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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part

TRADE AND COOPERATION AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART,
AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,
OF THE OTHER PART

PREAMBLE

THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

AND

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

1. REAFFIRMING their commitment to democratic principles, to the rule of law, to human rights, to countering proliferation of weapons of mass destruction and to the fight against climate change, which constitute essential elements of this and supplementing agreements,

2. RECOGNISING the importance of global cooperation to address issues of shared interest,

3. RECOGNISING the importance of transparency in international trade and investment to the benefit of all stakeholders,

4. SEEKING to establish clear and mutually advantageous rules governing trade and investment between the Parties,

5. CONSIDERING that in order to guarantee the efficient management and correct interpretation and application of this Agreement and any supplementing agreement, as well as compliance with the obligations under those agreements, it is essential to establish provisions ensuring overall governance, in particular dispute settlement and enforcement rules that fully respect the autonomy of the respective legal orders of the Union and of the United Kingdom, as well as the United Kingdom's status as a country outside the European Union,

6. BUILDING upon their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization, done on 15 April 1994, and other multilateral and bilateral instruments of cooperation,

7. RECOGNISING the Parties' respective autonomy and rights to regulate within their territories in order to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection and the promotion and protection of cultural diversity, while striving to improve their respective high levels of protection,

8. BELIEVING in the benefits of a predictable commercial environment that fosters trade and investment between the Parties and prevents the distortion of trade and unfair competitive advantages, in a manner conducive to sustainable development in its economic, social and environmental dimensions,

9. RECOGNISING the need for an ambitious, wide-ranging and balanced economic partnership to be underpinned by a level playing field for open and fair competition and sustainable development, through effective and robust frameworks for subsidies and competition and a commitment to uphold their respective high levels of protection in the areas of labour and social standards, environment, the fight against climate change, and taxation,

10. RECOGNISING the need to ensure an open and secure market for businesses, including small and medium-sized enterprises, and their goods and services through addressing unjustified barriers to trade and investment,

11. NOTING the importance of facilitating new opportunities for businesses and consumers through digital trade, and addressing unjustified barriers to data flows and trade enabled by electronic means, whilst respecting the Parties' personal data protection rules,

12. DESIRING that this Agreement contribute to consumer welfare through policies ensuring a high level of consumer protection and economic well-being, as well as encouraging cooperation between relevant authorities,

13. CONSIDERING the importance of cross-border connectivity by air, by road and by sea, for passengers and for goods, and the need to ensure high standards in the provision of transportation services between the Parties,

14. RECOGNISING the benefits of trade and investment in energy and raw materials and the importance of supporting the delivery of cost efficient, clean and secure energy supplies to the Union and the United Kingdom,

15. NOTING the interest of the Parties in establishing a framework to facilitate technical cooperation and to develop new trading arrangements for interconnectors which deliver robust and efficient outcomes for all timeframes,

16. NOTING that cooperation and trade between the Parties in these areas should be based on fair competition in energy markets and non-discriminatory access to networks,

17. RECOGNISING the benefits of sustainable energy, renewable energy, in particular offshore generation in the North Sea, and energy efficiency,

18. DESIRING to promote the peaceful use of the waters adjacent to their coasts and the optimum and equitable utilisation of the marine living resources in those waters including the continued sustainable management of shared stocks,

19. NOTING that the United Kingdom withdrew from the European Union and that with effect from 1 January 2021, the United Kingdom is an independent coastal State with corresponding rights and obligations under international law,

20. AFFIRMING that the sovereign rights of the coastal States exercised by the Parties for the purpose of exploring, exploiting, conserving and managing the living resources in their waters should be conducted pursuant to and in accordance with the principles of international law, including the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 (United Nations Convention on the Law of the Sea),

21. RECOGNISING the importance of the coordination of social security rights enjoyed by persons moving between the Parties to work, to stay or to reside, as well as the rights enjoyed by their family members and survivors,

22. CONSIDERING that cooperation in areas of shared interest, such as science, research and innovation, nuclear research and space, in the form of the participation of the United Kingdom in the corresponding Union programmes under fair and appropriate conditions will benefit both Parties,

23. CONSIDERING that cooperation between the United Kingdom and the Union relating to the prevention, investigation, detection or prosecution of criminal offences and to the execution of criminal penalties, including the safeguarding against and prevention of threats to public security, will enable the security of the United Kingdom and the Union to be strengthened,

24. DESIRING that an agreement is concluded between the United Kingdom and the Union to provide a legal base for such cooperation,

25. ACKNOWLEDGING that the Parties may supplement this Agreement with other agreements forming an integral part of their overall bilateral relations as governed by this Agreement and that the Agreement on Security Procedures for Exchanging and Protecting Classified Information is concluded as such a supplementing agreement and enables the exchange of classified information between the Parties under this Agreement or any other supplementing agreement,

HAVE AGREED AS FOLLOWS:

PART ONE

COMMON AND INSTITUTIONAL PROVISIONS

TITLE I

GENERAL PROVISIONS

ARTICLE 1

Purpose

This Agreement establishes the basis for a broad relationship between the Parties, within an area of prosperity and good neighbourliness characterised by close and peaceful relations based on cooperation, respectful of the Parties' autonomy and sovereignty.

ARTICLE 2

Supplementing agreements

1. Where the Union and the United Kingdom conclude other bilateral agreements between them, such agreements shall constitute supplementing agreements to this Agreement, unless otherwise provided for in those agreements. Such supplementing agreements shall be an integral part of the overall bilateral relations as governed by this Agreement and shall form part of the overall framework.

2. Paragraph 1 also applies to:

(a) agreements between the Union and its Member States, of the one part, and the United Kingdom, of the other part; and

(b) agreements between the European Atomic Energy Community, of the one part, and the United Kingdom, of the other part.

ARTICLE 3

Good faith

1. The Parties shall, in full mutual respect and good faith, assist each other in carrying out tasks that flow from this Agreement and any supplementing agreement.

2. They shall take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising from this Agreement and from any supplementing agreement, and shall refrain from any measures which could jeopardise the attainment of the objectives of this Agreement or any supplementing agreement.

TITLE II

PRINCIPLES OF INTERPRETATION AND DEFINITIONS

ARTICLE 4

Public international law

1. The provisions of this Agreement and any supplementing agreement shall be interpreted in good faith in accordance with their ordinary meaning in their context and in light of the object and purpose of the agreement in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969.

2. For greater certainty, neither this Agreement nor any supplementing agreement establishes an obligation to interpret their provisions in accordance with the domestic law of either Party.

3. For greater certainty, an interpretation of this Agreement or any supplementing agreement given by the courts of either Party shall not be binding on the courts of the other Party.

