the importing Party shall accept and consider the clarification made by the issuing authority and assess again whether or not the Certificate of Origin (Form AHK) can be accepted for the granting of the preferential tariff treatment. The clarifications shall be detailed and exhaustive in addressing the grounds of denial of preferential tariff treatment raised by the importing Party. If a clarification made by the issuing authority addresses the grounds for denial of preferential tariff treatment and satisfies the

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requirements of this Chapter, the importing Party shall accept the Certificate of Origin (Form AHK) and grant preferential tariff treatment in accordance with its internal laws and regulations.

Rule 13

Validity Period of the Certificate of Origin (Form AHK)

1. The following time limit for the presentation of the Certificate of Origin (Form AHK) shall be observed:

(a) the Certificate of Origin (Form AHK) shall be valid for a period of one year from the date of issuance and shall be submitted to the customs authority of the importing Party within that period; and

(b) where the Certificate of Origin (Form AHK) is submitted to the customs authority of the importing Party after the expiration of the time limit for its submission, such Certificate of Origin (Form AHK) shall still be accepted where failure to observe the time limit for its submission results from *force majeure* or other valid causes beyond the control of the importer or the exporter.

2. In all cases, the customs authority of the importing Party may accept such Certificate of Origin (Form AHK) provided that the goods have been imported before the expiration of the time limit of the said Certificate of Origin (Form AHK).

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Rule 14

Waiver of Certificate of Origin (Form AHK)

1. In the case of a consignment of goods originating in the exporting Party and not exceeding US$ 200.00 FOB, the presentation of Certificate of Origin (Form AHK) shall be waived and the use of simplified declaration by the exporter that the goods in question have originated in the exporting Party shall be accepted. Goods sent through the post not exceeding US$ 200.00 FOB shall also be similarly treated.

2. Without prejudice to the generality of paragraph 1, a Party may elect not to require submission of a Certificate of Origin (Form AHK).

Rule 15

Treatment of Minor Discrepancies

1. Where the origin of the goods is not in doubt, the discovery of minor discrepancies, such as typographical errors in the statements made in the Certificate of Origin (Form AHK) or made in other documents submitted to the customs authority of the importing Party for the purpose of carrying out the formalities for importing the goods, shall not *ipso facto* invalidate the Certificate of Origin (Form AHK), if it does in fact correspond to the goods submitted.

2. In the case where the exporting Party and the importing Party have different tariff classifications for a good subject to preferential tariff treatment, the goods shall be released at the most-favoured-nation rates or at the AHKFTA preferential rate, subject to the compliance of the applicable rules of origin, and no penalty or other charges shall be imposed in

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accordance with the internal laws and regulations of the importing Party. Once the classification differences have been resolved, the correct rate shall be applied and any overpaid duty shall be refunded if applicable, in accordance with the internal laws and regulations of the importing Party, as soon as the issues have been resolved.

3. For multiple items declared under the same Certificate of Origin (Form AHK), a problem encountered with one of the items listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining items listed in the Certificate of Origin (Form AHK). Subparagraph (c) of Rule 17 (Retroactive Check) may be applied to the problematic items.

Rule 16

Record Keeping Requirement

1. For the purposes of the verification process pursuant to Rule 17 (Retroactive Check) and Rule 18 (Verification Visit), the producer and/or exporter applying for the issuance of a Certificate of Origin (Form AHK) shall, subject to the internal laws and regulations of the exporting Party, keep its supporting records for application for not less than three years from the date of issuance of the Certificate of Origin (Form AHK).

2. The application for Certificate of Origin (Form AHK) and all documents related to such application shall be retained by the issuing authorities for not less than three years from the date of issuance.

3. Information relating to the validity of the Certificate of Origin (Form AHK) shall be furnished by

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the issuing authority of the exporting Party upon request of the importing Party.

4. Any information communicated between the Parties concerned shall be treated as confidential and shall be used for purpose of the validation of Certificate of Origin (Form AHK) only.

Rule 17

Retroactive Check

The competent authority of the importing Party may request the competent authority of the exporting Party to conduct a retroactive check at random or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. Upon such request, the competent authority of the exporting Party shall conduct a retroactive check on the exporter or producer, subject to the following conditions:

(a) the request for retroactive check shall be accompanied with the Certificate of Origin (Form AHK) concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said Certificate of Origin (Form AHK) may be inaccurate, unless the retroactive check is requested on a random basis;

(b) the competent authority of the exporting Party receiving a request for retroactive check shall respond to the request promptly and transmit the results of the retroactive check to the importing Party within 90 days upon the receipt of the request;

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(c) the competent authority of the importing Party may suspend the provisions on preferential tariff treatment to a good that is the subject of a retroactive check for the duration of that action or any part thereof. However, in accordance with the internal laws and regulations of the importing Party, the competent authority of the importing Party may release the good to the importer subject to any administrative measures deemed necessary, provided that it is not held to be subject to import prohibition or restriction and there is no suspicion of fraud. In the event that a determination is made by the importing Party that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be reinstated; and

(d) the competent authority of the importing Party, after receipt of the results of the retroactive check from the competent authority of the exporting Party, shall determine whether or not the subject good is an originating good. The entire process of retroactive check including the process of notifying the competent authority of the exporting Party the result of the determination of whether or not the good is an originating good shall be completed within 180 days upon the receipt of the request by the competent authority of the exporting Party.

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Rule 18

Verification Visit

If the competent authority of the importing Party is not satisfied with the outcome of the retroactive check, it may, under exceptional cases, request for verification visit to the premises of the exporter or producer through the competent authority of the exporting Party in accordance with the following conditions:

(a) Prior to conducting a verification visit, the competent authority of the importing Party shall:

(i) deliver a written request to conduct the proposed verification visit to:

(1) the exporter or producer whose premises are to be visited; and

(2) the competent authority of the exporting Party;

(ii) deliver a written notification to conduct the proposed verification visit to the importer of the goods that are subject to the verification visit;

(iii) the written request mentioned in subparagraph (a) (i) shall be as comprehensive as possible and includes:

(1) the name and contact details of the competent authority issuing the request;

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(2) the name of the exporter or producer whose premises are to be visited;

(3) the proposed date for the verification visit;

(4) the objective and scope of the proposed verification visit, including specific reference to the goods that are subject to the verification; and

(5) the names and designation or title of the officials of the importing Party performing the verification visit;

(iv) obtain the written consent of the exporter or producer whose premises are to be visited;

(b) Where a written consent from the exporter or producer is not obtained within 30 days upon receipt of the written request pursuant to subparagraph (a) (i), the competent authority of the importing Party may deny preferential tariff treatment to the goods that would have been the subject of the verification visit;

(c) The competent authority of the exporting Party receiving the written request may postpone the proposed verification visit and notify the competent authority of the importing Party of such intention. Notwithstanding any postponement, any verification visit shall be carried out in accordance with the internal laws and regulations of the exporting Party

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within 60 days upon the date of receipt of the request, or for a longer period as the concerned Parties may agree. The arrangement of the verification visit shall be agreed by the competent authorities of the importing and exporting Parties;

(d) The competent authority of the importing Party conducting the verification visit shall provide the exporter or producer whose goods are the subject of the verification visit, and the competent authority of the exporting Party, with a written determination of whether or not the subject goods qualified as originating goods;

(e) Any suspended preferential tariff treatment shall be reinstated upon the written determination referred to in subparagraph (d) that the goods qualify as originating goods;

(f) The exporter or producer shall be allowed 30 days, upon receipt of the written determination, to provide in writing additional information regarding the eligibility of the goods to the competent authority of the importing Party. If the goods are still found to be non-originating, the final written determination shall be communicated by the competent authority of the importing Party to the competent authority of the exporting Party within 30 days upon receipt of additional information from the exporter or producer; and

(g) The verification visit process, including the actual visit and determination of whether the subject goods are originating or not, shall be

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carried out and its results communicated to the competent authority of the exporting Party within 180 days upon receipt of the written request pursuant to subparagraph (a) (i). While awaiting the results of the verification visit, subparagraph (c) of Rule 17 (Retroactive Check) on the suspension of preferential tariff treatment shall be applied.

Rule 19

Confidentiality

The Parties shall maintain, in accordance with their internal laws and regulations, the confidentiality of classified business information collected in the process pursuant to Rule 17 (Retroactive Check) and Rule 18 (Verification Visit) and shall protect such information from disclosure that could prejudice the competitive position of the person who provided the information. The information and documents collected in such process shall not be used for other purposes, including being used as evidence in administrative and judicial proceedings, without the explicit written permission of the Party providing such information.

Rule 20

Documentation for Implementing Subparagraph 2 (b) of Article 9 (Direct Consignment) of this Chapter

For the purposes of implementing subparagraph 2 (b) of Article 9 (Direct Consignment) of this Chapter, where transportation is effected through the area of one or more non-Parties, the following shall be produced to the competent authority of the importing Party:

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(a) the Bill of Lading or other related transportation documents issued in the exporting Party;

(b) a Certificate of Origin (Form AHK) issued by the relevant issuing authority of the exporting Party, unless not required pursuant to Rule 14 (Waiver of Certificate of Origin (Form AHK));

(c) a copy of the original commercial invoice in respect of the goods; and

(d) supporting documents evidencing that the requirements of subparagraphs 2(b) (i) to (iii) of Article 9 (Direct Consignment) of this Chapter have been complied with.

Rule 21

Exhibition Goods

1. Goods sent from an exporting Party for exhibition in another Party and sold during or after the exhibition for importation into a Party shall be granted preferential tariff treatment accorded under this Agreement on the condition that the goods meet the requirements as set out in this Chapter, and provided that it is shown to the satisfaction of the relevant customs authority of the importing Party that:

(a) an exporter has dispatched those goods from the Area of the exporting Party to the Party where the exhibition is held and has exhibited them there;

(b) the exporter has sold the goods or transferred them to a consignee in the importing Party; and

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(c) the goods have been consigned during the exhibition or immediately thereafter to the importing Party in the state in which they were sent for the exhibition.

2. For the purposes of paragraph 1, the Certificate of Origin (Form AHK) shall be provided to the customs authority of the importing Party. The name and address of the exhibition shall be indicated. The relevant customs authority of the Party where the exhibition took place may provide evidence together with supporting documents prescribed in subparagraph (d) of Rule 20 (Documentation for Implementing Subparagraph 2 (b) of Article 9 (Direct Consignment) of this Chapter) for the identification of the goods and the conditions under which they were exhibited.

3. Paragraph 1 shall apply to any trade, agricultural or crafts exhibition, fair or similar show or display in shops or business premises with a view to sale and where the goods remain under customs control during the exhibition.

Rule 22

Third Party Invoicing

1. The competent authority of the importing Party shall accept Certificates of Origin (Form AHK) in the case where the sales invoice is issued either by a company located in a third party or by an exporter for the account of the said company, provided that the goods meet the requirements of this Chapter.

2. The exporter shall indicate "Third party invoicing" and such information as name and country/party of the company issuing the invoice in the Certificate of Origin (Form AHK).

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Rule 23

Action against Fraudulent Acts

1. When it is suspected that fraudulent acts in connection with the Certificate of Origin (Form AHK) have been committed, the Parties concerned shall cooperate in the action to be taken in the respective Parties against the persons involved to the extent permitted under their applicable internal laws and regulations.

2. Each Party shall provide legal sanctions for fraudulent acts related to the Certificate of Origin (Form AHK) in accordance with its internal laws and regulations.

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APPENDIX

LIST OF DATA REQUIREMENTS

1. Exporter details	The name, address, Country/Party and contact details of the exporter
2. Shipment details (a Certificate of Origin (Form AHK) can only apply to a single shipment of goods)	(i) Consignee's name, address and Country/Party (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of Discharge, as far as known
3. Full description of goods	(i) Marks and numbers on packages (ii) Detailed description of the goods, including HS Code (6-digit level), and if applicable, product number and brand name (iii) The relevant origin-conferring criteria (iv) Quantity of goods (v) FOB value when the Regional Value Content origin criterion is applied, except if the goods are exported from ASEAN Member States to Hong Kong, China
4. Certification by issuing authority	Certification by the issuing authority that the goods specified in the Certificate of Origin (Form AHK) meet all the relevant requirements in Chapter 3 (Rules of Origin) based on the documents provided, and the date of issuance of the Certificate of Origin (Form AHK)
5. Certificate of Origin (Form AHK) number	A unique number assigned to the Certificate of Origin (Form AHK) by the issuing authority

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ANNEX 3-2

PRODUCT SPECIFIC RULES

Headnote

1. Where a tariff heading or subheading is subject to a choice of Product Specific Rules, it shall be sufficient to comply with one of the rules. A Party shall permit the exporter of a good to decide which rule to use in determining if the good is originating.

2. A requirement of a change in tariff classification applies only to non-originating materials.

3. Where the change in tariff classification rule expressly excludes a change from other tariff classifications, the exclusion applies only to non-originating materials.

4. For the purposes of the column entitled "Origin Criteria" of this Annex:

WO means that the good must be wholly obtained or produced in accordance with subparagraph (a) of Article 3 (Origin Criteria) of Chapter 3 (Rules of Origin);

RVC(XX) means that the good must have a regional value content of not less than XX per cent as calculated under Article 6 (Calculation of Regional Value Content) of Chapter 3 (Rules of Origin);

CC means that all non-originating materials used in the production of the good have undergone a

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change in tariff classification at the 2-digit level (i.e. a change in chapter) of the Harmonized System;

CTH means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 4-digit level (i.e. a change in heading) of the Harmonized System; and

CTSH means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 6-digit level (i.e. a change in subheading) of the Harmonized System.