ARTICLE 5

Private rights

1. Without prejudice to Article SSC.67 of the Protocol on Social Security Coordination and with the exception, with regard to the Union, of Part Three of this Agreement, nothing in this Agreement or any supplementing agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law, nor as permitting this Agreement or any supplementing agreement to be directly invoked in the domestic legal systems of the Parties.

2. A Party shall not provide for a right of action under its law against the other Party on the ground that the other Party has acted in breach of this Agreement or any supplementing agreement.

ARTICLE 6

Definitions

1. For the purposes of this Agreement and any supplementing agreement, and unless otherwise specified, the following definitions apply:

(a) "data subject" means an identified or identifiable natural person; an identifiable person being a person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data or an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

(b) "day" means a calendar day;

(c) "Member State" means a Member State of the European Union;

(d) "personal data" means any information relating to a data subject;

(e) "State" means a Member State or the United Kingdom, as the context requires;

(f) "territory" of a Party means in respect of each Party the territories to which this Agreement applies in accordance with Article 774;

(g) "the transition period" means the transition period provided for in Article 126 of the Withdrawal Agreement; and

(h) "Withdrawal Agreement" means the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, including its Protocols.

2. Any reference to the "Union", "Party" or "Parties" in this Agreement or any supplementing agreement shall be understood as not including the European Atomic Energy Community, unless otherwise specified or where the context otherwise requires.

TITLE III

INSTITUTIONAL FRAMEWORK

ARTICLE 7

Partnership Council

1. A Partnership Council is hereby established. It shall comprise representatives of the Union and of the United Kingdom. The Partnership Council may meet in different configurations depending on the matters under discussion.

2. The Partnership Council shall be co-chaired by a Member of the European Commission and a representative of the Government of the United Kingdom at ministerial level. It shall meet at the request of the Union or the United Kingdom, and, in any event, at least once a year, and shall set its meeting schedule and its agenda by mutual consent.

3. The Partnership Council shall oversee the attainment of the objectives of this Agreement and any supplementing agreement. It shall supervise and facilitate the implementation and application of this Agreement and of any supplementing agreement. Each Party may refer to the Partnership Council any issue relating to the implementation, application and interpretation of this Agreement or of any supplementing agreement.

4. The Partnership Council shall have the power to:

(a) adopt decisions in respect of all matters where this Agreement or any supplementing agreement so provides;

(b) make recommendations to the Parties regarding the implementation and application of this Agreement or of any supplementing agreement;

(c) adopt, by decision, amendments to this Agreement or to any supplementing agreement in the cases provided for in this Agreement or in any supplementing agreement;

(d) except in relation to Title III of Part One, until the end of the fourth year following the entry into force of this Agreement, adopt decisions amending this Agreement or any supplementing agreement, provided that such amendments are necessary to correct errors, or to address omissions or other deficiencies;

(e) discuss any matter related to the areas covered by this Agreement or by any supplementing agreement;

(f) delegate certain of its powers to the Trade Partnership Committee or to a Specialised Committee, except those powers and responsibilities referred to in point (g) of this paragraph;

(g) by decision, establish Trade Specialised Committees and Specialised Committees, other than those referred to in Article 8(1), dissolve any Trade Specialised Committee or Specialised Committee, or change the tasks assigned to them; and

(h) make recommendations to the Parties regarding the transfer of personal data in specific areas covered by this Agreement or any supplementing agreement.

5. The work of the Partnership Council shall be governed by the rules of procedure set out in Annex 1. The Partnership Council may amend that Annex.

ARTICLE 8

Committees

1. The following Committees are hereby established:

(a) the Trade Partnership Committee, which addresses matters covered by Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One of Part Two, Heading Six of Part Two, and Annex 27;

(b) the Trade Specialised Committee on Goods which addresses matters covered by Chapter 1 of Title I of Heading One of Part Two and Chapter 4 of Title VIII of Heading One of Part Two;

(c) the Trade Specialised Committee on Customs Cooperation and Rules of Origin, which addresses matters covered by Chapters 2 and 5 of Title I of Heading One of Part Two, the Protocol on mutual administrative assistance in customs matters and the provisions on customs enforcement of intellectual property rights, fees and charges, customs valuation and repaired goods;

(d) the Trade Specialised Committee on Sanitary and Phytosanitary Measures, which addresses matters covered by Chapter 3 of Title I of Heading One of Part Two;

(e) the Trade Specialised Committee on Technical Barriers to Trade, which addresses matters covered by Chapter 4 of Title I of Heading One of Part Two and Article 323;

(f) the Trade Specialised Committee on Services, Investment and Digital Trade, which addresses matters covered by Titles II to IV of Heading One of Part Two and Chapter 4 of Title VIII of Heading One of Part Two;

(g) the Trade Specialised Committee on Intellectual Property, which addresses matters covered by Title V of Heading One of Part Two;

(h) the Trade Specialised Committee on Public Procurement, which addresses matters covered by Title VI of Heading One of Part Two;

(i) the Trade Specialised Committee on Regulatory Cooperation, which addresses matters covered by Title X of Heading One of Part Two;

(j) the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development, which addresses matters covered by Title XI of Heading One of Part Two and Annex 27;

(k) the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties, which addresses matters covered by the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties;

(l) the Specialised Committee on Energy,

(i) which addresses matters covered by Title VIII of Heading One of Part Two, with the exception of Chapter 4, Article 323 and Annex 27, and

(ii) which can discuss and provide expertise to the relevant Trade Specialised Committee on matters pertaining to Chapter 4 and Article 323;

(m) the Specialised Committee on Air Transport, which addresses matters covered by Title I of Heading Two of Part Two;

(n) the Specialised Committee on Aviation Safety, which addresses matters covered by Title II of Heading Two of Part Two;

(o) the Specialised Committee on Road Transport, which addresses matters covered by Heading Three of Part Two;

(p) the Specialised Committee on Social Security Coordination, which addresses matters covered by Heading Four of Part Two and the Protocol on Social Security Coordination;

(q) the Specialised Committee on Fisheries, which addresses matters covered by Heading Five of Part Two;

(r) the Specialised Committee on Law Enforcement and Judicial Cooperation, which addresses matters covered by Part Three; and

(s) the Specialised Committee on Participation in Union Programmes, which addresses matters covered by Part Five.

2. With respect to issues related to Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One of Part Two, Heading Six of Part Two and Annex 27, the Trade Partnership Committee referred to in paragraph 1 of this Article shall have the power to:

(a) assist the Partnership Council in the performance of its tasks and, in particular, report to the Partnership Council and carry out any task assigned to it by the latter;

(b) supervise the implementation of this Agreement or any supplementing agreement;

(c) adopt decisions or make recommendations as provided for in this Agreement or any supplementing agreement or where such power has been delegated to it by the Partnership Council;

(d) supervise the work of the Trade Specialised Committees referred to in paragraph 1 of this Article;

(e) explore the most appropriate way to prevent or solve any difficulty that may arise in relation to the interpretation and application of this Agreement or any supplementing agreement, without prejudice to Title I of Part Six;

(f) exercise the powers delegated to it by the Partnership Council pursuant to point (f) of Article 7(4);

(g) establish, by decision, Trade Specialised Committees other than those referred to in paragraph 1 of this Article, dissolve any such Trade Specialised Committee, or change the tasks assigned to them; and

(h) establish, supervise, coordinate and dissolve Working Groups, or delegate their supervision to a Trade Specialised Committee.

3. With respect to issues related to their area of competence, Trade Specialised Committees shall have the power to:

(a) monitor and review the implementation and ensure the proper functioning of this Agreement or any supplementing agreement;

(b) assist the Trade Partnership Committee in the performance of its tasks and, in particular, report to the Trade Partnership Committee and carry out any task assigned to them by it;

(c) conduct the preparatory technical work necessary to support the functions of the Partnership Council and the Trade Partnership Committee, including when those bodies have to adopt decisions or recommendations;

(d) adopt decisions in respect of all matters where this Agreement or any supplementing agreement so provides;

(e) discuss technical issues arising from the implementation of this Agreement or of any supplementing agreement, without prejudice to Title I of Part Six; and

(f) provide a forum for the Parties to exchange information, discuss best practices and share implementation experience.

4. With respect to issues related to their area of competence, Specialised Committees shall have the power to:

(a) monitor and review the implementation and ensure the proper functioning of this Agreement or any supplementing agreement;

(b) assist the Partnership Council in the performance of its tasks and, in particular, report to the Partnership Council and carry out any task assigned to them by it;

(c) adopt decisions, including amendments, and recommendations in respect of all matters where this Agreement or any supplementing agreement so provides or for which the Partnership Council has delegated its powers to a Specialised Committee in accordance with point (f) of Article 7(4);

(d) discuss technical issues arising from the implementation of this Agreement or any supplementing agreement;

(e) provide a forum for the Parties to exchange information, discuss best practices and share implementation experience;

(f) establish, supervise, coordinate and dissolve Working Groups; and

(g) provide a forum for consultation pursuant to Article 738(7).

5. Committees shall comprise representatives of each Party. Each Party shall ensure that its representatives on the Committees have the appropriate expertise with respect to the issues under discussion.

6. The Trade Partnership Committee shall be co-chaired by a senior representative of the Union and a representative of the United Kingdom with responsibility for trade-related matters, or their designees. It shall meet at the request of the Union or the United Kingdom, and, in any event, at least once a year, and shall set its meeting schedule and its agenda by mutual consent.

7. The Trade Specialised Committees and the Specialised Committees shall be co-chaired by a representative of the Union and a representative of the United Kingdom. Unless otherwise provided for in this Agreement, or unless the co-chairs decide otherwise, they shall meet at least once a year.

8. Committees shall set their meeting schedule and agenda by mutual consent.

9. The work of the Committees shall be governed by the rules of procedure set out in Annex 1.

10. By way of derogation from paragraph 9, a Committee may adopt and subsequently amend its own rules that shall govern its work.

ARTICLE 9

Working Groups

1. The following Working Groups are hereby established:

(a) the Working Group on Organic Products, under the supervision of the Trade Specialised Committee on Technical Barriers to Trade;

(b) the Working Group on Motor Vehicles and Parts, under the supervision of the Trade Specialised Committee on Technical Barriers to Trade;

(c) the Working Group on Medicinal Products, under the supervision of the Trade Specialised Committee on Technical Barriers to Trade;

(d) the Working Group on Social Security Coordination, under the supervision of the Specialised Committee on Social Security Coordination.

2. Working Groups shall, under the supervision of Committees, assist Committees in the performance of their tasks and, in particular, prepare the work of Committees and carry out any task assigned to them by the latter.

3. Working Groups shall comprise representatives of the Union and of the United Kingdom and shall be co-chaired by a representative of the Union and a representative of the United Kingdom.

4. Working Groups shall set their own rules of procedure, meeting schedule and agenda by mutual consent.

ARTICLE 10

Decisions and recommendations

1. The decisions adopted by the Partnership Council, or, as the case may be, by a Committee, shall be binding on the Parties and on all the bodies set up under this Agreement and under any supplementing agreement, including the arbitration tribunal referred to in Title I of Part Six. Recommendations shall have no binding force.

2. The Partnership Council or, as the case may be, a Committee, shall adopt decisions and make recommendations by mutual consent.

ARTICLE 11

Parliamentary cooperation

1. The European Parliament and the Parliament of the United Kingdom may establish a Parliamentary Partnership Assembly consisting of Members of the European Parliament and of Members of the Parliament of the United Kingdom, as a forum to exchange views on the partnership.

2. Upon its establishment, the Parliamentary Partnership Assembly:

(a) may request relevant information regarding the implementation of this Agreement and any supplementing agreement from the Partnership Council, which shall then supply that Assembly with the requested information;

(b) shall be informed of the decisions and recommendations of the Partnership Council; and

(c) may make recommendations to the Partnership Council.

ARTICLE 12

Participation of civil society

The Parties shall consult civil society on the implementation of this Agreement and any supplementing agreement, in particular through interaction with the domestic advisory groups and the Civil Society Forum referred to in Articles 13 and 14.

ARTICLE 13

Domestic advisory groups

1. Each Party shall consult on issues covered by this Agreement and any supplementing agreement its newly created or existing domestic advisory group or groups comprising a representation of independent civil society organisations including non-governmental organisations, business and employers' organisations, as well as trade unions, active in economic, sustainable development, social, human rights, environmental and other matters. Each Party may convene its domestic advisory group or groups in different configurations to discuss the implementation of different provisions of this Agreement or of any supplementing agreement.

2. Each Party shall consider views or recommendations submitted by its domestic advisory group or groups. Representatives of each Party shall aim to consult with their respective domestic advisory group or groups at least once a year. Meetings may be held by virtual means.

3. In order to promote public awareness of the domestic advisory groups, each Party shall endeavour to publish the list of organisations participating in its domestic advisory group or groups as well as the contact point for that or those groups.

4. The Parties shall promote interaction between their respective domestic advisory groups, including by exchanging where possible the contact details of members of their domestic advisory groups.