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
01	0101.21	- Horses: pure-bred breeding animals	WO
02	0101.29	- Horses: other	WO
03	0101.30	- Asses	WO
04	0101.90	- Other	WO
05	0102.21	- Cattle: pure-bred breeding animals	WO
06	0102.29	- Cattle: other	WO
07	0102.31	- Buffalo: pure-bred breeding animals	WO
08	0102.39	- Buffalo: other	WO
09	0102.90	- Other	WO
10	0103.10	- Pure-bred breeding animals	WO
11	0103.91	- Other: weighing less than 50 kg	WO
12	0103.92	- Other: weighing 50 kg or more	WO
13	0104.10	- Sheep	WO
14	0104.20	- Goats	WO
15	0105.11	- Weighing not more than 185 g: fowls of the species Gallus domesticus	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
16	0105.12	- Weighing not more than 185 g: turkeys	WO
17	0105.13	- Weighing not more than 185 g: ducks	WO
18	0105.14	- Weighing not more than 185 g: geese	WO
19	0105.15	- Weighing not more than 185 g: guinea fowls	WO
20	0105.94	- Other: fowls of the species Gallus domesticus	WO
21	0105.99	- Other: other	WO
22	0106.11	- Mammals: primates	WO
23	0106.12	- Mammals: whales, dolphins and porpoises (mammals of the order Cetacea); manatees and dugongs (mammals of the order Sirenia); seals, sea lions and walruses(mammals of the suborder Pinnipedia)	WO
24	0106.13	- Mammals: camels and other camelids (Camelidae)	WO
25	0106.14	- Mammals: rabbits and hares	WO
26	0106.19	- Mammals: other	WO
27	0106.20	- Reptiles (including snakes and turtles)	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
28	0106.31	- Birds: birds of prey	WO
29	0106.32	- Birds: psittaciformes (including parrots, parakeets, macaws and cockatoos)	WO
30	0106.33	- Birds: ostriches; emus (Dromaius novaehollandiae)	WO
31	0106.39	- Birds: other	WO
32	0106.41	- Insects: bees	WO
33	0106.49	- Insects: other	WO
34	0106.90	- Other	WO
35	0301.11	- Ornamental fish: freshwater	WO
36	0301.19	- Ornamental fish: other	WO
37	0301.91	- Other live fish: trout (Salmo trutta, Oncorhynchus mykiss, Oncorhynchus clarki, Oncorhynchus aguabonita, Oncorhynchus gilae, Oncorhynchus apache and Oncorhynchus chrysogaster)	WO
38	0301.92	- Other live fish: eels (Anguilla spp.)	WO
39	0301.93	- Other live fish: carp(Cyprinus carpio, Carassius carassius, Ctenopharyngodon idellus, Hypophthalmichthys spp., Cirrhinus spp., Mylopharyngodon piceus)	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
40	0301.94	- Other live fish: Atlantic and Pacific bluefin tunas (Thunnus thynnus, Thunnus orientalis)	WO
41	0301.95	- Other live fish: southern bluefin tunas (Thunnus maccoyii)	WO
42	0301.99	- Other live fish: other	WO
43	0407.11	- Fertilised eggs for incubation: of fowls of the species Gallus domesticus	WO
44	0407.19	- Fertilised eggs for incubation: other	WO
45	0407.21	- Other fresh eggs: of fowls of the species Gallus domesticus	WO
46	0407.29	- Other fresh eggs: other	WO
47	0407.90	- Others	WO
48	0409.00	Natural honey.	WO
49	0501.00	Human hair, unworked, whether or not washed or scoured; waste of human hair	WO
50	0701.10	- Seed	WO
51	0701.90	- Other	WO
52	0702.00	Tomatoes, fresh or chilled.	WO
53	0703.10	- Onions and shallots	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
54	0703.20	- Garlic	WO
55	0703.90	- Leeks and other alliaceous vegetables	WO
56	0704.10	- Cauliflowers and headed broccoli	WO
57	0704.20	- Brussels sprouts	WO
58	0704.90	- Other	WO
59	0705.11	- Lettuce: cabbage lettuce (head lettuce)	WO
60	0705.19	- Lettuce: other	WO
61	0705.21	- Chicory: Witloof chicory (Cichorium intybus var. foliosum)	WO
62	0705.29	- Chicory: other	WO
63	0706.10	- Carrots and turnips	WO
64	0706.90	- Other	WO
65	0707.00	Cucumbers and gherkins, fresh or chilled.	WO
66	0708.10	- Peas (Pisum sativum)	WO
67	0708.20	- Beans (Vigna spp., Phaseolus spp.)	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
68	0708.90	- Other leguminous vegetables	WO
69	0709.20	- Asparagus	WO
70	0709.30	- Aubergines (egg-plants)	WO
71	0709.40	- Celery other than celeriac	WO
72	0709.51	- Mushrooms and truffles: mushrooms of the genus Agaricus	WO
73	0709.59	- Mushrooms and truffles: other	WO
74	0709.60	- Fruits of the genus Capsicum or of the genus Pimenta	WO
75	0709.70	- Spinach, New Zealand spinach and orache spinach (garden spinach)	WO
76	0709.91	- Other: Globe artichokes	WO
77	0709.92	- Other: Olives	WO
78	0709.93	- Other: pumpkins, squash and gourds (Cucurbita spp.)	WO
79	0709.99	- Other: other	WO
80	0710.10	- Potatoes	WO
81	0710.29	- Leguminous vegetables, shelled or unshelled: other	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
82	0710.30	- Spinach, New Zealand spinach and orache spinach (garden spinach)	WO
83	0710.40	- Sweet corn	WO
84	0710.80	- Other vegetables	WO
85	0710.90	- Mixtures of vegetables	WO
86	0714.10	- Manioc (cassava)	WO
87	0801.21	- Brazil nuts: in shell	WO
88	0801.31	- Cashew nuts: in shell	WO
89	0802.11	- Almonds: in shell	WO
90	0802.21	- Hazelnuts or filberts (Corylus spp.): in shell	WO
91	0802.31	- Walnuts: in shell	WO
92	0804.10	- Dates	WO
93	0804.20	- Figs	WO
94	0804.30	- Pineapples	WO
95	0804.40	- Avocados	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
96	0804.50	- Guavas, mangoes and mangosteens	WO
97	0805.10	- Oranges	WO
98	0805.20	- Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids	WO
99	0805.40	- Grapefruit, including pomelos	WO
100	0805.50	- Lemons (Citrus limon, Citrus limonum) and limes (Citrus aurantifolia, Citrus latifolia)	WO
101	0805.90	- Other	WO
102	0806.10	- Fresh	WO
103	0806.20	- Dried	WO
104	0807.11	- Melons (including watermelons): watermelons	WO
105	0807.19	- Melons (including watermelons): other	WO
106	0807.20	- Papaws (papayas)	WO
107	0808.10	- Apples	WO
108	0808.30	- Pears	WO
109	0808.40	- Quinces	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
110	0809.10	- Apricots	WO
111	0809.21	- Cherries: sour cherries (Prunus cerasus)	WO
112	0809.29	- Cherries: other	WO
113	0809.30	- Peaches, including nectarines	WO
114	0809.40	- Plums and sloes	WO
115	0810.10	- Strawberries	WO
116	0810.20	- Raspberries, blackberries, mulberries and loganberries	WO
117	0810.30	- Black, white or red currants and gooseberries	WO
118	0810.40	- Cranberries, bilberries and other fruits of the genus Vaccinium	WO
119	0810.50	- Kiwifruit	WO
120	0810.60	- Durians	WO
121	0810.70	- Persimmons	WO
122	0810.90	- Other	WO
123	1001.11	- Durum wheat: seed	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
124	1001.19	- Durum wheat: other	WO
125	1001.91	- Other: seed	WO
126	1001.99	- Other: other	WO
127	1002.10	- Seed	WO
128	1002.90	- Other	WO
129	1003.10	- Seed	WO
130	1003.90	- Other	WO
131	1004.10	- Seed	WO
132	1004.90	- Other	WO
133	1005.10	- Seed	WO
134	1005.90	- Other	WO
135	1006.10	- Rice in the husk (paddy or rough)	WO
136	1006.20	- Husked (brown) rice	WO
137	1006.30	- Semi-milled or wholly milled rice, whether or not polished or glazed	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
138	1006.40	- Broken rice	WO
139	1007.10	- Seed	WO
140	1007.90	- Other	WO
141	1008.10	- Buckwheat	WO
142	1008.21	- Millet: seed	WO
143	1008.29	- Millet: other	WO
144	1008.30	- Canary seeds	WO
145	1008.40	- Fonio (Digitaria spp.)	WO
146	1008.50	- Quinoa (Chenopodium quinoa)	WO
147	1008.60	- Triticale	WO
148	1008.90	- Other cereals	WO
149	1201.10	- Seed	WO
150	1201.90	- Other	WO
151	1202.30	- Seed	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
152	1202.41	- Other: in shell	WO
153	1203.00	Copra.	WO
154	1205.10	- Low erucic acid rape or colza seeds	WO
155	1205.90	- Other	WO
156	1206.00	Sunflower seeds, whether or not broken.	WO
157	1207.10	- Palm nuts and kernels	WO
158	1207.21	- Cotton seeds: seed	WO
159	1207.29	- Cotton seeds: other	WO
160	1207.30	- Castor oil seeds	WO
161	1207.40	- Sesamum seeds	WO
162	1207.50	- Mustard seeds	WO
163	1207.60	- Safflower (Carthamus tinctorius) seeds	WO
164	1207.70	- Melon seeds	WO
165	1207.91	- Other: poppy seeds	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
166	1207.99	- Other: other	WO
167	1210.10	-Hop cones, neither ground nor powdered nor in the form of pellets	WO
168	1211.20	- Ginseng roots	WO
169	1211.30	- Coca leaf	WO
170	1211.40	- Poppy straw	WO
171	1211.90	- Other	WO
172	1212.21	- Seaweeds and other algae: fit for human consumption	WO
173	1212.29	- Seaweeds and other algae: other	WO
174	1212.91	- Other: sugar beet	WO
175	1213.00	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets.	WO
176	1301.20	- Gum Arabic	WO
177	1301.90	- Other	WO
178	1401.10	- Bamboos	WO
179	1401.20	- Rattans	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
180	1401.90	- Other	WO
181	1517.90	- Other	WO
182	1902.30	- Other pasta	RVC(40) or CC
183	1905.90	- Other	RVC(40) or CTH
184	2103.90	- Other	RVC(40) or CTH
185	2525.30	- Mica waste	WO
186	2619.00	Slag, dross (other than granulated slag), scalings and other waste from the manufacture of iron or steel.	WO
187	2620.11	- Containing mainly zinc: hard zinc spelter	WO
188	2620.19	- Containing mainly zinc: other	WO
189	2620.21	- Containing mainly lead: leaded gasoline sludges and leaded anti-knock compound sludges	WO
190	2620.29	- Containing mainly lead: other	WO
191	2620.30	- Containing mainly copper	WO
192	2620.60	- Containing arsenic, mercury, thallium or their mixtures, of a kind used for the extraction of arsenic or those metals or for	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
		the manufacture of their chemical compounds	
193	2620.91	- Other: containing antimony, beryllium, cadmium, chromium or their mixtures	WO
194	2620.99	- Other: other	WO
195	2621.10	- Ash and residues from the incineration of municipal waste	WO
196	2621.90	- Other	WO
197	5103.20	- Other waste of wool or of fine animal hair	Obtained from sheep, lambs or other animals raised in either Party under AHKFTA
198	5103.30	- Waste of coarse animal hair	Obtained from sheep, lambs or other animals raised in either Party under AHKFTA
199	6309.00	Worn clothing and other worn articles.	WO
200	6310.10	- Sorted	WO
201	6310.90	- Other	WO
202	7101.10	- Natural pearls	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
203	7101.21	- Cultured pearls: unworked	WO
204	7108.12	- Non-monetary: other unwrought forms	RVC(40) or CTH
205	7112.30	- Ash containing precious metal or precious metal compounds	WO
206	7112.91	- Other: of gold, including metal clad with gold but excluding sweepings containing other precious metals	WO
207	7112.92	- Other: of platinum, including metal clad with platinum but excluding sweepings containing other precious metals	WO
208	7112.99	- Other: other	WO
209	7404.00	Copper waste and scrap.	WO
210	7503.00	Nickel waste and scrap.	WO
211	7602.00	Aluminium waste and scrap.	WO
212	7606.11	- Rectangular (including square): of aluminium, not alloyed	RVC(40) or CTH
213	7606.12	- Rectangular (including square): of aluminium alloys	RVC(40) or CTH
214	7606.91	- Other: of aluminium, not alloyed	RVC(40) or CTH
215	7802.00	Lead waste and scrap.	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
216	7902.00	Zinc waste and scrap.	WO
217	8002.00	Tin waste and scrap.	WO
218	8101.97	- Other: waste and scrap	WO
219	8102.97	- Other: waste and scrap	WO
220	8103.30	- Waste and scrap	WO
221	8104.20	- Waste and scrap	WO
222	8105.30	- Waste and scrap	WO
223	8107.30	- Waste and scrap	WO
224	8108.30	- Waste and scrap	WO
225	8109.30	- Waste and scrap	WO
226	8110.20	- Waste and scrap	WO
227	8112.13	- Beryllium: waste and scrap	WO
228	8112.22	- Chromium: waste and scrap	WO
229	8112.52	- Thallium: waste and scrap	WO

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Serial No.	HS Code (HS2012)	Product Description	Origin Criteria
230	8412.21	- Hydraulic power engines and motors: linear acting (cylinders)	RVC(40) or CTSH
231	8462.10	-Forging or die-stamping machines (including presses) and hammers	RVC(40) or CTH
232	8486.40	- Machines and apparatus specified in Note 9 (C) to this Chapter	RVC(40) or CTSH
233	8523.41	- Optical media: unrecorded	RVC(40) or CTH
234	8534.00	Printed circuits.	RVC(40) or CTH
235	8542.39	- Electronic integrated circuits: other	RVC(40) or CTSH
236	8542.90	- Parts	RVC(40) or CTH
237	8548.10	- Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators	WO

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ANNEX 3-3

PRODUCT SPECIFIC RULES TO BE REVIEWED

Pending the final outcome of the negotiations on the Product Specific Rules (PSR) of the tariff lines listed under this Annex, the Parties agree to apply the origin criteria of Wholly Obtained (WO), or Produced Exclusively (PE) referred to in subparagraphs (a) and (b) of Article 3 (Origin Criteria) respectively, or the General Rule (RVC(40)) referred to in paragraph 1 of Article 5 (Not Wholly Obtained or Produced Goods) to a good, and all other applicable requirements under this Chapter. This paragraph shall be applied without prejudice to the outcome of the future PSR negotiations of the tariff lines under this Annex.

Serial No.	HS Code (HS2012)	Product Description
1.	2106.90	- Other
2.	2402.20	- Cigarettes containing tobacco
3.	2502.00	Unroasted iron pyrites.
4.	2503.00	Sulphur of all kinds, other than sublimed sulphur, precipitated sulphur and colloidal sulphur.
5.	2504.10	- In powder or in flakes
6.	2504.90	- Other
7.	2505.10	- Silica sands and quartz sands
8.	2505.90	- Other

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Serial No.	HS Code (HS2012)	Product Description
9.	2506.10	- Quartz
10.	2506.20	- Quartzite
11.	2507.00	Kaolin and other kaolinic clays, whether or not calcined.
12.	2508.10	- Bentonite
13.	2508.30	- Fire-clay
14.	2508.40	- Other clays
15.	2508.50	- Andalusite, kyanite and sillimanite
16.	2508.60	- Mullite
17.	2508.70	- Chamotte or dinas earths
18.	2509.00	Chalk.
19.	2510.10	- Unground
20.	2510.20	- Ground
21.	2511.10	- Natural barium sulphate (barytes)
22.	2511.20	- Natural barium carbonate (witherite)
23.	2512.00	Siliceous fossil meals (for example, kieselguhr, tripolite and diatomite) and similar siliceous earths, whether or not calcined, of an apparent specific gravity of 1 or less.
24.	2513.10	- Pumice stone
25.	2513.20	- Emery, natural corundum, natural garnet and other natural abrasives

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Serial No.	HS Code (HS2012)	Product Description
26.	2514.00	Slate, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.
27.	2515.11	- Marble and travertine: crude or roughly trimmed
28.	2515.12	- Marble and travertine: merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape
29.	2515.20	- Ecaussine and other calcareous monumental or building stone; alabaster
30.	2516.11	- Granite: crude or roughly trimmed
31.	2516.12	- Granite: merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape
32.	2516.20	- Sandstone
33.	2516.90	- Other monumental or building stone
34.	2517.10	- Pebbles, gravel, broken or crushed stone, of a kind commonly used for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint, whether or not heat-treated
35.	2517.20	- Macadam of slag, dross or similar industrial waste, whether or not incorporating the materials cited in subheading 2517.10
36.	2517.30	- Tarred macadam
37.	2517.41	- Granules, chippings and powder, of stones of heading 25.15 or 25.16, whether or not heat-treated: of marble
38.	2517.49	- Granules, chippings and powder, of stones of heading 25.15 or 25.16, whether or not heat-treated: other

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Serial No.	HS Code (HS2012)	Product Description
39.	2518.10	- Dolomite, not calcined or sintered
40.	2518.20	- Calcined or sintered dolomite
41.	2518.30	- Dolomite ramming mix
42.	2519.10	- Natural magnesium carbonate (magnesite)
43.	2519.90	- Other
44.	2520.10	- Gypsum; anhydrite
45.	2520.20	- Plasters
46.	2521.00	Limestone flux; limestone and other calcareous stone, of a kind used for the manufacture of lime or cement.
47.	2522.10	- Quicklime
48.	2522.20	- Slaked lime
49.	2522.30	- Hydraulic lime
50.	2524.10	- Crocidolite
51.	2524.90	- Other
52.	2525.10	- Crude mica and mica rifted into sheets or splittings
53.	2525.20	- Mica powder
54.	2526.10	- Not crushed, not powdered
55.	2526.20	- Crushed or powdered
56.	2528.00	Natural borates and concentrates thereof (whether or not calcined), but not including borates separated from natural brine; natural boric acid containing not more than 85 % of H_3BO_3 calculated on the dry weight.

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Serial No.	HS Code (HS2012)	Product Description
57.	2529.10	- Feldspar
58.	2529.21	- Fluorspar: containing by weight 97 % or less of calcium fluoride
59.	2529.22	- Fluorspar: containing by weight more than 97 % of calcium fluoride
60.	2529.30	- Leucite; nepheline and nepheline syenite
61.	2530.10	- Vermiculite, perlite and chlorites, unexpanded
62.	2530.20	- Kieserite, epsomite (natural magnesium sulphates)
63.	2530.90	- Other
64.	2601.11	- Iron ores and concentrates, other than roasted iron pyrites: non-agglomerated
65.	2601.12	- Iron ores and concentrates, other than roasted iron pyrites: agglomerated
66.	2601.20	- Roasted iron pyrites
67.	2602.00	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20 % or more, calculated on the dry weight.
68.	2603.00	Copper ores and concentrates.
69.	2604.00	Nickel ores and concentrates.
70.	2605.00	Cobalt ores and concentrates.
71.	2606.00	Aluminium ores and concentrates.
72.	2607.00	Lead ores and concentrates.
73.	2608.00	Zinc ores and concentrates.

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Serial No.	HS Code (HS2012)	Product Description
74.	2609.00	Tin ores and concentrates.
75.	2610.00	Chromium ores and concentrates.
76.	2611.00	Tungsten ores and concentrates.
77.	2612.10	- Uranium ores and concentrates
78.	2612.20	- Thorium ores and concentrates
79.	2613.10	- Roasted
80.	2613.90	- Other
81.	2614.00	Titanium ores and concentrates:
82.	2615.10	- Zirconium ores and concentrates
83.	2615.90	- Other
84.	2616.10	- Silver ores and concentrates
85.	2616.90	- Other
86.	2617.10	- Antimony ores and concentrates
87.	2617.90	- Other
88.	2618.00	Granulated slag (slag sand) from the manufacture of iron or steel.
89.	2620.40	- Containing mainly aluminium
90.	2701.11	- Coal, whether or not pulverised, but not agglomerated: anthracite
91.	2701.12	- Coal, whether or not pulverised, but not agglomerated: bituminous coal

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Serial No.	HS Code (HS2012)	Product Description
92.	2701.19	- Coal, whether or not pulverised, but not agglomerated: other coal
93.	2701.20	- Briquettes, ovoids and similar solid fuels manufactured from coal
94.	2702.10	- Lignite, whether or not pulverised, but not agglomerated
95.	2702.20	- Agglomerated lignite
96.	2703.00	Peat (including peat litter), whether or not agglomerated.
97.	2709.00	Petroleum oils and oils obtained from bituminous minerals, crude:
98.	2710.91	- Waste oils: containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)
99.	2710.99	- Waste oils: other
100.	2711.11	- Liquefied: natural gas
101.	2711.21	- In gaseous state: natural gas
102.	2714.10	- Bituminous or oil shale and tar sands
103.	2714.90	- Other
104.	2804.10	- Hydrogen
105.	2804.21	- Rare gases: argon
106.	2804.29	- Rare gases: other
107.	2804.30	- Nitrogen
108.	2804.40	- Oxygen

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Serial No.	HS Code (HS2012)	Product Description
109.	2844.50	- Spent (irradiated) fuel elements (cartridges) of nuclear reactors
110.	2853.00	Other inorganic compounds (including distilled or conductivity water and water of similar purity); liquid air (whether or not rare gases have been removed); compressed air; amalgams, other than amalgams of precious metals.
111.	3004.90	- Other
112.	3006.92	- Other: waste pharmaceuticals
113.	3206.49	- Other colouring matter and other preparations: other
114.	3302.90	- Other
115.	3825.10	- Municipal waste
116.	3825.20	- Sewage sludge
117.	3825.30	- Clinical waste
118.	3825.41	- Waste organic solvents: halogenated
119.	3825.49	- Waste organic solvents: other
120.	3825.50	- Wastes of metal picking liquors, hydraulic fluids, brake fluids and anti-freeze fluids
121.	3825.61	- Other wastes from chemical or allied industries: mainly containing organic constituents
122.	3825.69	- Other wastes from chemical or allied industries: other
123.	3825.90	- Other

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Serial No.	HS Code (HS2012)	Product Description
124.	3826.00	Biodiesel and mixtures thereof, not containing or containing less than 70 % by weight of petroleum oils or oils obtained from bituminous minerals.
125.	3903.19	- Polystyrene : other
126.	3915.10	- Of polymers of ethylene
127.	3915.20	- Of polymers of styrene
128.	3915.30	- Of polymers of vinyl chloride
129.	3915.90	- Of other plastics
130.	4001.10	- Natural rubber latex, whether or not pre-vulcanised
131.	4001.21	- Natural rubber in other forms: smoked sheets
132.	4001.22	- Natural rubber in other forms: technically specified natural rubber (TSNR)
133.	4001.29	- Natural rubber in other forms: other
134.	4001.30	- Balata, gutta-percha, guayule, chicle and similar natural gums
135.	4004.00	Waste, parings and scrap of rubber (other than hard rubber) and powders and granules obtained therefrom.
136.	4115.20	- Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles; leather dust, powder and flour
137.	4501.90	- Other
138.	5003.00	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock).