ARTICLE 14

Civil Society Forum

1. The Parties shall facilitate the organisation of a Civil Society Forum to conduct a dialogue on the implementation of Part Two. The Partnership Council shall adopt operational guidelines for the conduct of the Forum.

2. The Civil Society Forum shall meet at least once a year, unless otherwise agreed by the Parties. The Civil Society Forum may meet by virtual means.

3. The Civil Society Forum shall be open for the participation of independent civil society organisations established in the territories of the Parties, including members of the domestic advisory groups referred to in Article 13. Each Party shall promote a balanced representation, including non-governmental organisations, business and employers' organisations and trade unions, active in economic, sustainable development, social, human rights, environmental and other matters.

PART TWO

TRADE, TRANSPORT, FISHERIES AND OTHER ARRANGEMENTS

HEADING ONE

TRADE

TITLE I

TRADE IN GOODS

CHAPTER 1

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS (INCLUDING TRADE REMEDIES)

ARTICLE 15

Objective

The objective of this Chapter is to facilitate trade in goods between the Parties and to maintain liberalised trade in goods in accordance with the provisions of this Agreement.

ARTICLE 16

Scope

Except as otherwise provided, this Chapter applies to trade in goods of a Party.

ARTICLE 17

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "consular transactions" means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration or any other customs documentation in connection with the importation of the good;

(b) "Customs Valuation Agreement" means the Agreement on Implementation of Article VII of GATT 1994;

(c) "export licensing procedure" means an administrative procedure, whether or not referred to as licensing, used by a Party for the operation of export licensing regimes, requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body as a prior condition for exportation from that Party;

(d) "import licensing procedure" means an administrative procedure, whether or not referred to as licensing, used by a Party for the operation of import licensing regimes, requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body or bodies as a prior condition for importation into the territory of the importing Party;

(e) "originating goods" means, unless otherwise provided, a good qualifying under the rules of origin set out in Chapter 2 of this Title;

(f) "performance requirement" means a requirement that:

(i) a given quantity, value or percentage of goods be exported;

(ii) goods of the Party granting an import licence be substituted for imported goods;

(iii) a person benefiting from an import licence purchase other goods in the territory of the Party granting the import licence, or accord a preference to domestically produced goods;

(iv) a person benefiting from an import licence produce goods in the territory of the Party granting the import licence, with a given quantity, value or percentage of domestic content; or

(v) relates in whatever form to the volume or value of imports, to the volume or value of exports or to the amount of foreign exchange flows;

(g) "remanufactured good" means a good classified under HS Chapters 32, 40, 84 to 90, 94 or 95 that:

(i) is entirely or partially composed of parts obtained from used goods;

(ii) has similar life expectancy and performance compared with such goods, when new; and

(iii) is given an equivalent warranty to as that applicable to such goods when new; and

(h) "repair" means any processing operation undertaken on a good to remedy operating defects or material damage and entailing the re-establishment of the good to its original function or to ensure compliance with technical requirements for its use. Repair of a good includes restoration and maintenance, with a possible increase in the value of the good from restoring the original functionality of that good, but does not include an operation or process that:

(i) destroys the essential characteristics of a good, or creates a new or commercially different good;

(ii) transforms an unfinished good into a finished good; or

(iii) is used to improve or upgrade the technical performance of a good.

ARTICLE 18

Classification of goods

The classification of goods in trade between the Parties under this Agreement is set out in each Party's respective tariff nomenclature in conformity with the Harmonised System.

ARTICLE 19

National treatment on internal taxation and regulation

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994 including its Notes and Supplementary Provisions. To that end, Article III of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 20

Freedom of transit

Each Party shall accord freedom of transit through its territory, via the routes most convenient for international transit, for traffic in transit to or from the territory of the other Party or of any other third country. To that end, Article V of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties understand that Article V of GATT 1994 includes the movement of energy goods via inter alia pipelines or electricity grids.

ARTICLE 21

Prohibition of customs duties

Except as otherwise provided for in this Agreement, customs duties on all goods originating in the other Party shall be prohibited.

ARTICLE 22

Export duties, taxes or other charges

1. A Party may not adopt or maintain any duty, tax or other charge of any kind imposed on, or in connection with, the exportation of a good to the other Party; or any internal tax or other charge on a good exported to the other Party that is in excess of the tax or charge that would be imposed on like goods when destined for domestic consumption.

2. For the purpose of this Article the term "other charge of any kind" does not include fees or other charges that are permitted under Article 23.

ARTICLE 23

Fees and formalities

1. Fees and other charges imposed by a Party on or in connection with importation or exportation of a good of the other Party shall be limited in amount to the approximate cost of the services rendered, and shall not represent an indirect protection to domestic goods or taxation of imports or exports for fiscal purposes. A Party shall not levy fees or other charges on or in connection with importation or exportation on an *ad valorem* basis.

2. Each Party may impose charges or recover costs only where specific services are rendered, in particular, but not limited to, the following:

(a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;

(b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions relating to binding information or the provision of information concerning the application of the customs laws and regulations;

(c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved; and

(d) exceptional control measures, if these are necessary due to the nature of the goods or to a potential risk.

3. Each Party shall promptly publish all fees and charges it imposes in connection with importation or exportation via an official website in such a manner as to enable governments, traders and other interested parties, to become acquainted with them. That information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be made. New or amended fees and charges shall not be imposed until information in accordance with this paragraph has been published and made readily available.

4. A Party shall not require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

ARTICLE 24

Repaired goods

1. A Party shall not apply a customs duty to a good, regardless of its origin, that re-enters the Party's territory after that good has been temporarily exported from its territory to the territory of the other Party for repair.

2. Paragraph 1 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.

3. A Party shall not apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair.

ARTICLE 25

Remanufactured goods

1. A Party shall not accord to remanufactured goods of the other Party treatment that is less favourable than that which it accords to equivalent goods in new condition.

2. Article 26 applies to import and export prohibitions or restrictions on remanufactured goods. If a Party adopts or maintains import and export prohibitions or restrictions on used goods, it shall not apply those measures to remanufactured goods.

3. A Party may require that remanufactured goods be identified as such for distribution or sale in its territory and that they meet all applicable technical requirements that apply to equivalent goods in new condition.

ARTICLE 26

Import and export restrictions

1. A Party shall not adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994, including its Notes and Supplementary Provisions. To that end, Article XI of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. A Party shall not adopt or maintain:

(a) export and import price requirements, except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings; or

(b) import licensing conditioned on the fulfilment of a performance requirement.

ARTICLE 27

Import and export monopolies

A Party shall not designate or maintain an import or export monopoly. For the purposes of this Article, import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import a good from, or export a good to, the other Party.

ARTICLE 28

Import licensing procedures

1. Each Party shall ensure that all import licensing procedures applicable to trade in goods between the Parties are neutral in application, and are administered in a fair, equitable, non-discriminatory and transparent manner.

2. A Party shall only adopt or maintain licensing procedures as a condition for importation into its territory from the territory of the other Party, if other appropriate procedures to achieve an administrative purpose are not reasonably available.

3. A Party shall not adopt or maintain any non-automatic import licensing procedure, unless it is necessary to implement a measure that is consistent with this Agreement. A Party adopting such non-automatic import licensing procedure shall indicate clearly the measure being implemented through that procedure.

4. Each Party shall introduce and administer any import licensing procedure in accordance with Articles 1 to 3 of the WTO Agreement on Import Licensing Procedures (the "Import Licensing Agreement"). To that end, Articles 1 to 3 of the Import Licensing Agreement are incorporated into and made part of this Agreement *mutatis mutandis*.

5. Any Party introducing or modifying any import licensing procedure shall make all relevant information available online on an official website. That information shall be made available, whenever practicable, at least 21 days prior to the date of the application of the new or modified licensing procedure and in any event no later than the date of application. That information shall contain the data required under Article 5 of the Import Licensing Agreement.

6. At the request of the other Party, a Party shall promptly provide any relevant information regarding any import licensing procedures that it intends to adopt or that it maintains, including the information referred to in Articles 1 to 3 of the Import Licensing Agreement.

7. For greater certainty, nothing in this Article requires a Party to grant an import licence, or prevents a Party from implementing its obligations or commitments under United Nations Security Council Resolutions or under multilateral non-proliferation regimes and import control arrangements.

ARTICLE 29

Export licensing procedures

1. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure, in such a manner as to enable governments, traders and other interested parties to become acquainted with them. Such publication shall take place, whenever practicable, 45 days before the procedure or modification takes effect, and in any case no later than the date such procedure or modification takes effect and, where appropriate, publication shall take place on any relevant government websites.

2. The publication of export licensing procedures shall include the following information:

(a) the texts of the Party's export licensing procedures, or of any modifications the Party makes to those procedures;

(b) the goods subject to each licensing procedure;

(c) for each procedure, a description of the process for applying for a licence and any criteria an applicant must meet to be eligible to apply for a licence, such as possessing an activity licence, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export licence;

(e) the administrative body or bodies to which an application or other relevant documentation are to be submitted;

(f) a description of any measure or measures being implemented through the export licensing procedure;

(g) the period during which each export licensing procedure will be in effect, unless the procedure remains in effect until withdrawn or revised in a new publication;

(h) if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, if applicable, the value of the quota and the opening and closing dates of the quota; and

(i) any exemptions or exceptions that replace the requirement to obtain an export licence, how to request or use those exemptions or exceptions, and the criteria for granting them.

3. Within 45 days after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing export licensing procedures. Each Party shall notify to the other Party any new export licensing procedures and any modifications to existing export licensing procedures within 60 days of publication. The notification shall include a reference to the sources where the information required pursuant to paragraph 2 is published and shall include, where appropriate, the address of the relevant government websites.

4. For greater certainty, nothing in this Article requires a Party to grant an export licence, or prevents a Party from implementing its commitments under United Nations Security Council Resolutions as well as under multilateral non-proliferation regimes and export control arrangements including the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Australia Group, the Nuclear Suppliers Group, and the Missile Technology Control Regime, or from adopting, maintaining or implementing independent sanctions regimes.

ARTICLE 30

Customs valuation

Each Party shall determine the customs value of goods of the other Party imported into its territory in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement. To that end, Article VII of GATT 1994 including its Notes and Supplementary Provisions, and Articles 1 to 17 of the Customs Valuation Agreement including its Interpretative Notes, are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 31

Preference utilisation

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics for a 10 year-long period starting one year after the entry into force of this Agreement. Unless the Trade Partnership Committee decides otherwise, this period shall be automatically extended for five years, and thereafter the Trade Partnership Committee may decide to extend it further.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and for those that receive non-preferential treatment.

ARTICLE 32

Trade remedies

1. The Parties affirm their rights and obligations under Article VI of GATT 1994, the Anti-Dumping Agreement, the SCM Agreement, Article XIX of GATT 1994, the Safeguards Agreement, and Article 5 of the Agreement on Agriculture.

2. Chapter 2 of this Title does not apply to anti-dumping, countervailing and safeguard investigations and measures.

3. Each Party shall apply anti-dumping and countervailing measures in accordance with the requirements of the Anti-Dumping Agreement and the SCM Agreement, and pursuant to a fair and transparent process.

4. Provided it does not unnecessarily delay the conduct of the investigation, each interested party in an anti-dumping or countervailing investigation[1] shall be granted a full opportunity to defend its interests.

5. Each Party's investigating authority may, in accordance with the Party's law, consider whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or a lesser amount.

6. Each Party's investigating authority shall, in accordance with the Party's law, consider information provided as to whether imposing an anti-dumping or a countervailing duty would not be in the public interest.

7. A Party shall not apply or maintain, with respect to the same good, at the same time:

(a) a measure pursuant to Article 5 of the Agreement on Agriculture; and

(b) a measure pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.

[1] For the purpose of this Article, interested parties shall be defined as per Article 6.11 of the Anti-dumping Agreement and Article 12.9 of the SCM Agreement.

8. Title I of Part Six does not apply to paragraphs 1 to 6 of this Article.

ARTICLE 33

Use of existing WTO tariff rate quotas

1. Products originating in one Party shall not be eligible to be imported into the other Party under existing WTO Tariff Rate Quotas ("TRQs") as defined in paragraph 2. This shall include those TRQs as being apportioned between the Parties pursuant to Article XXVIII GATT negotiations initiated by the European Union in WTO document G/SECRET/42/Add.2 and by the United Kingdom in WTO document G/SECRET/44 and as set out in each Party's respective internal legislation. For the purposes of this Article, the originating status of the products shall be determined on the basis of non-preferential rules of origin applicable in the importing Party.

2. For the purposes of paragraph 1, "existing WTO TRQs" means those tariff rate quotas which are WTO concessions of the European Union included in the draft EU28 schedule of concessions and commitments under GATT 1994 submitted to the WTO in document G/MA/TAR/RS/506 as amended by documents G/MA/TAR/RS/506/Add.1 and G/MA/TAR/RS/506/Add.2.