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Serial No.	HS Code (HS2012)	Product Description
139.	5007.20	- Other fabrics, containing 85 % or more by weight of silk or of silk waste other than noil silk
140.	5103.10	- Noils of wool or of fine animal hair
141.	5202.10	- Yarn waste (including thread waste)
142.	5202.91	- Other: garnetted stock
143.	5202.99	- Other: other
144.	5204.11	- Not put up for retail sale: containing 85 % or more by weight of cotton
145.	5204.19	- Not put up for retail sale: other
146.	5204.20	- Put up for retail sale
147.	5205.11	- Single yarn, of uncombed fibres: measuring 714.29 decitex or more (not exceeding 14 metric number)
148.	5205.12	- Single yarn, of uncombed fibres: measuring less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number)
149.	5205.13	- Single yarn, of uncombed fibres: measuring less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number)
150.	5205.14	- Single yarn, of uncombed fibres: measuring less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number)
151.	5205.15	- Single yarn, of uncombed fibres: measuring less than 125 decitex (exceeding 80 metric number)
152.	5205.21	- Single yarn, of combed fibres: measuring 714.29 decitex or more (not exceeding 14 metric number)

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Serial No.	HS Code (HS2012)	Product Description
153.	5205.22	- Single yarn, of combed fibres: measuring less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number)
154.	5205.23	- Single yarn, of combed fibres: measuring less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number)
155.	5205.24	- Single yarn, of combed fibres: measuring less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number)
156.	5205.26	- Single yarn, of combed fibres: measuring less than 125 decitex but not less than 106.38 decitex (exceeding 80 metric number but not exceeding 94 metric number)
157.	5205.27	- Single yarn, of combed fibres: measuring less than 106.38 decitex but not less than 83.33 decitex (exceeding 94 metric number but not exceeding 120 metric number)
158.	5205.28	- Single yarn, of combed fibres: measuring less than 83.33 decitex (exceeding 120 metric number)
159.	5205.31	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn 714.29 decitex or more (not exceeding 14 metric number per single yarn)
160.	5205.32	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number per single yarn)
161.	5205.33	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number per single yarn)

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Serial No.	HS Code (HS2012)	Product Description
162.	5205.34	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number per single yarn)
163.	5205.35	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 125 decitex (exceeding 80 metric number per single yarn)
164.	5205.41	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn 714.29 decitex or more (not exceeding 14 metric number per single yarn)
165.	5205.42	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number per single yarn)
166.	5205.43	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number per single yarn)
167.	5205.44	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number per single yarn)
168.	5205.46	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 125 decitex but not less than 106.38 decitex (exceeding 80 metric number but not exceeding 94 metric number per single yarn)
169.	5205.47	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 106.38 decitex but not

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Serial No.	HS Code (HS2012)	Product Description
		less than 83.33 decitex (exceeding 94 metric number but not exceeding 120 metric number per single yarn)
170.	5205.48	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 83.33 decitex (exceeding 120 metric number per single yarn)
171.	5206.11	- Single yarn, of uncombed fibres: measuring 714.29 decitex or more (not exceeding 14 metric number)
172.	5206.12	- Single yarn, of uncombed fibres: measuring less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number)
173.	5206.13	- Single yarn, of uncombed fibres: measuring less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number)
174.	5206.14	- Single yarn, of uncombed fibres: measuring less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number)
175.	5206.15	- Single yarn, of uncombed fibres: measuring less than 125 decitex (exceeding 80 metric number)
176.	5206.21	- Single yarn, of combed fibres: measuring 714.29 decitex or more (not exceeding 14 metric number)
177.	5206.22	- Single yarn, of combed fibres: measuring less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number)
178.	5206.23	- Single yarn, of combed fibres: measuring less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number)

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Serial No.	HS Code (HS2012)	Product Description
179.	5206.24	- Single yarn, of combed fibres: measuring less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number)
180.	5206.25	- Single yarn, of combed fibres: measuring less than 125 decitex (exceeding 80 metric number)
181.	5206.31	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn 714.29 decitex or more (not exceeding 14 metric number per single yarn)
182.	5206.32	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number per single yarn)
183.	5206.33	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number per single yarn)
184.	5206.34	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number per single yarn)
185.	5206.35	- Multiple (folded) or cabled yarn, of uncombed fibres: measuring per single yarn less than 125 decitex (exceeding 80 metric number per single yarn)
186.	5206.41	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn 714.29 decitex or more (not exceeding 14 metric number per single yarn)

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Serial No.	HS Code (HS2012)	Product Description
187.	5206.42	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number per single yarn)
188.	5206.43	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 232.56 decitex but not less than 192.31 decitex (exceeding 43 metric number but not exceeding 52 metric number per single yarn)
189.	5206.44	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 192.31 decitex but not less than 125 decitex (exceeding 52 metric number but not exceeding 80 metric number per single yarn)
190.	5206.45	- Multiple (folded) or cabled yarn, of combed fibres: measuring per single yarn less than 125 decitex (exceeding 80 metric number per single yarn)
191.	5207.10	- Containing 85 % or more by weight of cotton
192.	5207.90	- Other
193.	5208.11	- Unbleached: plain weave, weighing not more than 100 g/m^2
194.	5208.12	- Unbleached: plain weave, weighing more than 100 g/m^2
195.	5208.13	- Unbleached: 3-thread or 4-thread twill, including cross twill
196.	5208.19	- Unbleached: other fabrics
197.	5208.21	- Bleached: plain weave, weighing not more than 100 g/m^2
198.	5208.22	- Bleached: plain weave, weighing more than 100 g/m^2
199.	5208.23	- Bleached: 3-thread or 4-thread twill, including cross twill
200.	5208.29	- Bleached: other fabrics

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Serial No.	HS Code (HS2012)	Product Description
201.	5208.41	- Of yarns of different colours: plain weave, weighing not more than 100 g/m^2
202.	5208.42	- Of yarns of different colours: plain weave, weighing more than 100 g/m^2
203.	5208.43	- Of yarns of different colours: 3-thread or 4-thread twill, including cross twill
204.	5208.49	- Of yarns of different colours: other fabrics
205.	5209.11	- Unbleached: plain weave
206.	5209.12	- Unbleached: 3-thread or 4-thread twill, including cross twill
207.	5209.19	- Unbleached: other fabrics
208.	5209.21	- Bleached: plain weave
209.	5209.22	- Bleached: 3-thread or 4-thread twill, including cross twill
210.	5209.29	- Bleached: other fabrics
211.	5209.41	- Of yarns of different colours: plain weave
212.	5209.42	- Of yarns of different colours: denim
213.	5209.43	- Of yarns of different colours: other fabrics of 3-thread or 4-thread twill, including cross twill
214.	5209.49	- Of yarns of different colours: other fabrics
215.	5210.11	- Unbleached: plain weave
216.	5210.19	- Unbleached: other fabrics
217.	5210.21	- Bleached: plain weave
218.	5210.29	- Bleached: other fabrics

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Serial No.	HS Code (HS2012)	Product Description
219.	5210.41	- Of yarns of different colours: plain weave
220.	5210.49	- Of yarns of different colours: other fabrics
221.	5211.11	- Unbleached: plain weave
222.	5211.12	- Unbleached: 3-thread or 4-thread twill, including cross twill
223.	5211.19	- Unbleached: other fabrics
224.	5211.20	- Bleached
225.	5211.41	- Of yarns of different colours: plain weave
226.	5211.42	- Of yarns of different colours: denim
227.	5211.43	- Of yarns of different colours: other fabrics of 3-thread or 4-thread twill, including cross twill
228.	5211.49	- Of yarns of different colours: other fabrics
229.	5212.11	- Weighing not more than 200 g/m^2: unbleached
230.	5212.12	- Weighing not more than 200 g/m^2: bleached
231.	5212.14	- Weighing not more than 200 g/m^2: of yarns of different colours
232.	5212.21	- Weighing more than 200 g/m^2: unbleached
233.	5212.22	- Weighing more than 200 g/m^2: bleached
234.	5212.24	- Weighing more than 200 g/m^2: of yarns of different colours
235.	5301.30	- Flax tow and waste
236.	5408.22	- Other woven fabrics, containing 85 % or more by weight of artificial filament or strip or the like: dyed
237.	6001.10	- "Long pile" fabrics

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Serial No.	HS Code (HS2012)	Product Description
238.	6001.21	- Looped pile fabrics: of cotton
239.	6001.22	- Looped pile fabrics: of man-made fibres
240.	6001.29	- Looped pile fabrics: of other textile materials
241.	6002.40	- Containing by weight 5 % or more of elastomeric yarn but not containing rubber thread
242.	6002.90	- Other
243.	6003.10	- Of wool or fine animal hair
244.	6003.20	- Of cotton
245.	6003.30	- Of synthetic fibres
246.	6003.40	- Of artificial fibres
247.	6003.90	- Other
248.	6004.10	- Containing by weight 5 % or more of elastomeric yarn but not containing rubber thread
249.	6004.90	- Other
250.	6005.21	- Of cotton: unbleached or bleached
251.	6005.22	- Of cotton: dyed
252.	6005.23	- Of cotton: of yarns of different colours
253.	6005.24	- Of cotton: printed
254.	6005.31	- Of synthetic fibres: unbleached or bleached
255.	6005.32	- Of synthetic fibres: dyed
256.	6005.33	- Of synthetic fibres: of yarns of different colours

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Serial No.	HS Code (HS2012)	Product Description
257.	6005.41	- Of artificial fibres: unbleached or bleached
258.	6005.42	- Of artificial fibres: dyed
259.	6005.43	- Of artificial fibres: of yarns of different colours
260.	6005.44	- Of artificial fibres: printed
261.	6005.90	- Other
262.	6006.10	- Of wool or fine animal hair
263.	6006.31	- Of synthetic fibres: unbleached or bleached
264.	6006.32	- Of synthetic fibres: dyed
265.	6006.33	- Of synthetic fibres: of yarns of different colours
266.	6006.34	- Of synthetic fibres: printed
267.	6006.41	- Of artificial fibres: unbleached or bleached
268.	6006.42	- Of artificial fibres: dyed
269.	6006.43	- Of artificial fibres: of yarns of different colours
270.	6006.44	- Of artificial fibres: printed
271.	6006.90	- Other
272.	6101.20	- Of cotton
273.	6101.30	- Of man-made fibres
274.	6101.90	- Of other textile materials
275.	6102.10	- Of wool or fine animal hair
276.	6102.20	- Of cotton

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Serial No.	HS Code (HS2012)	Product Description
277.	6102.30	- Of man-made fibres
278.	6102.90	- Of other textile materials
279.	6103.10	- Suits
280.	6103.22	- Ensembles: of cotton
281.	6103.23	- Ensembles: of synthetic fibres
282.	6103.29	- Ensembles: of other textile materials
283.	6103.31	- Jackets and blazers: of wool or fine animal hair
284.	6103.32	- Jackets and blazers: of cotton
285.	6103.33	- Jackets and blazers: of synthetic fibres
286.	6103.39	- Jackets and blazers: of other textile materials
287.	6103.41	- Trousers, bib and brace overalls, breeches and shorts: of wool or fine animal hair
288.	6103.42	- Trousers, bib and brace overalls, breeches and shorts: of cotton
289.	6103.43	- Trousers, bib and brace overalls, breeches and shorts: of synthetic fibres
290.	6103.49	-Trousers, bib and brace overalls, breeches and shorts: of other textile materials
291.	6104.13	- Suits: of synthetic fibres
292.	6104.19	- Suits: of other textile materials
293.	6104.22	- Ensembles: of cotton
294.	6104.23	- Ensembles: of synthetic fibres

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Serial No.	HS Code (HS2012)	Product Description
295.	6104.29	- Ensembles: of other textile materials
296.	6104.31	- Jackets and blazers: of wool or fine animal hair
297.	6104.32	- Jackets and blazers: of cotton
298.	6104.33	- Jackets and blazers: of synthetic fibres
299.	6104.39	- Jackets and blazers: of other textile materials
300.	6104.41	- Dresses: of wool or fine animal hair
301.	6104.42	- Dresses: of cotton
302.	6104.43	- Dresses: of synthetic fibres
303.	6104.44	- Dresses: of artificial fibres
304.	6104.49	- Dresses: of other textile materials
305.	6104.51	- Skirts and divided skirts: of wool or fine animal hair
306.	6104.52	- Skirts and divided skirts: of cotton
307.	6104.53	- Skirts and divided skirts: of synthetic fibres
308.	6104.59	- Skirts and divided skirts: of other textile materials
309.	6104.61	- Trousers, bib and brace overalls, breeches and shorts: of wool or fine animal hair
310.	6104.62	- Trousers, bib and brace overalls, breeches and shorts: of cotton
311.	6104.63	- Trousers, bib and brace overalls, breeches and shorts: of synthetic fibres
312.	6104.69	- Trousers, bib and brace overalls, breeches and shorts: of other textile materials

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Serial No.	HS Code (HS2012)	Product Description
313.	6105.10	- Of cotton
314.	6105.20	- Of man-made fibres
315.	6105.90	- Of other textile materials
316.	6106.10	- Of cotton
317.	6106.20	- Of man-made fibres
318.	6106.90	- Of other textile materials
319.	6107.11	- Underpants and briefs: of cotton
320.	6107.12	- Underpants and briefs: of man-made fibres
321.	6107.19	- Underpants and briefs: of other textile materials
322.	6107.21	- Nightshirts and pyjamas: of cotton
323.	6107.22	- Nightshirts and pyjamas: of man-made fibres
324.	6107.29	- Nightshirts and pyjamas: of other textile materials
325.	6107.91	- Other: of cotton
326.	6107.99	- Other: of other textile materials
327.	6108.11	- Slips and petticoats: of man-made fibres
328.	6108.19	- Slips and petticoats: of other textile materials
329.	6108.21	- Briefs and panties: of cotton
330.	6108.22	- Briefs and panties: of man-made fibres
331.	6108.29	- Briefs and panties: of other textile materials
332.	6108.31	- Nightdresses and pyjamas: of cotton

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Serial No.	HS Code (HS2012)	Product Description
333.	6108.32	- Nightdresses and pyjamas: of man-made fibres
334.	6108.39	- Nightdresses and pyjamas: of other textile materials
335.	6108.91	- Other: of cotton
336.	6108.92	- Other: of man-made fibres
337.	6108.99	- Other: of other textile materials
338.	6109.10	- Of cotton
339.	6109.90	- Of other textile materials
340.	6110.11	- Of wool or fine animal hair: of wool
341.	6110.12	- Of wool or fine animal hair: of Kashmir (cashmere) goats
342.	6110.19	- Of wool or fine animal hair: other
343.	6110.20	- Of cotton
344.	6110.30	- Of man-made fibres
345.	6110.90	- Of other textile materials
346.	6111.20	- Of cotton
347.	6111.30	- Of synthetic fibres
348.	6111.90	- Of other textile materials
349.	6112.11	- Track suits: of cotton
350.	6112.12	- Track suits: of synthetic fibres
351.	6112.19	- Track suits: of other textile materials
352.	6112.20	- Ski suits

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Serial No.	HS Code (HS2012)	Product Description
353.	6112.31	- Men's or boys' swimwear: of synthetic fibres
354.	6112.39	- Men's or boys' swimwear: of other textile materials
355.	6112.41	- Women's or girls' swimwear: of synthetic fibres
356.	6112.49	- Women's or girls' swimwear: of other textile materials
357.	6113.00	Garments, made up of knitted or crocheted fabrics of heading 59.03, 59.06 or 59.07.
358.	6114.20	- Of cotton
359.	6114.30	- Of man-made fibres
360.	6114.90	- Of other textile materials
361.	6115.10	- Graduated compression hosiery (for example, stockings for varicose veins)
362.	6115.21	- Other panty hose and tights: of synthetic fibres, measuring per single yarn less that 67 decitex
363.	6115.22	- Other panty hose and tights: of synthetic fibres, measuring per single yarn 67 decitex or more
364.	6115.29	- Other panty hose and tights: of other textile materials
365.	6115.30	- Other women's full-length or knee-length hosiery, measuring per single yarn less than 67 decitex
366.	6115.94	- Other: of wool or fine animal hair
367.	6115.95	- Other: of cotton
368.	6115.96	- Other: of synthetic fibres
369.	6115.99	- Other: of other textile materials

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Serial No.	HS Code (HS2012)	Product Description
370.	6116.10	- Impregnated, coated or covered with plastics or rubber
371.	6116.91	- Other: of wool or fine animal hair
372.	6116.92	- Other: of cotton
373.	6116.93	- Other: of synthetic fibres
374.	6116.99	- Other: of other textile materials
375.	6117.10	- Shawls, scarves, mufflers, mantillas, veils and the like
376.	6117.80	- Other accessories
377.	6117.90	- Parts
378.	6201.11	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of wool or fine animal hair
379.	6201.12	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of cotton
380.	6201.13	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of man-made fibres
381.	6201.19	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of other textile materials
382.	6201.91	- Other: of wool or fine animal hair
383.	6201.92	- Other: of cotton
384.	6201.93	- Other: of man-made fibres
385.	6201.99	- Other: of other textile materials
386.	6202.11	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of wool or fine animal hair

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Serial No.	HS Code (HS2012)	Product Description
387.	6202.12	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of cotton
388.	6202.13	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of man-made fibres
389.	6202.19	- Overcoats, raincoats, car-coats, capes, cloaks and similar articles: of other textile materials
390.	6202.91	- Other: of wool or fine animal hair
391.	6202.92	- Other: of cotton
392.	6202.93	- Other: of man-made fibres
393.	6202.99	- Other: of other textile materials
394.	6203.11	- Suits: of wool or fine animal hair
395.	6203.12	- Suits: of synthetic fibres
396.	6203.19	- Suits: of other textile materials
397.	6203.22	- Ensembles: of cotton
398.	6203.23	- Ensembles: of synthetic fibres
399.	6203.29	- Ensembles: of other textile materials
400.	6203.31	- Jackets and blazers: of wool or fine animal hair
401.	6203.32	- Jackets and blazers: of cotton
402.	6203.33	- Jackets and blazers: of synthetic fibres
403.	6203.39	- Jackets and blazers: of other textile materials
404.	6203.41	- Trousers, bib and brace overalls, breeches and shorts: of wool or fine animal hair

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Serial No.	HS Code (HS2012)	Product Description
405.	6203.42	- Trousers, bib and brace overalls, breeches and shorts: of cotton
406.	6203.43	- Trousers, bib and brace overalls, breeches and shorts: of synthetic fibres
407.	6203.49	- Trousers, bib and brace overalls, breeches and shorts: of other textile materials
408.	6204.11	- Suits: of wool or fine animal hair
409.	6204.12	- Suits: of cotton
410.	6204.13	- Suits: of synthetic fibres
411.	6204.19	- Suits: of other textile materials
412.	6204.21	- Ensembles: of wool or fine animal hair
413.	6204.22	- Ensembles: of cotton
414.	6204.23	- Ensembles: of synthetic fibres
415.	6204.29	- Ensembles: of other textile materials
416.	6204.31	- Jackets and blazers: of wool or fine animal hair
417.	6204.32	- Jackets and blazers: of cotton
418.	6204.33	- Jackets and blazers: of synthetic fibres
419.	6204.39	- Jackets and blazers: of other textile materials
420.	6204.41	- Dresses: of wool or fine animal hair
421.	6204.42	- Dresses: of cotton
422.	6204.43	- Dresses: of synthetic fibres
423.	6204.44	- Dresses: of artificial fibres

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Serial No.	HS Code (HS2012)	Product Description
424.	6204.49	- Dresses: of other textile materials
425.	6204.51	- Skirts and divided skirts: of wool or fine animal hair
426.	6204.52	- Skirts and divided skirts: of cotton
427.	6204.53	- Skirts and divided skirts: of synthetic fibres
428.	6204.59	- Skirts and divided skirts: of other textile materials
429.	6204.61	- Trousers, bib and brace overalls, breeches and shorts: of wool or fine animal hair
430.	6204.62	- Trousers, bib and brace overalls, breeches and shorts: of cotton
431.	6204.63	- Trousers, bib and brace overalls, breeches and shorts: of synthetic fibres
432.	6204.69	- Trousers, bib and brace overalls, breeches and shorts: of other textile materials
433.	6205.20	- Of cotton
434.	6205.30	- Of man-made fibres
435.	6205.90	- Of other textile materials
436.	6206.10	- Of silk or silk waste
437.	6206.20	- Of wool or fine animal hair
438.	6206.30	- Of cotton
439.	6206.40	- Of man-made fibres
440.	6206.90	- Of other textile materials
441.	6207.11	- Underpants and briefs: of cotton

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Serial No.	HS Code (HS2012)	Product Description
442.	6207.19	- Underpants and briefs: of other textile materials
443.	6207.21	- Nightshirts and pyjamas: of cotton
444.	6207.22	- Nightshirts and pyjamas: of man-made fibres
445.	6207.29	- Nightshirts and pyjamas: of other textile materials
446.	6207.91	- Other: of cotton
447.	6207.99	- Other: of other textile materials
448.	6208.11	- Slips and petticoats: of man-made fibres
449.	6208.19	- Slips and petticoats: of other textile materials
450.	6208.21	- Nightdresses and pyjamas: of cotton
451.	6208.22	- Nightdresses and pyjamas: of man-made fibres
452.	6208.29	- Nightdresses and pyjamas: of other textile materials
453.	6208.91	- Other: of cotton
454.	6208.92	- Other: of man-made fibres
455.	6208.99	- Other: of other textile materials
456.	6209.20	- Of cotton
457.	6209.30	- Of synthetic fibres
458.	6209.90	- Of other textile materials
459.	6210.10	- Of fabrics of heading 56.02 or 56.03
460.	6210.20	- Other garments, of the type described in subheadings 6201.11 to 6201.19

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Serial No.	HS Code (HS2012)	Product Description
461.	6210.30	- Other garments, of the type described in subheadings 6202.11 to 6202.19
462.	6210.40	- Other men's or boys' garments
463.	6210.50	- Other women's or girls' garments
464.	6211.11	- Swimwear: men's or boys'
465.	6211.12	- Swimwear: women's or girls'
466.	6211.20	- Ski suits
467.	6211.32	- Other garments, men's or boys': of cotton
468.	6211.33	- Other garments, men's or boys': of man-made fibres
469.	6211.39	- Other garments, men's or boys': of other textile materials
470.	6211.42	- Other garments, women's or girls': of cotton
471.	6211.43	- Other garments, women's or girls': of man-made fibres
472.	6211.49	- Other garments, women's or girls': of other textile materials
473.	6212.10	- Brassières
474.	6212.20	- Girdles and panty-girdles
475.	6212.30	- Corselettes
476.	6212.90	- Other
477.	6213.20	- Of cotton
478.	6213.90	- Of other textile materials
479.	6214.10	- Of silk or silk waste
480.	6214.20	- Of wool or fine animal hair

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Serial No.	HS Code (HS2012)	Product Description
481.	6214.30	- Of synthetic fibres
482.	6214.40	- Of artificial fibres
483.	6214.90	- Of other textile materials
484.	6215.10	- Of silk or silk waste
485.	6215.20	- Of man-made fibres
486.	6215.90	- Of other textile materials
487.	6216.00	Gloves, mittens and mitts.
488.	6217.10	- Accessories
489.	6217.90	- Parts
490.	6301.10	- Electric blankets
491.	6301.20	- Blankets (other than electric blankets) and travelling rugs, of wool or of fine animal hair
492.	6301.30	- Blankets (other than electric blankets) and travelling rugs, of cotton
493.	6301.40	- Blankets (other than electric blankets) and travelling rugs, of synthetic fibres
494.	6301.90	- Other blankets and travelling rugs
495.	6302.10	- Bed linen, knitted or crocheted
496.	6302.21	- Other bed linen, printed: of cotton
497.	6302.22	- Other bed linen, printed: of man-made fibres
498.	6302.29	- Other bed linen, printed: of other textile materials
499.	6302.31	- Other bed linen: of cotton

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Serial No.	HS Code (HS2012)	Product Description
500.	6302.32	- Other bed linen: of man-made fibres
501.	6302.39	- Other bed linen: of other textile materials
502.	6302.40	- Table linen, knitted or crocheted
503.	6302.51	- Other table linen: of cotton
504.	6302.53	- Other table linen: of man-made fibres
505.	6302.59	- Other table linen: of other textile materials
506.	6302.60	- Toilet linen and kitchen linen, of terry towelling or similar terry fabrics, of cotton
507.	6302.91	- Other: of cotton
508.	6302.93	- Other: of man-made fibres
509.	6302.99	- Other: of other textile materials
510.	6303.12	- Knitted or crocheted: of synthetic fibres
511.	6303.19	- Knitted or crocheted: of other textile materials
512.	6303.91	- Other: of cotton
513.	6303.92	- Other: of synthetic fibres
514.	6303.99	- Other: of other textile materials
515.	6304.11	- Bedspreads: knitted or crocheted
516.	6304.19	- Bedspreads: other
517.	6304.91	- Other: knitted or crocheted
518.	6304.92	- Other: not knitted or crocheted, of cotton
519.	6304.93	- Other: not knitted or crocheted, of synthetic fibres

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Serial No.	HS Code (HS2012)	Product Description
520.	6304.99	- Other: not knitted or crocheted, of other textile materials
521.	6305.10	- Of jute or of other textile bast fibres of heading 53.03
522.	6305.20	- Of cotton
523.	6305.32	- Of man-made textile materials: flexible intermediate bulk containers
524.	6305.33	- Of man-made textile materials: other, of polyethylene or polypropylene strip or the like
525.	6305.39	- Of man-made textile materials: other
526.	6305.90	- Of other textile materials
527.	6306.12	- Tarpaulins, awnings and sunblinds: of synthetic fibres
528.	6306.19	- Tarpaulins, awnings and sunblinds: of other textile materials
529.	6306.22	- Tents: of synthetic fibres
530.	6306.29	- Tents: of other textile materials
531.	6306.30	- Sails
532.	6306.40	- Pneumatic mattresses
533.	6306.90	- Other
534.	6307.10	- Floor-cloths, dish-cloths, dusters and similar cleaning cloths
535.	6307.20	- Life-jackets and life-belts
536.	6307.90	- Other
537.	6308.00	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered

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Serial No.	HS Code (HS2012)	Product Description
		table cloths or serviettes, or similar textile articles, put up in packings for retail sale.
538.	7001.00	Cullet and other waste and scrap of glass; glass in the mass.
539.	7101.22	- Cultured pearls: worked
540.	7102.10	- Unsorted
541.	7102.21	- Industrial: unworked or simply sawn, cleaved or bruted
542.	7102.31	- Non-industrial: unworked or simply sawn, cleaved or bruted
543.	7103.10	- Unworked or simply sawn or roughly shaped
544.	7108.13	- Non-monetary: other semi-manufactured forms
545.	7113.19	- Of precious metal whether or not plated or clad with precious metal: of other precious metal, whether or not plated or clad with precious metal
546.	7116.10	- Of natural or cultured pearls
547.	7201.10	- Non-alloy pig iron containing by weight 0.5 % or less of phosphorus
548.	7204.10	- Waste and scrap of cast iron
549.	7204.21	- Waste and scrap of alloy steel: of stainless steel
550.	7204.29	- Waste and scrap of alloy steel: other
551.	7204.30	- Waste and scrap of tinned iron or steel
552.	7204.41	- Other waste and scrap: turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles

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Serial No.	HS Code (HS2012)	Product Description
553.	7204.49	- Other waste and scrap: other
554.	7204.50	- Remelting scrap ingots
555.	7606.92	- Other: of aluminium alloys
556.	8112.92	- Other: unwrought; waste and scrap; powders
557.	9619.00	Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles, of any material.

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CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 1

Definitions

For the purposes of this Chapter:

(a) **Customs Administration** means:

(i) in respect of ASEAN, the customs administration of each ASEAN Member State or competent authorities that are responsible under the internal law of the ASEAN Member State for the administration of customs law; and

(ii) in respect of Hong Kong, China, the Customs and Excise Department of Hong Kong, China;

(b) **customs law** means any internal law administered, applied or enforced by the Customs Administration of a Party; and

(c) **customs procedures** means the treatment applied by the Customs Administration of a Party to a good that is subject to customs law.

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Article 2

Objectives

The objectives of this Chapter are to:

(a) ensure predictability, consistency and transparency in the application of the customs laws of the Parties;

(b) promote efficient and economical administration of customs procedures, and the expeditious clearance of goods;

(c) simplify and harmonise customs procedures to the extent possible;

(d) promote co-operation among the Customs Administrations of the Parties; and

(e) facilitate trade among the Parties.

Article 3

Scope

This Chapter applies, in accordance with the Parties' respective internal laws, to customs procedures applied to goods traded among the Parties.

Article 4

Customs Procedures and Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent, and facilitate trade including through the expeditious clearance of goods.

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2. Customs procedures of the Parties shall, where possible and to the extent permitted by their respective customs laws, conform to standards and recommended practices of the World Customs Organization and other international organisations relevant to customs.

3. The Customs Administration of each Party shall review its customs procedures to facilitate trade.

4. Customs control shall be limited to such control which is necessary to ensure compliance with the customs laws of the respective Parties.

Article 5

Pre-arrival Processing

The Customs Administration of each Party shall endeavour to adopt or maintain procedures allowing for the submission of import documentation and other required information, in electronic format as appropriate, in order to begin processing prior to the arrival of a good with a view to expediting the release of the good upon arrival.

Article 6

Risk Management

1. Each Party shall use risk management to determine control measures with a view to facilitating legitimate trade, and expediting customs clearance and release of goods.

2. Each Party shall administer customs procedures so as to expedite the clearance of low-risk goods and focus on high-risk goods.

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Article 7

Customs Valuation

Each Party shall determine the customs value of goods traded with other Parties in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement.

Article 8

Classification of Goods

Each Party shall apply the *International Convention on the Harmonized Commodity Description and Coding System* signed at Brussels on 14 June 1983, as amended, to goods traded with other Parties.

Article 9

Use of Information Technology System

1. The Customs Administration of each Party, where applicable, shall apply information technology in customs operations based on internationally accepted standards for expeditious customs clearance and release of goods.

2. Each Party shall endeavour to establish and operate its single window system to enable traders to submit documentation or data requirements for importation, exportation or transit of goods through a single entry point to its relevant authorities or agencies.

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Article 10

Authorized Economic Operators

1. The Customs Administration of each Party shall endeavour to establish a programme of Authorized Economic Operators ("AEOs") on the basis of the *SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization* (the "SAFE Framework") to promote informed compliance and facilitate trade while ensuring effective customs control.

2. The Customs Administrations of the Parties shall endeavour to work towards mutual recognition of AEOs and develop their programmes on the basis of international standards under the SAFE Framework.

Article 11

Post Clearance Audit

The Customs Administration of each Party shall establish and operate post clearance audits to ensure compliance with customs and other related law for expeditious customs clearance.

Article 12

Advance Rulings

1. Each Party, through its Customs Administration or other relevant authorities, shall, subject to its internal law and administrative determinations, provide in writing advance rulings to an applicant described in subparagraph 2 (a), in respect of the tariff classification, appropriate method or criteria and the

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application thereof to be used for determining the customs valuation, and origin of goods.

2. Where available, each Party shall adopt or maintain procedures for advance rulings, which shall:

(a) provide that an exporter, importer or any person with a justifiable cause or a representative thereof may apply for an advance ruling before the importation of a good in question;

(b) require that an applicant for an advance ruling provides a detailed description of the good and all relevant information needed to process an application for an advance ruling;

(c) provide that its Customs Administration may, at any time during the course of evaluation of an application for an advance ruling, request the applicant to provide additional information within a specified period;

(d) provide that any advance ruling be based on the facts and circumstances presented by the applicant, and any other relevant information in the possession of the decision-maker; and

(e) provide that an advance ruling be issued to the applicant expeditiously on receipt of all necessary information, within the period specified in each Party's respective internal law or administrative determinations.

3. A Party may reject an application for an advance ruling where the additional information requested in accordance with subparagraph 2 (c) is not provided within the specified period.

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4. Subject to paragraphs 1 and 5 and where available, each Party shall apply an advance ruling to all importations of goods described in that ruling imported into its Area for three years from the date of that ruling, or such other period as specified in that Party's internal law or administrative determinations.

5. A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, there is a change in its internal law in a manner consistent with this Agreement, or there is a change in a material fact or circumstances on which the ruling was based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the Party may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advance ruling was based.

Article 13

Temporary Admission

1. Each Party shall facilitate temporary admission of a good in accordance with its internal law and the relevant international standards applied by the Party.

2. **Temporary admission** in this Article means customs procedures for certain goods which are brought into a Party for a specific purpose and intended for re-exportation within a specified period without having undergone any change except normal depreciation due to the use made of them. Such customs procedures may include the goods being

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conditionally relieved totally or partially from payment of import duties and taxes.

Article 14

Express Consignments

1. The Customs Administration of each Party shall endeavour to put in place adequate measures and mechanisms to facilitate customs clearance of express consignments, including pre-arrival lodging and processing of a goods declaration.

2. **Goods declaration** in this Article means a statement made in the manner prescribed by the Customs Administration of a Party, by which the persons concerned indicate the customs procedure to be applied to the goods and furnish the particulars which the Customs Administration requires for the application of the customs procedure.

Article 15

Customs Co-operation

To the extent permitted by its internal law, the Customs Administration of each Party may, as it deems appropriate, assist the Customs Administration of another Party on:

(a) the implementation and operation of this Chapter; and

(b) such other issues as the Parties mutually determine.

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Article 16

Publication and Enquiry Points

1. The Customs Administration of each Party shall publish on the internet or in print form the customs law and customs administrative procedures that it applies or enforces, including any modifications thereof, except law enforcement procedures and internal operational guidelines.

2. The Customs Administration of each Party shall designate one or more enquiry points to deal with enquiries from interested persons concerning customs matters, and shall make available on the internet or in print form information concerning the procedures for making such enquiries.

Article 17

Consultations

1. Each Party shall encourage its Customs Administration to consult with the Customs Administrations of the other Parties regarding issues related to trade in goods arising from the operation or implementation of this Chapter.

2. The Customs Administration of each Party shall designate one or more contact points for the purposes of this Chapter. Each Party shall provide information on the contact points to the other Parties and notify any amendment to such information to the other Parties as soon as practicable.

3. The consultations referred to in paragraph 1 shall be conducted through the contact points of the

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Customs Administrations of the relevant Parties, within a timeframe to be mutually determined.

4. Any action taken pursuant to paragraph 1 shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Consultations and Dispute Settlement) or under the WTO Dispute Settlement Understanding.

Article 18

Review and Appeal

1. Each Party shall, in accordance with its internal law, provide that the importer, exporter or any other person affected by its administrative rulings, determinations or decisions have access to:

(a) a level of administrative appeal to or review by the authority higher than or independent of the official or office responsible for the rulings, determinations or decisions. The level of administrative appeal or review may include any authority supervising the Customs Administration, subject to the internal law of the Party; and/or

(b) judicial review or appeal of the administrative rulings, determinations or decisions subject to its internal law.

2. The decision on review or appeal shall be given to the applicant or appellant and, subject to the Party's internal law, the reasons for such decision shall be provided in writing.

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CHAPTER 5

SANITARY AND PHYTOSANITARY MEASURES

Article 1

Definitions

For the purposes of this Chapter:

(a) the definitions in Annex A of the SPS Agreement are incorporated into and shall form part of this Chapter, *mutatis mutandis*; and

(b) **competent authorities** means those authorities within each Party recognised by the national government as responsible for developing and administering the various sanitary and phytosanitary measures within that Party.

Article 2

Objectives

The objectives of this Chapter are to:

(a) enhance implementation of the SPS Agreement;

(b) facilitate trade by minimising obstacles to trade among the Parties, while protecting human, animal or plant life or health in the Area of each Party;

(c) enhance transparency such that sanitary and phytosanitary measures shall not be applied in a

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manner which would constitute a disguised restriction on international trade;

(d) strengthen co-operation and communication among the Parties in the field of sanitary and phytosanitary matters; and

(e) provide a means to resolve, where possible, problems arising from sanitary and phytosanitary measures that may affect trade.

Article 3

Scope

This Chapter shall apply to all sanitary and phytosanitary measures of a Party, which may, directly or indirectly, affect trade among the Parties.

Article 4

General Provisions

1. Each Party affirms its rights and obligations with respect to another Party under the SPS Agreement.

2. Each Party commits to applying the principles of the SPS Agreement in the development and application of any sanitary or phytosanitary measure.

Article 5

Equivalence

1. The Parties may develop equivalence arrangements and make determinations of equivalence in accordance with Article 4 of the SPS Agreement by taking into account relevant guidance of

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the WTO Committee on Sanitary and Phytosanitary Measures and relevant international standards, guidelines and recommendations.

2. Each Party shall accept the sanitary and phytosanitary measures of another Party as equivalent, even if these measures differ from its own or from those used by the other Parties trading in the same product, if the exporting Party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection.

3. A Party shall, upon request of another Party, enter into consultations with the requesting Party with the aim of achieving agreements on recognition of the equivalence of specified sanitary or phytosanitary measures. In the event that an outcome of the assessment of such consultations is negative, the importing Party should explain its rationale for the outcome.

Article 6

Regionalisation

1. A Party may make determinations in relation to regionalisation, pest- or disease-free areas, areas of low pest or disease prevalence, zoning, and compartmentalisation in accordance with Article 6 of the SPS Agreement by taking into account relevant guidance of the WTO Committee on Sanitary and Phytosanitary Measures and relevant international standards, guidelines and recommendations.

2. The Parties may co-operate on the adaptation to regional conditions in accordance with the SPS

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Agreement and relevant international standards, guidelines and recommendations.

Article 7

Transparency

1. Each Party acknowledges the value of transparency and exchanging information on its sanitary and phytosanitary measures.

2. Each Party shall notify in a timely manner the relevant Parties, through the contact points, of the following situations:

(a) any significant food safety issue, pest or disease outbreak in its Area that may affect trade; and

(b) where a provisional sanitary or phytosanitary measure against or affecting the exports of another Party is considered necessary to protect human, animal or plant life or health of the importing Party.

3. In particular, where a consignment is in non-compliance, the importing Party shall notify and provide details of the non-compliance to the exporting Party promptly. The exporting Party shall respond promptly through the contact point or competent authorities of the importing Party by providing remedial measures for the consignment.

4. The notification referred to in paragraphs 2 and 3 can be made electronically or by any other means as mutually determined by the Parties.

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Article 8

Technical Co-operation

1. The Parties shall explore opportunities for further technical co-operation and assistance, collaboration and information exchange on sanitary and phytosanitary matters of mutual interest, consistent with the objectives of this Chapter.

2. Each Party shall endeavour to co-ordinate with regional or multilateral work programmes with the objective of avoiding unnecessary duplication and maximising the benefits from the application of resources.

3. The Parties agree to explore opportunities to further strengthen co-operation on the provision of technical assistance, subject to the availability of appropriate resources and in accordance with Chapter 9 (Economic and Technical Co-operation).

Article 9

Technical Consultations

1. Where a Party considers that a sanitary or phytosanitary measure is affecting its trade with another Party and needs further discussion, it may, through the contact points, request a detailed explanation of such measure including information on the technical justification for the measure. The requested Party shall respond promptly to any request for such explanation.