ARTICLE 34

Measures in case of breaches or circumventions of customs legislation

1. The Parties shall cooperate in preventing, detecting and combating breaches or circumventions of customs legislation, in accordance with their obligations under Chapter 2 of this Title and the Protocol on mutual administrative assistance in customs matters. Each Party shall take appropriate and comparable measures to protect its own and the other Party's financial interests regarding the levying of duties on goods entering the customs territories of the United Kingdom or the Union.

2. Subject to the possibility of exemption for compliant traders under paragraph 7, a Party may temporarily suspend the relevant preferential treatment of the product or products concerned in accordance with the procedure laid down in paragraphs 3 and 4 if:

(a) that Party has made a finding, based on objective, compelling and verifiable information, that systematic and large-scale breaches or circumventions of customs legislation have been committed, and;

(b) the other Party repeatedly and unjustifiably refuses or otherwise fails to comply with the obligations referred to in paragraph 1.

3. The Party which has made a finding as referred to in paragraph 2 shall notify the Trade Partnership Committee and shall enter into consultations with the other Party within the Trade Partnership Committee with a view to reaching a mutually acceptable solution.

4. If the Parties fail to agree on a mutually acceptable solution within three months after the date of notification, the Party which has made the finding may decide to suspend temporarily the relevant preferential treatment of the product or products concerned. In this case, the Party which made the finding shall notify the temporary suspension, including the period during which it intends the temporary suspension to apply, to the Trade Partnership Committee without delay.

5. The temporary suspension shall apply only for the period necessary to counteract the breaches or circumventions and to protect the financial interests of the Party concerned, and in any case not for longer than six months. The Party concerned shall keep the situation under review and, where it decides that the temporary suspension is no longer necessary, it shall bring it to an end before the end of the period notified to the Trade Partnership Committee. Where the conditions that gave rise to the suspension persist at the expiry of the period notified to the Trade Partnership Committee, the Party concerned may decide to renew the suspension. Any suspension shall be subject to periodic consultations within the Trade Partnership Committee.

6. Each Party shall publish, in accordance with its internal procedures, notices to importers about any decision concerning temporary suspensions referred to in paragraphs 4 and 5.

7. Notwithstanding paragraph 4, if an importer is able to satisfy the importing customs authority that such products are fully compliant with the importing Party's customs legislation, the requirements of this Agreement, and any other appropriate conditions related to the temporary suspension established by the importing Party in accordance with its laws and regulations, the importing Party shall allow the importer to apply for preferential treatment and recover any duties paid in excess of the applicable preferential tariff rates when the products were imported.

ARTICLE 35

Management of administrative errors

In case of systematic errors by the competent authorities or issues concerning the proper management of the preferential system at export, concerning notably the application of the provisions of Chapter 2 of this Title or the application of the Protocol on Mutual Administrative Assistance in Customs Matters, and if these errors or issues lead to consequences in terms of import duties, the Party facing such consequences may request the Trade Partnership Committee to examine the possibility of adopting decisions, as appropriate, to resolve the situation.

ARTICLE 36

Cultural property

1. The Parties shall cooperate in facilitating the return of cultural property illicitly removed from the territory of a Party, having regard to the principles enshrined in the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property signed in Paris on 17 November 1970.

2. For the purposes of this Article, the following definitions apply:

(a) "cultural property" means property classified or defined as being among the national treasures possessing artistic, historic or archaeological value under the respective rules and procedures of each Party; and

(b) "illicitly removed from the territory of a Party" means:

(i) removed from the territory of a Party on or after 1 January 1993 in breach of that Party's rules on the protection of national treasures or in breach of its rules on the export of cultural property; or

(ii) not returned at the end of a period of lawful temporary removal or any breach of another condition governing such temporary removal, on or after 1 January 1993.

3. The competent authorities of the Parties shall cooperate with each other in particular by:

(a) notifying the other Party where cultural property is found in their territory and there are reasonable grounds for believing that the cultural property has been illicitly removed from the territory of the other Party;

(b) addressing requests of the other Party for the return of cultural property which has been illicitly removed from the territory of that Party;

(c) preventing any actions to evade the return of such cultural property, by means of any necessary interim measures; and

(d) taking any necessary measures for the physical preservation of cultural property which has been illicitly removed from the territory of the other Party.

4. Each Party shall identify a contact point responsible for communicating with the contact point of the other Party with respect to any matters arising under this Article, including with respect to the notifications and requests referred to in points (a) and (b) of paragraph 3.

5. The envisaged cooperation between the Parties shall involve the customs authorities of the Parties responsible for managing export procedures for cultural property as appropriate and necessary.

6. Title I of Part Six does not apply to this Article.

CHAPTER 2

RULES OF ORIGIN

SECTION 1

RULES OF ORIGIN

ARTICLE 37

Objective

The objective of this Chapter is to lay down the provisions determining the origin of goods for the purpose of application of preferential tariff treatment under this Agreement, and setting out related origin procedures.

ARTICLE 38

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "classification" means the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonised System;

(b) "consignment" means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(c) "exporter" means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports or produces the originating product and makes out a statement on origin;

(d) "importer" means a person who imports the originating product and claims preferential tariff treatment for it;

(e) "material" means any substance used in the production of a product, including any components, ingredients, raw materials, or parts;

(f) "non-originating material" means a material which does not qualify as originating under this Chapter, including a material whose originating status cannot be determined;

(g) "product" means the product resulting from the production, even if it is intended for use as a material in the production of another product;

(h) "production" means any kind of working or processing including assembly.

ARTICLE 39

General requirements

1. For the purposes of applying the preferential tariff treatment by a Party to the originating good of the other Party in accordance with this Agreement, provided that the products satisfy all other applicable requirements of this Chapter, the following products shall be considered as originating in the other Party:

(a) products wholly obtained in that Party within the meaning of Article 41;

(b) products produced in that Party exclusively from originating materials in that Party; and

(c) products produced in that Party incorporating non-originating materials provided they satisfy the requirements set out in Annex 3.

2. If a product has acquired originating status, the non-originating materials used in the production of that product shall not be considered as non-originating when that product is incorporated as a material in another product.

3. The acquisition of originating status shall be fulfilled without interruption in the United Kingdom or the Union.

ARTICLE 40

Cumulation of origin

1. A product originating in a Party shall be considered as originating in the other Party if that product is used as a material in the production of another product in that other Party.

2. Production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party.

3. Paragraphs 1 and 2 do not apply if the production carried out in the other Party does not go beyond the operations referred to in Article 43.

4. In order for an exporter to complete the statement on origin referred to in point (a) of Article 54(2) for a product referred to in paragraph 2 of this Article, the exporter shall obtain from its supplier a supplier's declaration as provided for in Annex 6 or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail to enable them to be identified.

ARTICLE 41

Wholly obtained products

1. The following products shall be considered as wholly obtained in a Party:

(a) mineral products extracted or taken from its soil or from its seabed;

(b) plants and vegetable products grown or harvested there;

(c) live animals born and raised there;

(d) products obtained from live animals raised there;

(e) products obtained from slaughtered animals born and raised there;

(f) products obtained by hunting or fishing conducted there;

(g) products obtained from aquaculture there if aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants are born or raised from seed stock such as eggs, roes, fry, fingerlings, larvae, parr, smolts or other immature fish at a post-larval stage by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;

(h) products of sea fishing and other products taken from the sea outside any territorial sea by a vessel of a Party;

(i) products made aboard of a factory ship of a Party exclusively from products referred to in point (h);

(j) products extracted from the seabed or subsoil outside any territorial sea provided that they have rights to exploit or work such seabed or subsoil;

(k) waste and scrap resulting from production operations conducted there;

(l) waste and scrap derived from used products collected there, provided that those products are fit only for the recovery of raw materials;

(m) products produced there exclusively from the products specified in points (a) to (l).

2. The terms "vessel of a Party" and "factory ship of a Party" in points (h) and (i) of paragraph 1 mean a vessel and factory ship which:

(a) is registered in a Member State or in the United Kingdom;

(b) sails under the flag of a Member State or of the United Kingdom; and

(c) meets one of the following conditions:

(i) it is at least 50 % owned by nationals of a Member State or of the United Kingdom; or

(ii) it is owned by legal persons which each:

(A) have their head office and main place of business in the Union or the United Kingdom; and

(B) are at least 50 % owned by public entities, nationals or legal persons of a Member State or the United Kingdom.

ARTICLE 42

Tolerances

1. If a product does not satisfy the requirements set out in Annex 3 due to the use of a non-originating material in its production, that product shall nevertheless be considered as originating in a Party, provided that:

(a) the total weight of non-originating materials used in the production of products classified under Chapters 2 and 4 to 24 of the Harmonised System, other than processed fishery products classified under Chapter 16, does not exceed 15 % of the weight of the product;

(b) the total value of non-originating materials for all other products, except for products classified under Chapters 50 to 63 of the Harmonised System, does not exceed 10 % of the ex-works price of the product; or

(c) for a product classified under Chapters 50 to 63 of the Harmonised System, the tolerances set out in Notes 7 and 8 of Annex 2 apply.

2. Paragraph 1 does not apply if the value or weight of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value or weight of non-originating materials as specified in the requirements set out in Annex 3.

3. Paragraph 1 of this Article does not apply to products wholly obtained in a Party within the meaning of Article 41. If Annex 3 requires that the materials used in the production of a product are wholly obtained, paragraphs 1 and 2 of this Article apply.

ARTICLE 43

Insufficient production

1. Notwithstanding point (c) of Article 39(1), a product shall not be considered as originating in a Party if the production of the product in a Party consists only of one or more of the following operations conducted on non-originating materials:

(a) preserving operations such as drying, freezing, keeping in brine and other similar operations where their sole purpose is to ensure that the products remain in good condition during transport and storage;[1]

(b) breaking-up or assembly of packages;

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

(d) ironing or pressing of textiles and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice; polishing and glazing of cereals and rice; bleaching of rice;

[1] Preserving operations such as chilling, freezing or ventilating are considered insufficient within the meaning of point (a), whereas operations such as pickling, drying or smoking that are intended to give a product special or different characteristics are not considered insufficient.

(g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of sugar in solid form;

(h) peeling, stoning and shelling, of fruits, nuts and vegetables;

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading, matching including the making-up of sets of articles;

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

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

(m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

(n) simple addition of water or dilution with water or another substance that does not materially alter the characteristics of the product, or dehydration or denaturation of products;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(p) slaughter of animals.

2. For the purposes of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.

ARTICLE 44

Unit of qualification

1. For the purposes of this Chapter, the unit of qualification shall be the particular product which is considered as the basic unit when classifying the product under the Harmonised System.

2. For a consignment consisting of a number of identical products classified under the same heading of the Harmonised System, each individual product shall be taken into account when applying the provisions of this Chapter.

ARTICLE 45

Packing materials and containers for shipment

Packing materials and containers for shipment that are used to protect a product during transportation shall be disregarded in determining whether a product is originating.

ARTICLE 46

Packaging materials and containers for retail sale

Packaging materials and containers in which the product is packaged for retail sale, if classified with the product, shall be disregarded in determining the origin of the product, except for the purposes of calculating the value of non-originating materials if the product is subject to a maximum value of non-originating materials in accordance with Annex 3.

ARTICLE 47

Accessories, spare parts and tools

1. Accessories, spare parts, tools and instructional or other information materials shall be regarded as one product with the piece of equipment, machine, apparatus or vehicle in question if they:

(a) are classified and delivered with, but not invoiced separately from, the product; and

(b) are of the types, quantities and value which are customary for that product.

2. Accessories, spare parts, tools and instructional or other information materials referred to paragraph 1 shall be disregarded in determining the origin of the product except for the purposes of calculating the value of non-originating materials if a product is subject to a maximum value of non-originating materials as set out in Annex 3.

ARTICLE 48

Sets

Sets, as defined in General Rule 3 for the Interpretation of the Harmonised System, shall be considered as originating in a Party if all of their components are originating. If a set is composed of originating and non-originating components, the set as a whole shall be considered as originating in a Party if the value of the non-originating components does not exceed 15 % of the ex-works price of the set.

ARTICLE 49

Neutral elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the origin of the following elements, which might be used in its production:

(a) fuel, energy, catalysts and solvents;

(b) plant, equipment, spare parts and materials used in the maintenance of equipment and buildings;

(c) machines, tools, dies and moulds;

(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 product; and

(g) other materials used in the production which are not incorporated into the product nor intended to be incorporated into the final composition of the product.

ARTICLE 50

Accounting segregation

1. Originating and non-originating fungible materials or fungible products shall be physically segregated during storage in order to maintain their originating and non-originating status.

2. For the purpose of paragraph 1, "fungible materials" or "fungible products" means materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and that cannot be distinguished from one another for origin purposes.

3. Notwithstanding paragraph 1, originating and non-originating fungible materials may be used in the production of a product without being physically segregated during storage if an accounting segregation method is used.

4. Notwithstanding paragraph 1, originating and non-originating fungible products classified under Chapters 10, 15, 27, 28, 29, headings 32.01 to 32.07, or headings 39.01 to 39.14 of the Harmonised System may be stored in a Party before exportation to the other Party without being physically segregated, provided that an accounting segregation method is used.