2. A Party may request consultations with another Party in relation to the same matter for which an explanation has been provided pursuant to

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paragraph 1. Such consultations shall be carried out within a reasonable timeframe, or where practicable within 30 days, of receiving the request for consultations given by the requesting Party. Such consultations may be conducted via teleconference, videoconference or any other means agreed by the Parties. The Parties to the consultations shall make every effort to reach a mutually satisfactory resolution.

Article 10

Implementation

1. Each Party shall designate a contact point to facilitate distribution of enquiries, requests or notifications made in accordance with this Chapter; and representatives of its competent authorities responsible for the implementation of sanitary and phytosanitary measures.

2. A Party shall inform the other Parties of any change of its contact point or representatives of its competent authorities.

3. The Parties hereby establish a Sub-Committee on Sanitary and Phytosanitary Matters, consisting of representatives from the relevant government agencies of the Parties, to monitor the implementation of this Chapter.

4. Any action taken pursuant to Article 9 (Technical Consultations) shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Consultations and Dispute Settlement) or under the WTO Dispute Settlement Understanding.

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CHAPTER 6

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

Article 1

Definitions

For the purposes of this Chapter:

(a) **TBT Agreement** means the *Agreement on Technical Barriers to Trade* in Annex 1A to the WTO Agreement; and

(b) the definitions in Annex 1 of the TBT Agreement are incorporated into and shall form part of this Chapter, *mutatis mutandis*.

Article 2

Objectives

The objectives of this Chapter are to facilitate trade in goods among the Parties by:

(a) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade;

(b) promoting mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures;

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(c) strengthening information exchange among the Parties on standards, technical regulations, and conformity assessment procedures;

(d) strengthening co-operation among the Parties in the work of international bodies related to standardisation and conformity assessments; and

(e) providing a framework to implement supporting mechanisms to realise these objectives.

Article 3

Scope

1. For the mutual benefit of the Parties, this Chapter applies to all standards, technical regulations, and conformity assessment procedures of the Parties that may affect trade in goods among the Parties except:

(a) purchasing specifications prepared by governmental bodies for the production or consumption requirements of such bodies; and

(b) sanitary or phytosanitary measures as defined in paragraph 1 of Annex A of the SPS Agreement, which are covered by Chapter 5 (Sanitary and Phytosanitary Measures).

2. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply, in accordance with its rights and obligations under the TBT Agreement, standards, technical regulations, and conformity assessment procedures to the extent necessary to fulfil a legitimate objective. Such legitimate objectives are, *inter alia*, national security requirements, the

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prevention of deceptive practices, and the protection of human health or safety, animal or plant life or health, or the environment.

Article 4

Affirmation of the TBT Agreement

1. Each Party affirms its rights and obligations with respect to another Party under the TBT Agreement.

2. In the implementation of this Chapter, each Party shall take such reasonable measures as may be available to it to ensure compliance by local government and non-governmental bodies, where applicable, within its Area, which are responsible for the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures.

Article 5

Standards

1. With respect to the preparation, adoption and application of standards, each Party shall ensure that its central government standardising bodies accept and comply with Annex 3 of the TBT Agreement. Each Party shall take such reasonable measures as may be available to it to ensure other standardising bodies within its Area accept and comply with Annex 3 of the TBT Agreement.

2. Each Party shall encourage the standardising body or bodies, where applicable, in its Area to co-operate with the standardising body or bodies of the other Parties. Such co-operation shall include:

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(a) exchange of information on standards;

(b) exchange of information relating to standard setting procedures; and

(c) co-operation in the work of international standardising bodies in areas of mutual interest.

Article 6

Technical Regulations

1. Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for its technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

2. Each Party shall give positive consideration to accepting as equivalent technical regulations of another Party, even if these regulations differ from its own, provided it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

3. Where a Party does not accept a technical regulation of another Party as equivalent to its own, it shall, upon request of that other Party, explain the reasons for its decision.

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Article 7

Conformity Assessment Procedures

1. Each Party shall give positive consideration to accepting the results of conformity assessment procedures of another Party, even when those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

2. Each Party shall facilitate the acceptance of the results of conformity assessment procedures conducted in the Area of another Party with a view to increasing efficiency, avoiding duplication, and ensuring cost effectiveness of the conformity assessments. In this regard, each Party may choose, depending on the situation of the Party and the specific sectors involved, a broad range of approaches. These may include:

(a) recognition by a Party of the results of conformity assessments performed in the Area of another Party;

(b) recognition of co-operative arrangements between accreditation bodies in the Areas of the Parties;

(c) mutual recognition of conformity assessment procedures conducted by bodies located in the Area of each Party;

(d) accreditation of conformity assessment bodies in the Area of another Party;

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(e) use of existing regional and international multilateral recognition agreements and arrangements;

(f) designating conformity assessment bodies located in the Area of another Party to perform conformity assessment; and

(g) suppliers' declaration of conformity, where applicable.

3. Each Party shall exchange information with another Party on its experience in the development and application of the approaches set out in subparagraphs 2 (a) to (g) and other appropriate approaches with a view to facilitating the acceptance of the results of conformity assessment procedures.

4. A Party shall, upon request of another Party, explain its reasons for not accepting the results of any conformity assessment procedure performed in the Area of the requesting Party.

Article 8

Co-operation

1. The Parties shall co-operate in the field of standards, technical regulations, and conformity assessment procedures with a view to facilitating access to each other's markets.

2. A Party shall, upon request of another Party, give positive consideration to proposals on co-operation in the field of standards, technical regulations, and conformity assessment procedures. Such co-operation, which shall be on mutually determined terms and conditions, may include:

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(a) advice or technical assistance relating to the development and application of standards, technical regulations, and conformity assessment procedures;

(b) co-operation between conformity assessment bodies, both governmental and non-governmental, in the Area of each of the Parties such as:

(i) use of accreditation to qualify conformity assessment bodies; and

(ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;

(c) co-operation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures such as enhancing participation in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and

(d) enhancing co-operation in the development and improvement of technical regulations and conformity assessment procedures such as:

(i) co-operation in the development and promotion of good regulatory practice;

(ii) transparency, including ways to promote improved access to information on

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standards, technical regulations, and conformity assessment procedures; and

(iii) management of risks relating to health, safety, the environment and deceptive practices.

3. A Party shall, upon request of another Party, give positive consideration to a sector-specific proposal that the requesting Party makes for further co-operation under this Chapter. Such co-operation shall be on mutually determined terms and conditions.

Article 9

Consultations

1. Consultations on any matter arising under this Chapter shall be held at the request of a Party which considers that another Party has taken a measure which is likely to create, or has created, an obstacle to trade. Such consultations shall take place within 60 days from the request with the objective of finding a mutually acceptable solution. Such consultations may be conducted by any means agreed by the Parties.

2. Where a matter covered under this Chapter cannot be clarified or resolved through consultations, the Parties concerned may establish an *ad hoc* working group with a view to identifying a workable and practical solution to facilitate trade. The *ad hoc* working group shall comprise representatives of the Parties concerned.

3. Where a Party declines a request from another Party to establish an *ad hoc* working group referred to in paragraph 2, it shall, upon request of the requesting Party, explain the reasons for its decision.

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4. Where an imported consignment does not comply with the technical regulations or conformity assessment procedures of the importing Party, the Parties concerned shall undertake the necessary steps to address the non-compliance without undue delay.

5. Any action taken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Consultations and Dispute Settlement) or under the WTO Dispute Settlement Understanding.

Article 10

Agreements or Arrangements

1. The Parties shall seek to identify trade-facilitating initiatives regarding standards, technical regulations, and conformity assessment procedures that are appropriate for particular issues or sectors.

2. Such trade-facilitating initiatives may include agreements or arrangements on regulatory issues, such as alignment of standards, convergence or equivalence of technical regulations, conformity assessment procedures and compliance issues.

3. Parties to an existing agreement or arrangement shall, upon request of another Party, give consideration to extending such an agreement or arrangement to the requesting Party. Such consideration may be subject to appropriate confidence building processes including information exchange, co-operation, consultations and training to ensure equivalence of relevant standards, technical regulations, or conformity assessment procedures.

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4. Where a Party declines a request of another Party to consider extending the application of an existing agreement or arrangement referred to in paragraph 3, it shall, upon request of the requesting Party, explain the reasons for its decision.

Article 11

Transparency

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended standards, technical regulations, and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall ensure that the information relating to standards, technical regulations, and conformity assessment procedures is published in accordance with the relevant requirements of the TBT Agreement. Such information should be made available in printed form and, where possible, in electronic form.

3. In connection with the notification requirements under Article 2 and Article 5 of the TBT Agreement, each Party shall allow at least 60 days for any other Party to present comments on proposed technical regulations or conformity assessment procedures except where urgent problems of safety, health, environmental protection or national security arise, or threaten to arise, for that Party.

4. Each Party shall take into due consideration the comments of any other Party presented pursuant to paragraph 3 and shall endeavour to provide responses to these comments upon request.

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Article 12

Contact Points

1. Each Party shall designate a contact point or contact points which shall, for that Party, have responsibility for coordinating the implementation of this Chapter.

2. Each Party shall provide the other Parties with the name of each designated contact point and the contact details of the relevant official or officials, including telephone, facsimile, email and any other relevant details.

3. A Party shall notify the other Parties promptly of any change of its contact point or contact points or any amendments to the details of the relevant officials.

4. Each Party shall ensure that its contact point or contact points facilitate the exchange of information among the Parties on standards, technical regulations, and conformity assessment procedures, in response to all reasonable requests for such information from a Party.

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Article 13

Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures

1. The Parties hereby establish a Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures (the "STRACAP Sub-Committee"), consisting of representatives of the Parties, to promote and monitor the implementation and administration of this Chapter, including monitoring consultations conducted pursuant to Article 9 (Consultations).

2. The STRACAP Sub-Committee shall meet as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.

3. The STRACAP Sub-Committee shall determine its terms of reference in accordance with this Chapter.

4. The STRACAP Sub-Committee shall determine its work programme in response to priorities as identified and agreed by the Parties.

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CHAPTER 7

TRADE REMEDIES

Article 1

Affirmation of WTO Rights and Obligations relating to Trade Remedies

Each Party affirms its rights and obligations with respect to another Party under Article VI of GATT 1994, the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement, Article XIX of GATT 1994, and the *Agreement on Safeguards* in Annex 1A to the WTO Agreement.

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CHAPTER 8

TRADE IN SERVICES

Article 1

Definitions

For the purposes of this Chapter, unless the context otherwise requires:

(a) **a service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers;

(b) **commercial presence** means any type of business or professional establishment, including through:

(i) the constitution, acquisition or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office,

within the Area of a Party for the purpose of supplying a service;

(c) **direct taxes** comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by

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enterprises, as well as taxes on capital appreciation;

(d) **juridical person** means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(e) **juridical person of another Party** means a juridical person which is either:

(i) constituted or otherwise organised under the law of that other Party, and is engaged in substantive business operations in the Area of that Party or any other Party; or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(1) natural persons of that Party; or

(2) juridical persons of that other Party identified under subparagraph (i);

(f) a **juridical person** is:

(i) "owned" by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;

(ii) "controlled" by persons of a Party if such persons have the power to name a majority

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of its directors or otherwise to legally direct its actions;

(iii) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

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

(h) **measures by Parties affecting trade in services** include measures in respect of:

(i) the purchase, payment or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by the Parties to be offered to the public generally;

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the Area of another Party;

(i) **monopoly supplier of a service** means any person, public or private, which in the relevant market of the Area of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

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(j) in respect of the meaning of **natural person of another Party**, Article XXVIII (k) of GATS shall apply to this Chapter, *mutatis mutandis*[7];

(k) **person** means either a natural person or a juridical person;

(l) **sector** of a service means:

(i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule;

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(m) **services** includes any service in any sector except services supplied in the exercise of governmental authority;

(n) **service consumer** means any person that receives or uses a service;

(o) **service of another Party** means a service which is supplied:

(i) from or in the Area of that other Party, or in the case of maritime transport, by a vessel registered under the laws of that other Party or by a person of that other Party which supplies the service through the operation of a vessel and/or its use in whole or in part; or

[7] For Thailand, for a Party that has both nationals and permanent residents and has not notified the WTO, a natural person of that Party shall be limited to a national who resides in the Area of that Party or elsewhere and who under the law of that Party is a national of that Party.

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(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

(p) **service supplier** means any person that supplies a service;[8]

(q) **supply of a service** includes the production, distribution, marketing, sale and delivery of a service; and

(r) **trade in services** is defined as the supply of a service:

(i) from the Area of a Party into the Area of any other Party (cross-border supply: Mode 1);

(ii) in the Area of a Party to the service consumer of any other Party (consumption abroad: Mode 2);

(iii) by a service supplier of a Party, through commercial presence in the Area of any other Party (commercial presence: Mode 3);

(iv) by a service supplier of a Party, through presence of natural persons of a Party in the Area of any other Party (presence of natural persons: Mode 4).

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[8] Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Chapter. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the Area where the service is supplied.

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Article 2

Scope

1. This Chapter applies to measures by a Party affecting trade in services.

2. For the purposes of this Chapter, measures by a Party means measures taken by:

(a) central, regional, or local governments or authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.

3. In fulfilling its obligations and commitments under this Chapter, each Party shall take reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its Area.

4. This Chapter shall not apply to measures affecting:

(a) government procurement;

(b) cabotage in maritime transport services;

(c) subject to Article 13 (Subsidies), subsidies or grants including government-supported loans, guarantees, and insurance, provided by a Party or to any conditions attached to the receipt of such subsidies or grants, whether or not such subsidies or grants are offered

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exclusively to domestic services, service consumers or service suppliers;

(d) services supplied in the exercise of governmental authority within the Area of each respective Party; or

(e) in respect of air transport services, traffic rights however granted; or services directly related to the exercise of traffic rights, other than measures affecting:

(i) aircraft repair and maintenance services;

(ii) the selling and marketing of air transport services; and

(iii) computer reservation system services.

5. The Parties note the multilateral negotiations pursuant to the review of the GATS *Annex on Air Transport Services*. Upon the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purpose of discussing appropriate amendments to this Chapter so as to incorporate the results of such multilateral negotiations.

6. Nothing in this Chapter shall apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

7. For greater certainty, this Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its Area, including those measures necessary to protect the integrity of, and to ensure the

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orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to another Party under the terms as set out in Article 19 (Schedule of Specific Commitments) of the Party applying the measures[9].

Article 3

Transparency

Article III of GATS is incorporated into and shall form an integral part of this Chapter, *mutatis mutandis*.

Article 4

Disclosure of Confidential Information

Article III *bis* of GATS is incorporated into and shall form an integral part of this Chapter, *mutatis mutandis*.

Article 5

Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. (a) Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of,

[9] The sole fact of requiring a visa for natural persons of another Party and not for those of a non-Party shall not be regarded as nullifying or impairing benefits accruing to another Party under the terms of a specific commitment.

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and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

(b) The provisions of subparagraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where authorisation is required for the supply of a service on which a specific commitment under this Chapter has been made, the competent authorities of each Party shall:

(a) in the case of an incomplete application, at the request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;

(b) within a reasonable period of time after the submission of an application considered complete under its internal laws and regulations, inform the applicant of the decision whether or not to grant the relevant authorisation;

(c) at the request of the applicant, provide without undue delay information concerning the status of the application; and

(d) if an application is terminated or denied, to the maximum extent possible, inform the

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applicant in writing and without delay the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.

4. With the objective of ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the negotiations on disciplines on these measures, pursuant to paragraph 4 of Article VI of GATS, with a view to their incorporation into this Chapter. The Parties note that such disciplines aim to ensure that such requirements are, *inter alia*:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service; and

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

5. (a) In sectors in which a Party has undertaken specific commitments, pending the incorporation of the disciplines referred to in paragraph 4, that Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:

(i) does not comply with the criteria outlined in subparagraph 4 (a), 4 (b) or 4 (c); and

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(ii) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

(b) In determining whether a Party is in conformity with the obligation under subparagraph (a), account shall be taken of international standards of relevant international organisations[10] applied by that Party.

6. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of any other Party.

7. Where a Party maintains measures relating to qualification requirements and procedures, technical standards and licensing requirements, the Party shall endeavour to make publicly available:

(a) information on requirements and procedures to obtain, renew or retain any licences or professional qualifications; and

(b) information on technical standards.

8. In respect of non-governmental bodies which are not exercising governmental authority or are not administering mandatory domestic regulations, each Party shall endeavour to encourage them to comply, where appropriate, with the provisions of this Article.

[10] The term "relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of at least all Parties of this Agreement.

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(ii) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

(b) In determining whether a Party is in conformity with the obligation under subparagraph (a), account shall be taken of international standards of relevant international organisations[10] applied by that Party.

6. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of any other Party.

7. Where a Party maintains measures relating to qualification requirements and procedures, technical standards and licensing requirements, the Party shall endeavour to make publicly available:

(a) information on requirements and procedures to obtain, renew or retain any licences or professional qualifications; and

(b) information on technical standards.

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[10] The term "relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of at least all Parties of this Agreement.

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Article 6

Recognition

1. For the purposes of fulfilment, in whole or in part, of their respective standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, each Party may recognise the education or experience obtained, requirements met, or licences or certifications granted in another Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement between the Parties or the relevant competent bodies of the Parties or may be accorded autonomously.

2. Two or more Parties may enter into, or encourage their relevant competent bodies to enter into, negotiations on recognition of qualification requirements, qualification procedures, licensing and/or registration procedures for the purposes of fulfilment of their respective standards or criteria for the authorisation, licensing or certification of service suppliers.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for other interested Parties to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for any other Party to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Party's Area should be recognised.

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4. A Party shall not accord recognition in a manner which would constitute a means of discrimination among the Parties in the application of its standards or criteria for the authorisation, licensing or certification of services suppliers, or a disguised restriction on trade in services.

Article 7

Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its Area does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under specific commitments.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its Area in a manner inconsistent with such commitments.

3. If any Party has reason to believe that a monopoly supplier of a service of any other Party is acting in a manner inconsistent with paragraph 1 or 2, that Party may request the Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

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(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its Area.

Article 8

Business Practices

1. The Parties recognise that certain business practices of service suppliers, other than those falling under Article 7 (Monopolies and Exclusive Service Suppliers), may restrain competition and thereby restrict trade in services.

2. Each Party shall, at the request of any other Party (the "Requesting Party"), enter into consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed (the "Requested Party") shall accord full and sympathetic consideration to such a request and shall co-operate through the supply of publicly available non-confidential information of relevance to the matter in question. The Requested Party shall also provide other information available to the Requesting Party, subject to its internal law and to the conclusion of satisfactory agreement concerning the safeguarding of its confidentiality by the Requesting Party.

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Article 9

Safeguards

1. The Parties note the multilateral negotiations pursuant to Article X of GATS on the question of emergency safeguard measures based on the principle of non-discrimination. Upon the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purpose of discussing appropriate amendments to this Chapter so as to incorporate the results of such multilateral negotiations.

2. In the event that the implementation of this Chapter causes substantial adverse impact to a service sector of a Party before the conclusion of the multilateral negotiations referred to in paragraph 1, the affected Party may request for consultations with the other Party for the purposes of discussing any measure with respect to the affected service sector. Any measure taken pursuant to this paragraph shall be mutually agreed by the Parties concerned. The Parties concerned shall take into account the circumstances of the particular case and give sympathetic consideration to the Party seeking to take a measure.

Article 10

Payments and Transfers

1. Except under the circumstances envisaged in Article 11 (Restrictions to Safeguard the Balance of Payments), a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of any Party who is a member of the

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International Monetary Fund (the "Fund") under the Articles of Agreement of the Fund, including the use of exchange actions which are in conformity with the Articles of Agreement of the Fund, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 11 (Restrictions to Safeguard the Balance of Payments) or at the request of the Fund.

Article 11

Restrictions to Safeguard the Balance of Payments

Where a Party is in serious balance-of-payments and external financial difficulties or threat thereof, it may adopt or maintain restrictions on trade in services in accordance with Article XII of GATS.

Article 12

Security Exceptions

Nothing in this Chapter shall be construed to:

(a) require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

(b) prevent any Party from taking any action which it considers necessary for the protection of its essential security interests, including but not limited to:

(i) action relating to fissionable and fusionable materials or the materials from which they are derived;

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(ii) action relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) action taken so as to protect critical public infrastructures including communications, power and water infrastructures from deliberate attempts intended to disable or degrade such infrastructures;

(iv) action taken in time of war or other emergency in domestic or international relations; or

(c) prevent any Party from taking any action in pursuance of its obligations under the *United Nations Charter* for the maintenance of international peace and security.

Article 13

Subsidies

1. Except as provided in this Article, this Chapter shall not apply to subsidies or grants provided by a Party, or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers. If such subsidies or grants significantly affect trade in services committed under this Chapter, any Party may request for consultations with a view to an amicable resolution of this matter.

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2. Pursuant to this Article, the Parties shall:

(a) on request, provide information on subsidies related to trade in services committed under this Chapter to any requesting Party; and

(b) review the treatment of subsidies when relevant disciplines are developed by the WTO.

Article 14

WTO Disciplines

Subject to any future agreements as may be agreed pursuant to reviews of this Chapter by the Parties under Article 23 (Review), the Parties hereby agree and reaffirm their commitments to abide by the provisions of the agreements under the framework of WTO Agreement as are relevant and applicable to trade in services.

Article 15

Increasing Participation of Cambodia, Lao PDR, Myanmar and Viet Nam

The increasing participation of Cambodia, Lao PDR, Myanmar, and Viet Nam in this Chapter shall be facilitated through negotiated specific commitments, relating to:

(a) the strengthening of their domestic services capacity and its efficiency and competitiveness, *inter alia*, through access to technology on a commercial basis;

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(b) the improvement of their access to distribution channels and information networks;

(c) the liberalisation of market access in sectors and modes of supply of export interest to them; and

(d) appropriate flexibility for Cambodia, Lao PDR, Myanmar, and Viet Nam for opening fewer sectors, liberalising fewer types of transactions and progressively extending market access in line with their respective level of development.

Article 16

Market Access

1. With respect to market access through the modes of supply identified in subparagraph (r) of Article 1 (Definitions), a Party shall accord services and service suppliers of any other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.[11]

2. In sectors where market-access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire Area, unless otherwise specified in its Schedule, are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical

[11] If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (r) (i) of Article 1 (Definitions) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (r) (iii) of Article 1 (Definitions), it is thereby committed to allow related transfers of capital into its Area.

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quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

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

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;[12]

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

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[12] Subparagraph 2 (c) does not cover measures of a Party which limit inputs for the supply of services.

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Article 17

National Treatment

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of any other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers[13].

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of any other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of any other Party.

Article 18

Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Article 16 (Market Access) and Article 17 (National Treatment) including those regarding qualifications, standards or licensing matters. Such commitments shall be inscribed in a Party's Schedule.

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[13] Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

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Article 19

Schedule of Specific Commitments

1. Each Party shall set out in a schedule the specific commitments it undertakes under Article 16 (Market Access), Article 17 (National Treatment) and Article 18 (Additional Commitments). With respect to sectors where such commitments are undertaken, each Schedule shall specify:

(a) the sectors in which such commitments are undertaken;

(b) terms, limitations and conditions on market access;

(c) conditions and qualifications on national treatment;

(d) undertakings relating to additional commitments; and

(e) where appropriate the time-frame for implementation of such commitments.

2. Measures inconsistent with both Article 16 (Market Access) and Article 17 (National Treatment) shall be inscribed in the columns relating to Article 16 (Market Access).

3. The Parties' schedules of specific commitments shall be annexed to this Chapter at Annex 8-1 (Schedules of Specific Commitments) and shall form an integral part thereof.

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Article 20

Application and Extension of Commitments

1. Hong Kong, China shall make a single schedule of specific commitments under Article 19 (Schedule of Specific Commitments) and shall apply its Schedule to all ASEAN Member States.

2. Each ASEAN Member State shall make its individual schedule of specific commitments under Article 19 (Schedule of Specific Commitments) and shall apply its Schedule to Hong Kong, China and the rest of the ASEAN Member States.

Article 21

Modification of Commitments

1. A Party may modify or withdraw any commitment in its Schedule (the "modifying Party") at any time after three years from the date on which that commitment has entered into force, provided that:

(a) the modifying Party notifies the other Parties as well as the ASEAN Secretariat of its intention to modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal; and

(b) the modifying Party enters into negotiations with any affected Party to agree to the necessary compensatory adjustment.

2. In achieving a compensatory adjustment, the Parties concerned shall ensure that the general level of mutually advantageous commitment is not less

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favourable to trade than provided for in the Schedules prior to such negotiations.

3. Any compensatory adjustment pursuant to this Article shall be accorded on a non-discriminatory basis to all Parties.

4. If the Parties concerned are unable to reach an agreement on the compensatory adjustment, the matter shall be resolved by arbitration under Chapter 13 (Consultations and Dispute Settlement). The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration.

5. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any Party that participated in the arbitration may modify or withdraw substantially equivalent benefits in conformity with those findings. Notwithstanding Article 20 (Application and Extension of Commitments), such a modification or withdrawal may be implemented solely with respect to the modifying Party.

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Article 22

Contact Point

1. Each Party shall designate a contact point to facilitate communications among the Parties on any matter covered by this Chapter, including the exchange of information relevant to the implementation and operation of this Chapter.

2. At the request of any Party, the contact point of the requested Party shall identify the office or official responsible for the matter and assist in facilitating communication with the requesting Party.

Article 23

Review

1. The Parties shall review this Chapter in accordance with Article 7 (Review) of Chapter 14 (Final Provisions) for the purpose of considering further measures to liberalise trade in services as well as to develop disciplines and negotiate agreements on matters referred to in Article 14 (WTO Disciplines) or any other relevant matters as may be agreed.

2. The Parties may, at the reviews pursuant to paragraph 1, enter into negotiations to negotiate further improvements to specific commitments under this Chapter so as to progressively liberalise trade in services between the Parties.

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Article 24

Miscellaneous Provisions

1. The GATS Annexes, namely, *Annex on Movement of Natural Persons Supplying Services under the Agreement*, *Annex on Air Transport Services, Annex on Financial Services*, and *Annex on Telecommunications*, shall apply to this Chapter, *mutatis mutandis*.

2. Except as otherwise provided in this Chapter, this Chapter or any action taken under it shall not affect or nullify the rights and obligations of a Party under existing agreements to which it is a party.

Article 25

Denial of Benefits

A Party may deny the benefits of this Chapter:

(a) to the supply of a service, if the Party establishes that the service is supplied from or in the area of a non-Party;

(b) in the case of the supply of a maritime transport service, if the Party establishes that the service is supplied:

  (i) by a vessel registered under the laws of a non-Party; and

  (ii) by a person of a non-Party which operates and/or uses the vessel in whole or in part;

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(c) to a service supplier that is a juridical person, if the Party establishes that that juridical person is not a service supplier of another Party.



ANNEX 8-1

SCHEDULES OF SPECIFIC COMMITMENTS

Schedule of Brunei Darussalam

Schedule of Cambodia

Schedule of Indonesia

Schedule of Lao PDR

Schedule of Malaysia

Schedule of Myanmar

Schedule of the Philippines

Schedule of Singapore

Schedule of Thailand

Schedule of Viet Nam

Schedule of Hong Kong, China

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CHAPTER 9

ECONOMIC AND TECHNICAL CO-OPERATION

Article 1

Objectives

1. The Parties, in pursuit of their mutual benefits, agree to undertake economic and technical co-operation under this Chapter in order to enable the Parties to facilitate, implement, expand, and enhance the benefits of this Agreement, taking into account the different levels of economic development of the Parties, especially the least-developed ASEAN Member States.

2. The economic and technical co-operation under this Chapter shall aim, *inter alia*, at:

(a) supporting the effective and efficient implementation and utilisation of this Agreement;

(b) creating new opportunities for trade and investment and promoting competitiveness and innovation through the involvement, where appropriate, of the private sector including the small and medium enterprises (SMEs) by, *inter alia*, facilitating the integration of SMEs into Global Value Chains, and encouraging SMEs to organise or participate in trade promotion events;

(c) promoting and deepening the level of economic and technical co-operation among the Parties by implementing the Work

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Programme under Article 4 (Implementation of Economic and Technical Co-operation); and

(d) enhancing the capabilities of the Parties through capacity building activities to enable the Parties to take full benefit of this Agreement.

Article 2

Scope

The economic and technical co-operation under this Chapter shall support the implementation of this Agreement through economic and technical co-operation activities which are related to trade in goods, trade in services, investment, and other areas, as mutually agreed by the Parties.

Article 3

Resources

1. Taking into account the different levels of economic development of the Parties, the Parties shall contribute appropriately to the implementation of the Work Programme under Article 4 (Implementation of Economic and Technical Co-operation).

2. In determining the appropriate level of contribution to the Work Programme, the Parties shall take into account:

(a) the different levels of development and capacity of the Parties;

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(b) the funding or in-kind contributions for implementing the Work Programme made by the Parties; and

(c) that the appropriate level of contribution enhances the relevance and sustainability of co-operation, strengthens partnerships among the Parties, and builds the Parties' shared commitment to the effective implementation and oversight of the Work Programme.

Article 4

Implementation of Economic and Technical Co-operation

1. Economic and technical co-operation activities shall involve Hong Kong, China and at least two ASEAN Member States.

2. Notwithstanding paragraph 1, economic and technical co-operation activities may involve Hong Kong, China and only one ASEAN Member State, provided that those activities are regional in nature and of benefit to other ASEAN Member States. Such activities shall aim at, *inter alia*, narrowing the gaps of economic development among ASEAN Member States or promoting the well-being of the people of ASEAN Member States towards further integration of ASEAN.

3. The AHKFTA Joint Committee shall decide on matters relating to the implementation of this Chapter, including the development of a Work Programme for economic and technical co-operation activities.

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4. The Parties may consider co-operation with external parties as deemed necessary to support the implementation of economic and technical co-operation activities under this Chapter.

5. The Work Programme shall be a reference document for implementing economic and technical co-operation activities and shall include:

(a) guidelines to implement economic and technical co-operation activities;

(b) a list of economic and technical co-operation activities; and

(c) other aspects mutually agreed by the AHKFTA Joint Committee.

Article 5

Non-Application of Chapter 13 (Consultations and Dispute Settlement)

Chapter 13 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

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CHAPTER 10

INTELLECTUAL PROPERTY

Article 1

Affirmation of the TRIPS Agreement

Each Party affirms its rights and obligations with respect to another Party under the *Agreement on Trade-Related Aspects of Intellectual Property Rights* in Annex 1C to the WTO Agreement (the "TRIPS Agreement").

Article 2

Co-operation

The Parties agree to promote and strengthen co-operation in the area of intellectual property rights in order to enhance their economic and trade relations.

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CHAPTER 11

GENERAL PROVISIONS AND EXCEPTIONS

Article 1

Transparency

1. Unless otherwise provided in this Agreement, in accordance with its laws and regulations, each Party shall make publicly available or, if not publicly available, provide upon request, its laws, regulations, administrative procedures, and administrative rulings and judicial decisions of general application as well as international agreements to which the Party is a party, that pertain to or affect the implementation and operation of this Agreement.

2. Each Party shall, upon request by another Party, respond to specific questions from, and provide information to, the latter, in the English language, with respect to matters referred to in paragraph 1.

Article 2

General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Sanitary and Phytosanitary Measures), and Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures), Article XX of GATT 1994 and its interpretive notes are incorporated into and shall form part of this Agreement, *mutatis mutandis*.

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2. For the purposes of Chapter 8 (Trade in Services), Article XIV of GATS including its footnotes is incorporated into and shall form part of this Agreement, *mutatis mutandis*.

Article 3

Security Exceptions

1. Nothing in this Agreement shall be construed to:

   (a) require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

   (b) prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

      (i) relating to fissionable and fusionable materials or the materials from which they are derived;

      (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;

      (iii) taken so as to protect critical public infrastructure [14] including communications, power and water infrastructures from deliberate attempts

[14] For clarity, this includes critical public infrastructures whether publicly or privately owned.

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intended to disable or degrade such infrastructures; or

(iv) taken in time of national emergency or war or other emergency in external relations; or

(c) prevent any Party from taking any action in pursuance of its obligations under the *United Nations Charter* for the maintenance of international peace and security.

2. A Party shall promptly inform the other Parties to the fullest extent possible of measures taken under subparagraphs 1 (b) and 1 (c) and of their termination.

Article 4

Taxation Measures

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

2. This Agreement shall only grant rights or impose obligations with respect to taxation measures where corresponding rights and obligations are also granted or imposed under the WTO Agreement.

3. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention relating to the avoidance of double taxation in force between any of the Parties. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail. Any consultation between the relevant Parties about whether an inconsistency relates to a taxation measure shall be done by the competent tax authorities, as stipulated under the internal laws of the

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relevant Parties. The request for such consultation shall be addressed to the relevant Parties through the contact points designated in accordance with Article 2 (Communications) of Chapter 12 (Institutional Provisions).

4. Nothing in this Agreement shall oblige a Party to extend to any other Party the benefit of any treatment, preference or privilege arising from any existing or future agreement relating to the avoidance of double taxation or from the provisions on the avoidance of double taxation in any other agreement or arrangement by which the Party is bound.

5. For the purposes of this Article, taxation measures do not include any customs duties.

Article 5

Disclosure of Information

1. Unless otherwise provided in this Agreement, where a Party provides information to another Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific written permission of the Party providing the information.

2. Unless otherwise provided in this Agreement, nothing in this Agreement shall require any Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement or violate its internal law, or otherwise be contrary to the public interest, or which would prejudice legitimate

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commercial interests of particular enterprises, public or private.

Article 6

Application

Each Party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its Area.

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CHAPTER 12

INSTITUTIONAL PROVISIONS

Article 1

AHKFTA Joint Committee

1. The Parties hereby establish the ASEAN - Hong Kong, China Free Trade Area Joint Committee (the "AHKFTA Joint Committee") consisting of representatives of the Parties.

2. The functions of the AHKFTA Joint Committee shall be to:

(a) review the implementation and operation of this Agreement and the AHK Investment Agreement;

(b) consider and recommend to the Parties any amendment to this Agreement or the AHK Investment Agreement;

(c) supervise and co-ordinate the work of all subsidiary bodies established under this Agreement[15], as well as other joint activities conducted under this Agreement and the AHK Investment Agreement [16];

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[15] For the avoidance of doubt, subsidiary bodies established under this Agreement include the sub-committees established under the relevant Chapters of this Agreement, but does not include any arbitral tribunal established under Chapter 13 (Consultations and Dispute Settlement).

[16] The other joint activities do not include activities conducted under Chapter 13 (Consultations and Disputes Settlement) and arbitration conducted under the AHK Investment Agreement.

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(d) consider and adopt, where appropriate, decisions and recommendations of subsidiary bodies established under this Agreement;

(e) consider any other matter that may affect the operation of this Agreement or the AHK Investment Agreement or that is entrusted to it by the Parties; and

(f) carry out any other function as the Parties may agree.

3. In the fulfilment of its functions, the AHKFTA Joint Committee may establish additional subsidiary bodies, including *ad hoc* bodies, and assign the subsidiary bodies established under this Agreement with tasks on specific matters, or delegate its responsibilities to any of them.

4. The AHKFTA Joint Committee shall establish its rules and procedures.

5. Unless the Parties otherwise agree, the AHKFTA Joint Committee shall convene its first meeting within one year after this Agreement enters into force. Its subsequent meetings shall be convened at such frequency as the Parties may mutually determine, and as necessary to discharge its functions under this Agreement. Unless the Parties otherwise agree, the AHKFTA Joint Committee shall convene alternately in ASEAN Member States and Hong Kong, China. Special meetings of the AHKFTA Joint Committee may be convened, as agreed by the Parties, within 30 days from the date of receipt of the request of a Party or as otherwise mutually determined by the Parties.

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Article 2

Communications

1. Each Party shall designate a contact point to facilitate communications among the Parties on any matter relating to this Agreement. All official communications in this regard shall be in the English language.

2. Each Party shall provide details of its contact point to the other Parties. Each Party shall notify the other Parties promptly of any amendment to the details of its contact point.

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CHAPTER 13

CONSULTATIONS AND DISPUTE SETTLEMENT

SECTION A

Introductory Provisions

Article 1

Definitions

For the purposes of this Chapter, unless the context otherwise requires:

(a) **Complaining Party** means any Party that requests consultations under Article 6 (Consultations);

(b) **dispute arising under this Agreement** means a complaint made by a Complaining Party concerning any measure affecting the operation, implementation, or application of this Agreement whereby any benefit accruing to such Party under this Agreement is being nullified or impaired, or the attainment of any objective of this Agreement is being impeded, as a result of the failure of the Responding Party to carry out its obligations[17] under this Agreement[18];

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[17] A failure to carry out its obligations includes application by the Responding Party of any measure which is in conflict with the obligations under this Agreement.

[18] Non-violation complaints are not permitted under this Agreement.

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(c) **Parties to the dispute** means the Complaining Party and the Responding Party;

(d) **Responding Party** means any Party to which the request for consultations is made under Article 6 (Consultations); and

(e) **Third Party** means any Party that has notified its substantial interest in the matter before an arbitral tribunal pursuant to Article 10 (Third Party).

Article 2

Objective

The objective of this Chapter is to provide an effective, efficient and transparent process for consultations and settlement of disputes arising under this Agreement.

Article 3

Scope and Coverage

1. Unless otherwise provided in this Agreement, this Chapter shall apply to the settlement of disputes arising under this Agreement. This Chapter shall not apply to the settlement of disputes arising under Chapter 7 (Trade Remedies), Chapter 9 (Economic and Technical Co-operation), and Chapter 10 (Intellectual Property).

2. This Chapter shall apply subject to such special and additional provisions on dispute settlement contained in other Chapters of this Agreement.

3. Subject to Article 5 (Choice of Forum), this Chapter is without prejudice to the rights of a Party to

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have recourse to dispute settlement procedures available under other international agreements to which it is a party.

Article 4

General Provisions

1. This Agreement shall be interpreted in accordance with the customary rules of treaty interpretation of public international law.

2. All notifications, requests and replies made pursuant to this Chapter shall be in writing.

3. The Parties to the dispute are encouraged at every stage of the dispute to make every effort to reach a mutually agreed solution to the dispute. Where a mutually agreed solution is reached, the terms and conditions of the agreement shall be notified to all other Parties.

4. Unless otherwise specified, any time period provided in this Chapter may be modified by mutual agreement of the Parties to the dispute provided that any such modification shall not prejudice the rights of a Third Party pursuant to Article 10 (Third Party).

Article 5

Choice of Forum

1. Where a dispute concerning any matter arises under this Agreement and under another international agreement to which the Parties to the dispute are party, the Complaining Party may select the forum in which to address that matter. The forum selected shall be used

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to the exclusion of other possible fora in respect of that matter.

2. For the purposes of this Article, the Complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of an arbitral tribunal pursuant to Article 8 (Request for Establishment of an Arbitral Tribunal) or requested the establishment of, or referred a matter to, a dispute settlement panel under another international agreement.

3. This Article does not apply where the Parties to the dispute agree in writing that this Article shall not apply to a particular dispute.

SECTION B

Consultation Provisions

Article 6

Consultations

1. A Party may request consultations with any other Party with respect to any dispute arising under this Agreement. A Responding Party shall accord due consideration to a request for consultations made by a Complaining Party and shall accord adequate opportunity for such consultations.

2. A request for consultations shall give the reasons for the request, including identification of the measure at issue and an indication of the factual and legal basis for the complaint.

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3. The Complaining Party shall simultaneously provide a copy of such request to all other Parties. The Responding Party shall immediately acknowledge receipt of the request by way of notification to all the Parties, indicating the date on which the request was received.

4. The Responding Party shall, unless otherwise mutually agreed, reply to the request within seven days after the date of its receipt and shall enter into consultations within a period of no more than:

(a) 10 days after the date of receipt of the request in cases of urgency, including those concerning perishable goods; or

(b) 30 days after the date of receipt of the request for any other matter.

5. If the Responding Party does not enter into consultations within the periods specified in paragraph 4, or a period otherwise mutually agreed, the Complaining Party may proceed directly to request the establishment of an arbitral tribunal pursuant to Article 8 (Request for Establishment of an Arbitral Tribunal).

6. The Parties to the dispute shall make every effort to reach a mutually satisfactory solution through consultations. To this end, the Parties to the dispute shall:

(a) provide sufficient information to enable a full examination of the matter, including how the measure at issue might affect the implementation or application of this Agreement;

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(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) upon request by a Party to the dispute, endeavour to make available for the consultations personnel of their government agencies or other regulatory bodies who have responsibility for or expertise in the matter under consultation.

7. Consultations shall be confidential and without prejudice to the rights of the Parties to the dispute in any further or other proceedings.

8. Whenever a Party other than the Parties to the dispute considers that it has a substantial trade interest in the consultations, such Party may notify the Parties to the dispute, within seven days after the date of the notification of the request for consultations, of its desire to be joined in the consultations. Such notification shall be simultaneously provided to all other Parties. Such Party shall be joined in the consultations if the Parties to the dispute agree.

Article 7

Good Offices, Conciliation, Mediation

1. The Parties to the dispute may at any time agree to good offices, conciliation or mediation. Procedures for good offices, conciliation or mediation may begin at any time and be terminated at any time.

2. If the Parties to the dispute agree, procedures for good offices, conciliation or mediation may continue

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while the matter is being examined by an arbitral tribunal established or re-convened under this Chapter.

3. Proceedings involving good offices, conciliation and mediation and positions taken by the Parties to the dispute during these proceedings shall be confidential and without prejudice to the rights of any Party to the dispute in any further or other proceedings.

SECTION C

Adjudication Provisions

Article 8

Request for Establishment of an Arbitral Tribunal

1. The Complaining Party may request the establishment of an arbitral tribunal to consider the dispute arising under this Agreement if:

(a) the Responding Party does not enter into consultations in accordance with paragraph 4 of Article 6 (Consultations); or

(b) the consultations fail to resolve a dispute within:

(i) 20 days after the date of receipt of the request for consultations in cases of urgency, including those concerning perishable goods;

(ii) 60 days after the date of receipt of the request for consultations regarding any other matter; or

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(iii) any other period as the Parties to the dispute may agree.

2. A request made pursuant to paragraph 1 shall identify the specific measure at issue and provide details of the factual and legal basis of the complaint (including the provisions of this Agreement to be addressed by the arbitral tribunal) sufficient to present the problem clearly.

3. The Complaining Party shall simultaneously provide a copy of such request to all other Parties. The Responding Party shall immediately acknowledge receipt of the request by way of notification to all the Parties, indicating the date on which the request was received.

4. Where a request is made pursuant to paragraph 1, an arbitral tribunal shall be established in accordance with Article 11 (Establishment and Re-convening of an Arbitral Tribunal).

Article 9

Procedures for Multiple Complainants

1. Where more than one Party requests the establishment of an arbitral tribunal related to the same matter, a single arbitral tribunal shall be established to examine these complaints if all the Parties to the disputes agree. The Parties to the disputes should seek to establish a single arbitral tribunal whenever feasible.

2. The single arbitral tribunal shall organise its examination and present its findings in such a manner that the rights which the Parties to the dispute would

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have enjoyed had separate arbitral tribunals examined the complaints are in no way impaired.

3. If more than one arbitral tribunal is established to examine the complaints related to the same matter, the Parties to the disputes shall endeavour to ensure that the same persons serve as arbitrators for each arbitral tribunal. The arbitral tribunals shall consult each other to ensure, to the greatest extent possible, that the timetables for the arbitral tribunal processes are harmonised.

Article 10

Third Party

1. Any Party having a substantial interest in a matter before an arbitral tribunal may notify the Parties to the dispute of its interest no later than 10 days after the date of receipt by the Responding Party of the request for the establishment of the arbitral tribunal or the date of a request for a Compliance Review Tribunal pursuant to Article 16 (Compliance Review). The Party shall simultaneously provide such notification to all other Parties. The Party notifying its substantial interest shall have the rights and obligations of a Third Party.

2. A Third Party shall receive the submissions of the Parties to the dispute to the first substantive meeting of the arbitral tribunal with the Parties to the dispute under Rule 10 of Annex 13-1 (Rules of Procedure for Arbitral Tribunal Proceedings).

3. A Third Party shall have an opportunity to make at least one written submission to the arbitral tribunal and shall have an opportunity to be heard by the arbitral tribunal at its first substantive meeting with the

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Parties to the dispute. The Third Party shall simultaneously provide any submission or other document submitted by it to the Parties to the dispute and all other Third Parties.

4. The Parties to the dispute may agree to provide additional or supplemental rights to Third Parties regarding participation in arbitral tribunal proceedings. In providing additional or supplemental rights, the Parties to the dispute may impose conditions. Unless the Parties to the dispute otherwise agree, the arbitral tribunal shall not grant any additional or supplemental rights to Third Parties regarding participation in arbitral tribunal proceedings.

5. If a Third Party considers that a measure already the subject of an arbitral tribunal proceeding nullifies or impairs benefits accruing to it under this Agreement, such Party may have recourse to dispute settlement procedures under this Chapter.

Article 11

Establishment and Re-convening of an Arbitral Tribunal

1. An arbitral tribunal requested pursuant to Article 8 (Request for Establishment of an Arbitral Tribunal) shall be established in accordance with this Article.

2. Unless the Parties to the dispute otherwise agree, the arbitral tribunal shall consist of three arbitrators. All appointments and nominations of arbitrators under this Article shall conform fully with the requirements in paragraphs 7 and 8.

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3. The Parties to the dispute shall each appoint one arbitrator within 20 days after the date of receipt by the Responding Party of a request under paragraph 3 of Article 8 (Request for Establishment of an Arbitral Tribunal). Where there is more than one Complaining Party, they shall jointly appoint an arbitrator.

4. Following the appointment of the arbitrators in accordance with paragraph 3, the Parties to the dispute shall agree on the appointment of the third arbitrator who shall serve as the chair of the arbitral tribunal. To assist in reaching this agreement, each of the Parties to the dispute may provide to the other Party or Parties to the dispute a list of up to three nominees for appointment as the chair of the arbitral tribunal. Where there is more than one Complaining Party, the list of up to three nominees shall be jointly provided by the Complaining Parties. If the Parties to the dispute fail to agree on the chair of the arbitral tribunal within 15 days after the appointment of the second arbitrator, the two appointed arbitrators shall designate by common agreement the third arbitrator who shall chair the arbitral tribunal.

5. If any of the three arbitrators has not been appointed within 45 days after the date of the receipt of a request under paragraph 3 of Article 8 (Request for Establishment of an Arbitral Tribunal), any Party to the dispute may request the Director-General of the WTO to make the remaining appointments within a further period of 15 days. Any lists of nominees which were provided under paragraph 4 shall also be provided to the Director-General of the WTO and may be used in making the required appointments. In the event that the Director-General of the WTO is a national[19] of any

[19] For the purposes of this paragraph and paragraph 8 only, in the case of Hong Kong, China, "national" means a permanent resident of the Hong Kong Special Administrative Region.

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Party to the dispute, the Deputy Director-General of the WTO or the officer next in seniority who is not a national of any Party to the dispute shall be requested to make the necessary appointments.

6. The date of establishment of the arbitral tribunal shall be the date on which the last arbitrator is appointed.

7. All arbitrators 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;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgement;

(c) be independent of, and not be affiliated with or take any instruction from, any Party to the dispute or Third Party;

(d) not have dealt with the matter under dispute in any capacity;

(e) disclose to the Parties to the dispute information which may give rise to justifiable doubts as to their independence or impartiality;

(f) serve in their individual capacities, and not as government representatives or representatives of any organisation; and

(g) comply with the *Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes*

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adopted by the WTO Dispute Settlement Body on 11 December 1996.

8. Unless the Parties to the dispute otherwise agree, arbitrators shall not be nationals of any Party to the dispute. In addition, the chair of an arbitral tribunal shall not have his or her usual place of residence in any Party to the dispute.

9. All Parties shall not give arbitrators instructions or seek to influence them as individuals with regard to matters before an arbitral tribunal.

10. If an arbitrator appointed under this Article resigns or becomes unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and shall have all the powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended during the appointment of the successor arbitrator.

11. Where an arbitral tribunal is re-convened under Article 16 (Compliance Review) or Article 17 (Compensation and Suspension of Concessions or other Obligations), the re-convened arbitral tribunal shall, where possible, have the same arbitrators as the original arbitral tribunal. Where this is not possible, any replacement arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator, and shall have all the powers and duties of the original arbitrator.

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Article 12

Functions of an Arbitral Tribunal

1. An arbitral tribunal shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the facts of the case;

(b) the applicability of the provisions of this Agreement cited by the Parties to the dispute; and

(c) whether the Responding Party has failed to carry out its obligations under this Agreement.

2. An arbitral tribunal shall have the following terms of reference unless the Parties to the dispute otherwise agree within 20 days from the date of the establishment of an arbitral tribunal:

> "To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for establishment of an arbitral tribunal made pursuant to Article 8 (Request for Establishment of an Arbitral Tribunal), and to make such findings and if applicable, recommendations provided for in this Agreement."

The arbitral tribunal shall make its findings in accordance with this Agreement.

3. The arbitral tribunal shall set out in its report:

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(a) a descriptive section summarising the submissions and arguments of the Parties to the dispute and, if applicable, Third Parties;

(b) its findings on the facts of the case and on the applicability of the relevant provisions of this Agreement;

(c) its findings on whether the Responding Party has failed to carry out its obligations under this Agreement, and its recommendations, if any, for the resolution of the matter; and

(d) its reasons for its findings in subparagraphs (b) and (c).

4. In addition to paragraph 3, an arbitral tribunal may include in its report any other findings relating to the dispute jointly requested by the Parties to the dispute. The arbitral tribunal may recommend ways in which the Responding Party could implement such findings.

5. Unless the Parties to the dispute otherwise agree, an arbitral tribunal shall base its report solely on the relevant provisions of this Agreement, the submissions and arguments of the Parties to the dispute and, if applicable, Third Parties and any other information provided to the arbitral tribunal pursuant to paragraph 8 of Article 13 (Arbitral Tribunal Procedures). The submissions of Third Parties shall be reflected in the report of the arbitral tribunal.

6. The interests of the Parties to the dispute and those of other Parties shall be fully taken into account during the arbitral tribunal proceedings.

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7. The findings and recommendations of the arbitral tribunal referred to in paragraph 2 cannot add to or diminish the rights and obligations provided in this Agreement.

8. The arbitral tribunal shall consult the Parties to the dispute regularly and provide adequate opportunities for the development of a mutually satisfactory solution to the dispute.

9. An arbitral tribunal re-convened under this Chapter shall also carry out functions with regard to compliance review under Article 16 (Compliance Review) and review of level of suspension of concessions or other obligations under Article 17 (Compensation and Suspension of Concessions or other Obligations). Paragraphs 1 to 3 shall not apply to an arbitral tribunal re-convened under Article 16 (Compliance Review) and Article 17 (Compensation and Suspension of Concessions or other Obligations).

10. An arbitral tribunal shall make its decisions by consensus. If an arbitral tribunal is unable to reach consensus, it may make its decisions by majority vote. The arbitral tribunal shall indicate the different opinions of the arbitrators on matters not unanimously agreed in its report, not disclosing which arbitrator is associated with majority or minority opinions.

Article 13

Arbitral Tribunal Procedures

1. An arbitral tribunal established pursuant to Article 11 (Establishment and Re-convening of an Arbitral Tribunal) shall adhere to this Chapter. Unless the Parties to the dispute otherwise agree, the arbitral tribunal shall apply the rules of procedure set out in

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Annex 13-1 (Rules of Procedure for Arbitral Tribunal Proceedings). On the request of a Party to the dispute, or on its own initiative, the arbitral tribunal may, after consulting the Parties to the dispute, adopt additional rules of procedure which do not conflict with the provisions of this Chapter or with Annex 13-1 (Rules of Procedure for Arbitral Tribunal Proceedings).

2. An arbitral tribunal re-convened under Article 16 (Compliance Review) or Article 17 (Compensation and Suspension of Concessions or other Obligations) may, in consultation with the Parties to the dispute, establish its own procedures which do not conflict with this Chapter or Annex 13-1 (Rules of Procedure for Arbitral Tribunal Proceedings), drawing as it deems appropriate from this Chapter or Annex 13-1 (Rules of Procedure for Arbitral Tribunal Proceedings).

Timetable

3. After consulting the Parties to the dispute, an arbitral tribunal shall, as soon as practicable and whenever possible within 15 days after the establishment of the arbitral tribunal, fix the timetable for the arbitral tribunal process. The arbitral tribunal process, from the date of establishment until the date of the final report shall, as a general rule, not exceed a period of 150 days, unless the Parties to the dispute otherwise agree.

4. Similarly, a Compliance Review Tribunal re-convened pursuant to Article 16 (Compliance Review) shall, as soon as practicable and whenever possible within 15 days after re-convening, fix the timetable for the compliance review process taking into account the time periods specified in Article 16 (Compliance Review).

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Arbitral Tribunal Proceedings

5. The procedures for arbitral tribunal proceedings should provide sufficient flexibility so as to ensure high-quality reports, while not unduly delaying the arbitral tribunal process.

Confidentiality

6. The deliberations of an arbitral tribunal shall be confidential.

Additional Information and Technical Advice

7. The Parties to the dispute and Third Parties shall respond promptly and fully to any request by an arbitral tribunal for any information as the arbitral tribunal considers necessary and appropriate.

8. An arbitral tribunal may, after consulting the Parties to the dispute, seek information and technical advice from any individual or body which it deems appropriate. The arbitral tribunal shall provide the Parties to the dispute with any information or technical advice it receives and an opportunity to provide comments. For greater certainty, where the arbitral tribunal takes the information or technical advice into account in the preparation of its report, it shall also take into account any comments by the Parties to the dispute on the information or technical advice.

Reports

9. The arbitral tribunal shall provide an interim report to the Parties to the dispute that meets the requirements specified in paragraph 3 of Article 12 (Functions of an Arbitral Tribunal).

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10. The arbitral tribunal shall present its interim report to the Parties to the dispute within 90 days after the date of establishment of the arbitral tribunal or in cases of urgency, including those concerning perishable goods, within 60 days after the date of establishment of the arbitral tribunal. In exceptional cases, if the arbitral tribunal considers it cannot present its interim report within 90 days, or within 60 days in cases of urgency, it shall inform the Parties to the dispute in writing of the reasons for the delay together with an estimate of the period within which it will present its report. Unless the Parties to the dispute otherwise agree, any delay shall not exceed a further period of 30 days.

11. A Party to the dispute may submit written comments on the interim report to the arbitral tribunal within 10 days after receiving the interim report or within such period as the Parties to the dispute may agree.

12. After considering any written comments by the Parties to the dispute and making any further examination it considers necessary, the arbitral tribunal shall present its final report to the Parties to the dispute within 30 days after presentation of the interim report, unless the Parties to the dispute otherwise agree. The final report shall set out any further arguments made by the Parties to the dispute on the interim report.

13. The interim and final reports of the arbitral tribunal shall be drafted without the presence of the Parties to the dispute. Opinions expressed by individual arbitrators in the reports of the arbitral tribunal shall be anonymous.

14. The arbitral tribunal shall provide its final report to all other Parties seven days after the report is

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presented to the Parties to the dispute, and at any time thereafter a Party to the dispute may make the report publicly available subject to the protection of any confidential information contained in the report.

Article 14

Suspension and Termination of Proceedings

1. The Parties to the dispute may agree that the arbitral tribunal suspends its work at any time for a period not exceeding 12 months from the date of such agreement. In such event, the Parties to the dispute shall jointly notify the chair of the arbitral tribunal. Within this period, the suspended arbitral proceedings shall resume upon the request of any Party to the dispute. If the work of the arbitral tribunal has been continuously suspended for more than 12 months, the authority for the establishment of the arbitral tribunal shall lapse unless the Parties to the dispute otherwise agree.

2. The Parties to the dispute may agree to terminate the proceedings of an arbitral tribunal by jointly notifying the chair of the arbitral tribunal at any time, in the event that a mutually satisfactory solution to the dispute has been found before the presentation of the final report to the Parties to the dispute.

3. Before the arbitral tribunal presents its final report, it may, at any stage of the proceedings, propose that the Parties to the dispute seek to settle the dispute amicably.

4. The Parties to the dispute shall notify all other Parties that the arbitral tribunal has been suspended or its authority has lapsed pursuant to paragraph 1 or has been terminated pursuant to paragraph 2.

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SECTION D

Implementation Provisions

Article 15

Implementation

1. Where an arbitral tribunal finds that the Responding Party has failed to carry out its obligations under this Agreement, the Responding Party shall comply with its obligations under this Agreement.

2. Within 30 days from the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute, the Responding Party shall notify the Complaining Party:

(a) of its intention with respect to implementation, including an indication of any possible action it may take to comply with the obligation in paragraph 1;

(b) whether such implementation can take place immediately; and

(c) if such implementation cannot take place immediately, the reasonable period of time the Responding Party would need to implement.

3. If it is impracticable to comply immediately with the obligation in paragraph 1, the Responding Party shall have a reasonable period of time to do so.

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4. If a reasonable period of time is required, it shall, whenever possible, be mutually agreed by the Parties to the dispute. Where the Parties to the dispute are unable to agree on the reasonable period of time within 45 days from the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute, any Party to the dispute may request that the arbitral tribunal determines the reasonable period of time. Unless the Parties to the dispute otherwise agree, such request shall be made no later than 120 days from the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute.

5. Where a request is made pursuant to paragraph 4, the arbitral tribunal shall present the Parties to the dispute with a report containing a determination of the reasonable period of time and the reasons for such determination within 45 days from the date of the request.

6. As a guideline, the reasonable period of time determined by the arbitral tribunal should not exceed 15 months from the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute. However, its duration may be shorter or longer, depending upon the particular circumstances.

Article 16

Compliance Review

1. Where the Parties to the dispute disagree on the existence or consistency with this Agreement of measures taken to comply with the obligation in paragraph 1 of Article 15 (Implementation), such dispute shall be decided through recourse to an arbitral tribunal re-convened for this purpose ("Compliance

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Review Tribunal").[20] Unless otherwise specified in this Chapter, a Compliance Review Tribunal may be convened at the request of any Party to the dispute.

2. The request for re-convening an arbitral tribunal under paragraph 1 may only be made after the earlier of:

(a) the expiry of the reasonable period of time as determined under Article 15 (Implementation); or

(b) a notification to the Complaining Party by the Responding Party that it has complied with the obligation in paragraph 1 of Article 15 (Implementation), including a description of how the Responding Party has complied with such obligation.

3. A Compliance Review Tribunal shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the factual aspects of any implementation action taken by the Responding Party; and

(b) whether the Responding Party has complied with the obligation in paragraph 1 of Article 15 (Implementation).

4. The Compliance Review Tribunal shall set out in its report:

[20] Consultations under Article 6 (Consultations) are not required for these procedures.

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(a) a descriptive section summarising the arguments of the Parties to the dispute and, if applicable, Third Parties;

(b) its findings on the factual aspects of the case; and

(c) its findings on whether the Responding Party has complied with the obligation in paragraph 1 of Article 15 (Implementation).

5. The Compliance Review Tribunal shall, where possible, provide its report to the Parties to the dispute within 60 days from the date it re-convenes. When the Compliance Review Tribunal considers that it cannot provide its report within the 60-day period, it shall inform the Parties to the dispute in writing of the reasons for the delay together with an estimate of the period within which it will submit the report. Unless the Parties to the dispute otherwise agree, it may extend the 60-day period for a maximum of 30 days.

6. Where an arbitral tribunal is requested to re-convene pursuant to paragraph 1, it shall re-convene within 15 days from the date of the request, unless paragraph 10 of Article 11 (Establishment and Re-convening of an Arbitral Tribunal) applies.

Article 17

Compensation and Suspension of Concessions or other Obligations

1. Compensation and suspension of concessions or other obligations are temporary measures available in the event that the Responding Party does not comply with its obligation under paragraph 1 of Article 15 (Implementation). However, neither compensation nor

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suspension of concessions or other obligations is preferred to compliance with the obligation under paragraph 1 of Article 15 (Implementation). Compensation is voluntary and, if granted, shall be consistent with this Agreement.

2. Where either of the following circumstances exists:

(a) the Responding Party has notified the Complaining Party that it does not intend to comply with the obligation in paragraph 1 of Article 15 (Implementation); or

(b) a failure to comply with the obligation in paragraph 1 of Article 15 (Implementation) has been established in accordance with Article 16 (Compliance Review),

the Responding Party shall, if so requested by the Complaining Party, enter into negotiations with a view to developing mutually acceptable compensation.

3. If no satisfactory compensation has been agreed within 30 days from the date of a request made under paragraph 2, the Complaining Party may at any time thereafter notify the Responding Party and all other Parties that it intends to suspend the application to the Responding Party of concessions or other obligations equivalent to the level of nullification and impairment, and shall have the right to begin suspending concessions or other obligations 30 days after the date of receipt of the notification by the Responding Party.

4. The right to suspend concessions or other obligations arising under paragraph 3 shall not be exercised where:

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(a) a review is being undertaken pursuant to paragraph 8; or

(b) a mutually agreed solution has been reached.

5. In considering what concessions or other obligations to suspend pursuant to paragraph 3, the Complaining Party shall apply the following principles:

(a) the Complaining Party should first seek to suspend concessions or other obligations in the same sector or sectors as that affected by the measure; and

(b) the Complaining Party may suspend concessions or other obligations in other sectors if it considers that it is not practicable or effective to suspend concessions or other obligations in the same sector or sectors.

6. A notification made under paragraph 3 shall specify the level of concessions or other obligations that the Complaining Party proposes to suspend, and the relevant Chapter or Chapters and sector or sectors which the concessions or other obligations are related to. In the case where the Complaining Party suspends concessions or other obligations in other sectors pursuant to subparagraph 5 (b), the notification shall also indicate the reasons for which the suspension is based.

7. The level of suspending concessions or other obligations shall be equivalent to the level of nullification and impairment. For the avoidance of doubt, any suspension of concessions or other obligations shall be restricted to those accruing to the Responding Party under this Agreement.

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8. Within 30 days from the date of receipt of a notification made under paragraph 3, if the Responding Party objects to the level of concessions or other obligations proposed for suspension or considers that the principles set forth in paragraph 5 have not been followed, the Responding Party may request the arbitral tribunal to re-convene to make findings on the matter. The arbitral tribunal shall provide its assessment to the Parties to the dispute within 30 days from the date it re-convenes. Where an arbitral tribunal is requested to re-convene pursuant to this paragraph, it shall re-convene within 15 days from the date of the request, unless paragraph 10 of Article 11 (Establishment and Re-convening of an Arbitral Tribunal) applies.

9. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the obligation in paragraph 1 of Article 15 (Implementation) has been complied with or a mutually satisfactory solution is reached.

10. Where the right to suspend concessions or other obligations has been exercised under this Article, if the Responding Party considers that:

(a) the level of concessions or other obligations suspended by the Complaining Party is not equivalent to the level of the nullification and impairment; or

(b) it has complied with the obligation in paragraph 1 of Article 15 (Implementation),

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it may request the arbitral tribunal to re-convene to examine the matter.[21]

11. Where the arbitral tribunal re-convenes pursuant to subparagraph 10 (a), paragraph 8 shall apply, *mutatis mutandis*. Where the arbitral tribunal re-convenes pursuant to subparagraph 10 (b), paragraphs 3 to 5 of Article 16 (Compliance Review) shall apply.

SECTION E

Final Provisions

Article 18

Special and Differential Treatment Involving Newer ASEAN Member States

1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving newer ASEAN Member States, particular sympathetic consideration shall be given to the special situation of newer ASEAN Member States. In this regard, all Parties shall exercise due restraint in raising matters under these procedures involving a least-developed country Party. If nullification or impairment is found to result from a measure taken by a least-developed country Party, a Complaining Party shall exercise due restraint regarding matters covered under Article 17 (Compensation and Suspension of Concessions or other Obligations) or other obligations pursuant to these procedures.

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[21] Where a Compliance Review Tribunal determines that measures taken by the Responding Party do not comply with the obligation in paragraph 1 of Article 15 (Implementation), it may also, on request, assess whether the level of any existing suspension of concessions is still appropriate and, if not, assess an appropriate level.

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2. Where one or more of the Parties to a dispute is a newer ASEAN Member State, the arbitral tribunal's reports shall explicitly indicate how it has taken account of relevant provisions on special and differential treatment for a newer ASEAN Member State that form part of this Agreement and have been raised by the newer ASEAN Member State in the course of the dispute settlement procedures.

Article 19

Expenses

1. Unless the Parties to the dispute otherwise agree, each Party to a dispute shall bear the costs of its appointed arbitrator and its own expenses and legal costs.

2. Unless the Parties to the dispute otherwise agree, the costs of the chair of the arbitral tribunal and other expenses associated with the conduct of its proceedings shall be borne in equal parts by the Parties to the dispute.

Article 20

Contact Point

1. Each Party shall designate a contact point for this Chapter and shall notify the other Parties of the details of its contact point within 30 days of the entry into force of this Agreement. Each Party shall notify the other Parties of any amendment to the details of its contact point.

2. Any request, written submission or other document relating to any proceedings pursuant to this Chapter shall be delivered to the relevant Party or Parties through their designated contact points who

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shall provide confirmation of receipt of such document in writing.

Article 21

Language

1. All proceedings pursuant to this Chapter shall be conducted in the English language.

2. Any document submitted for use in any proceedings pursuant to this Chapter shall be in the English language. If any original document is not in the English language, the Party submitting it for use in the proceedings shall provide an English language translation of that document

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ANNEX 13-1

RULES OF PROCEDURE FOR ARBITRAL TRIBUNAL PROCEEDINGS

Timetable

1. In determining the timetable for the arbitral tribunal process, the arbitral tribunal shall provide sufficient time for the Parties to the dispute to prepare their respective submissions. The arbitral tribunal shall set precise deadlines for written submissions by the Parties to the dispute and the Third Parties and they shall respect those deadlines.

2. Any time period applicable to the arbitral tribunal proceedings shall be suspended for a period that begins on the date on which any arbitrator resigns or becomes unable to act and ends on the date on which the successor arbitrator is appointed.

3. Unless the Parties to the dispute otherwise agree, an arbitral tribunal may, in consultation with the Parties to the dispute, modify any time period applicable in the arbitral tribunal proceedings and make such other procedural or administrative adjustments as may be required in the proceedings.

Arbitral Tribunal Proceedings

4. The Parties to the dispute and Third Parties shall be present only when invited by the arbitral tribunal to appear before it. Unless the Parties to the dispute otherwise agree, an arbitral tribunal shall hold its substantive meetings in closed session. All presentations and statements made at substantive

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meetings shall be made in the presence of the Parties to the dispute. There shall be no *ex parte* communications with the arbitral tribunal concerning matters under consideration by it.

5. The chair of the arbitral tribunal shall preside at all of its meetings. An arbitral tribunal may delegate to the chair authority to make administrative and procedural decisions.

6. Unless otherwise provided in this Annex, the arbitral tribunal may conduct its business by any means, including by telephone, facsimile transmission, or any other means of electronic communication.

7. Only members of the arbitral tribunal may take part in the deliberations of the arbitral tribunal.

8. The arbitral tribunal may, in consultation with the Parties to the dispute, retain such number of assistants, interpreters, translators, designated note takers, or other individuals as may be required for the proceedings and permit them to be present during its deliberations. Any such arrangements established by the arbitral tribunal may be modified by the agreement of the Parties to the dispute.

Written Submissions and other Documents

9. Each Party to the dispute shall have opportunity to set out in writing the facts of its case, its arguments and counter-arguments. The timetable fixed by the arbitral tribunal shall include precise deadlines for submissions by the Parties to the dispute and Third Parties.

10. Each Party to the dispute shall transmit to the arbitral tribunal a first submission in writing setting out

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the facts of its case and its arguments. Unless the Parties to the dispute otherwise agree, a Complaining Party shall deliver its first submission to the arbitral tribunal and to the Responding Party within 14 days after the date of the establishment of the arbitral tribunal. The Responding Party shall deliver its first submission to the arbitral tribunal and to the Complaining Party within 21 days after the date of receipt of the first submission of the Complaining Party. All subsequent written submissions shall be submitted simultaneously.

11. A Party to the dispute shall deliver no less than four copies of each of its written submissions to the arbitral tribunal and one copy to the other Party or Parties to the dispute. Third Parties shall receive the submissions of the Parties to the dispute to the first substantive meeting. The copies shall be delivered against receipt, or by registered post, courier, or facsimile. A copy of the written submissions shall also be provided in electronic format.

12. In respect of any written request, notice, or other document delivered to the arbitral tribunal related to the arbitral tribunal proceeding that is not covered by Rules 10 and 11, each Party to the dispute shall deliver a copy of such request, notice, or document to the other Party or Parties to the dispute and may do so by facsimile, email, or other means of electronic transmission.

13. A Party to the dispute may at any time correct minor errors of a clerical nature in any written request, notice, submission, or other document related to the arbitral tribunal proceeding by delivering a new document clearly indicating the changes.

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Substantive Meetings

14. The timetable fixed by the arbitral tribunal shall provide for at least one substantive meeting for the Parties to the dispute to present their case to the arbitral tribunal. As a general rule, the timetable shall not provide more than two substantive meetings unless special circumstances exist.

15. At the first substantive meeting with the Parties to the dispute, each Party to the dispute shall present the facts of its case and its arguments. The Complaining Party shall present its position first. The Parties to the dispute shall be given an opportunity for final statements, with the Complaining Party presenting its statement first.

16. All Third Parties shall be invited to present their views during a separate session of the first substantive meeting of the arbitral tribunal set aside for that purpose. All Third Parties may be present during the entirety of this session.

17. The Parties to the dispute and Third Parties shall make available to the arbitral tribunal written versions of their oral statements and responses to questions made in substantive meetings with the arbitral tribunal.

Confidentiality

18. Written submissions, documents, information, or technical advice submitted to the arbitral tribunal, written versions of oral statements and responses to questions made in substantive meetings with the arbitral tribunal shall be treated as confidential, but shall be made available to the Parties to the dispute. No Party to the dispute shall be precluded from disclosing statements of its own positions to the public

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provided that there is no disclosure of information which has been designated as confidential by a Party to the dispute, a Third Party, or any individual or body under paragraph 8 of Article 13 (Arbitral Tribunal Procedures). The Parties to the dispute, Third Parties and the arbitral tribunal shall treat information submitted by a Party to the dispute to the arbitral tribunal, which that Party has designated as confidential, as confidential information. A Party to the dispute shall within 28 days of a request of another Party to the dispute, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

19. The members of the arbitral tribunal and the persons retained by the arbitral tribunal shall maintain the confidentiality of arbitral tribunal proceedings and deliberations.

Venue

20. The venue for substantive meetings shall be decided by mutual agreement between the Parties to the dispute. If there is no agreement, the venue shall alternate between the Areas of the Parties to the dispute, with the first substantive meeting to be held in the Area of the Responding Party.

Remuneration and Payment of Expenses

21. The arbitral tribunal shall keep a record and render a final account of all general expenses incurred in connection with the arbitral tribunal proceedings, including those paid to the chair of the arbitral tribunal as well as its assistants, interpreters, translators, designated note takers, or other individuals that it retains pursuant to Rule 8.

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CHAPTER 14

FINAL PROVISIONS

Article 1

Annexes and Footnotes

The Annexes and footnotes to this Agreement constitute an integral part of this Agreement.

Article 2

Amendments

This Agreement may be amended by the Parties by agreement in writing.

Article 3

Succession of Treaties or International Agreements

If any international agreement, or a provision therein, referred to in this Agreement (or incorporated into this Agreement) is amended, the Parties shall consult one another on whether it is necessary to amend this Agreement, unless this Agreement otherwise provides.

Article 4

Entry into Force

1. This Agreement shall be subject to ratification, acceptance or approval. The instrument of ratification,

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acceptance or approval by a Party shall be deposited with the depositary who shall promptly notify all other Parties of each deposit. This Agreement shall enter into force on 1 January 2019 for the Parties that have deposited their instruments of ratification, acceptance or approval provided that Hong Kong, China and at least four ASEAN Member States have deposited their instruments of ratification, acceptance or approval.

2. If this Agreement does not enter into force on the date referred to in paragraph 1, it shall enter into force, for the Parties that have deposited their instruments of ratification, acceptance or approval, 60 days after the date by which Hong Kong, China and at least four ASEAN Member States have deposited their instruments of ratification, acceptance or approval.

3. After the entry into force of this Agreement pursuant to paragraph 1 or 2, this Agreement shall enter into force for any other Party 60 days after the date of the deposit of its instrument of ratification, acceptance or approval.

4. Notwithstanding the entry into force of this Agreement for a Party pursuant to paragraph 1, 2, or 3 of this Article, the rights and obligations in this Agreement except Article 6 (Withdrawal and Termination) shall not take effect for the Party unless such Party is, at the same time, a party to the AHK Investment Agreement.

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Article 5

Depositary

This Agreement including its amendments shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Party.

Article 6

Withdrawal and Termination

1. Any Party may withdraw from this Agreement by giving 180 days' advance notice in writing to the depositary who shall promptly notify the same to all other Parties.

2. Any other Party may request, in writing, consultations concerning any matter that may arise from the withdrawal of a Party from this Agreement no later than 60 days after the date of receipt of the notification referred to in paragraph 1 from the depositary. The requested Party shall enter into consultations in good faith upon receipt of the request.

3. Any Party giving a notice of withdrawal pursuant to:

(a) paragraph 1 to withdraw from this Agreement shall be deemed to have given a notice of withdrawal at the same time under paragraph 1 of Article 28 (Withdrawal and Termination) of the AHK Investment Agreement; and

(b) paragraph 1 of Article 28 (Withdrawal and Termination) of the AHK Investment Agreement shall be deemed to have given a

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notice of withdrawal at the same time under paragraph 1 to withdraw from this Agreement.

4. This Agreement shall terminate if, pursuant to paragraph 1:

(a) Hong Kong, China withdraws; or

(b) this Agreement is in force for less than four ASEAN Member States.

5. The AHK Investment Agreement shall automatically terminate upon the termination of this Agreement pursuant to paragraph 4.

Article 7

Review

The Parties shall undertake a general review of this Agreement with a view to furthering its objectives within three years from the date of entry into force of this Agreement, and every five years thereafter, unless otherwise agreed by the Parties.

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

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DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

DONE at Nay Pyi Taw, Myanmar, this Twenty Eighth Day of March in the Year Two Thousand and Eighteen, in a single original in the English language.

For the Government of Brunei Darussalam

PEHIN DATO LIM JOCK SENG
Minister at the Prime Minister's Office and Second Minister of Foreign Affairs and Trade

For the Government of the Hong Kong Special Administrative Region of the People's Republic of China

EDWARD YAU TANG-WAH
Secretary for Commerce and Economic Development

For the Government of the Kingdom of Cambodia

PAN SORASAK
Minister of Commerce

For the Government of the Republic of Indonesia

ENGGARTIASTO LUKITA
Minister of Trade

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For the Government of the Lao People's Democratic Republic

KHEMMANI PHOLSENA
Minister of Industry and Commerce

For the Government of Malaysia

DATO' SRI MUSTAPA MOHAMED
Minister of International Trade and Industry

For the Government of the Republic of the Union of Myanmar

KYAW WIN
Union Minister for Planning and Finance

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DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

For the Government of
the Republic of the Philippines

RAMON M. LOPEZ
Secretary of Trade and Industry

For the Government of
the Republic of Singapore

LIM HNG KIANG
Minister for Trade and Industry
(Trade)

For the Government of
the Kingdom of Thailand

APIRADI TANTRAPORN
Minister of Commerce

For the Government of
the Socialist Republic of Viet Nam

TRAN TUAN ANH
Minister of Industry and Trade

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