5. The accounting segregation method referred to in paragraphs 3 and 4 shall be applied in conformity with a stock management method under accounting principles which are generally accepted in the Party.

6. The accounting segregation method shall be any method that ensures that at any time no more materials or products receive originating status than would be the case if the materials or products had been physically segregated.

7. A Party may require, under conditions set out in its laws or regulations, that the use of an accounting segregation method is subject to prior authorisation by the customs authorities of that Party. The customs authorities of the Party shall monitor the use of such authorisations and may withdraw an authorisation if the holder makes improper use of the accounting segregation method or fails to fulfil any of the other conditions laid down in this Chapter.

ARTICLE 51

Returned products

If a product originating in a Party exported from that Party to a third country returns to that Party, it shall be considered as a non-originating product unless it can be demonstrated to the satisfaction of the customs authority of that Party that the returning product:

(a) is the same as that exported; and

(b) has not undergone any operation other than what was necessary to preserve it in good condition while in that third country or while being exported.

ARTICLE 52

Non-alteration

1. An originating product declared for home use in the importing Party shall not, after exportation and prior to being declared for home use, have been altered, transformed in any way or subjected to operations other than to preserve it in good condition or than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party.

2. The storage or exhibition of a product may take place in a third country, provided that the product remains under customs supervision in that third country.

3. The splitting of consignments may take place in a third country if it is carried out by the exporter or under the responsibility of the exporter, provided that the consignments remain under customs supervision in that third country.

4. In the case of doubt as to whether the requirements provided for in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance with those requirements, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on the marking or numbering of packages or any evidence related to the product itself.

ARTICLE 53

Review of drawback of, or exemption from, customs duties

Not earlier than two years from the entry into force of this Agreement, at the request of either Party, the Trade Specialised Committee on Customs Cooperation and Rules of Origin shall review the Parties' respective duty drawback and inward-processing schemes. For that purpose, at the request of a Party, no later than 60 days from that request, the other Party shall provide the requesting Party with available information and detailed statistics covering the period from the entry into force of this Agreement, or the previous five years if that period is shorter, on the operation of its duty-drawback and inward-processing scheme. In the light of this review, the Trade Specialised Committee on Customs Cooperation and Rules of Origin may make recommendations to the Partnership Council for the amendment of the provisions of this Chapter and its Annexes, with a view to introducing limitations or restrictions with respect to drawback of or exemption from customs duties.

SECTION 2

ORIGIN PROCEDURES

ARTICLE 54

Claim for preferential tariff treatment

1. The importing Party, on importation, shall grant preferential tariff treatment to a product originating in the other Party within the meaning of this Chapter on the basis of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements provided for in this Chapter.

2. A claim for preferential tariff treatment shall be based on:

(a) a statement on origin that the product is originating made out by the exporter; or

(b) the importer's knowledge that the product is originating.

3. The importer making the claim for preferential tariff treatment based on a statement on origin as referred to in point (a) of paragraph 2 shall keep the statement on origin and, when required by the customs authority of the importing Party, shall provide a copy thereof to that customs authority.

ARTICLE 55

Time of the claim for preferential tariff treatment

1. A claim for preferential tariff treatment and the basis for that claim as referred to in Article 54(2) shall be included in the customs import declaration in accordance with the laws and regulations of the importing Party.

2. By way of derogation from paragraph 1 of this Article, if the importer did not make a claim for preferential tariff treatment at the time of importation, the importing Party shall grant preferential tariff treatment and repay or remit any excess customs duty paid provided that:

(a) the claim for preferential tariff treatment is made no later than three years after the date of importation, or such longer time period as specified in the laws and regulations of the importing Party;

(b) the importer provides the basis for the claim as referred to in Article 54(2); and

(c) the product would have been considered originating and would have satisfied all other applicable requirements within the meaning of Section 1 of this Chapter if it had been claimed by the importer at the time of importation.

The other obligations applicable to the importer under Article 54 remain unchanged.

ARTICLE 56

Statement on origin

1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, information on the originating status of materials used in the production of the product. The exporter shall be responsible for the correctness of the statement on origin and the information provided.

2. A statement on origin shall be made out using one of the language versions set out in Annex 7 in an invoice or on any other document that describes the originating product in sufficient detail to enable the identification of that product. The exporter shall be responsible for providing sufficient detail to allow the identification of the originating product. The importing Party shall not require the importer to submit a translation of the statement on origin.

3. A statement on origin shall be valid for 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.

4. A statement on origin may apply to:

(a) a single shipment of one or more products imported into a Party; or

(b) multiple shipments of identical products imported into a Party within the period specified in the statement on origin, which shall not exceed 12 months.

5. If, at the request of the importer, unassembled or disassembled products within the meaning of General Rule 2(a) for the Interpretation of the Harmonised System that fall within Sections XV to XXI of the Harmonised System are imported by instalments, a single statement on origin for such products may be used in accordance with the requirements laid down by the customs authority of the importing Party.

ARTICLE 57

Discrepancies

The customs authority of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors or discrepancies in the statement on origin, or for the sole reason that an invoice was issued in a third country.

ARTICLE 58

Importer's knowledge

1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article 54(2), the importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Chapter.

2. Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming that information to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article 54(2).

ARTICLE 59

Record-keeping requirements

1. For a minimum of three years after the date of importation of the product, an importer making a claim for preferential tariff treatment for a product imported into the importing Party shall keep:

(a) if the claim was based on a statement on origin, the statement on origin made out by the exporter; or

(b) if the claim was based on the importer's knowledge, all records demonstrating that the product satisfies the requirements for obtaining originating status.

2. An exporter who has made out a statement on origin shall, for a minimum of four years after that statement on origin was made out, keep a copy of the statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status.

3. The records to be kept in accordance with this Article may be held in electronic format.

ARTICLE 60

Small consignments

1. By way of derogation from Articles 54 to 58, provided that the product has been declared as meeting the requirements of this Chapter and the customs authority of the importing Party has no doubts as to the veracity of that declaration, the importing Party shall grant preferential tariff treatment to:

(a) a product sent in a small package from private persons to private persons;

(b) a product forming part of a traveller's personal luggage; and

(c) for the United Kingdom, in addition to points (a) and (b) of this Article, other low value consignments.

2. The following products are excluded from the application of paragraph 1 of this Article:

(a) products, the importation of which forms part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements of Article 54;

(b) for the Union:

(i) a product imported by way of trade; the imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families are not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is intended; and

(ii) products, the total value of which exceeds EUR 500 in the case of products sent in small packages, or EUR 1 200 in the case of products forming part of a traveller's personal luggage. The amounts to be used in a given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The exchange rate amounts shall be those published for that day by the European Central Bank, unless a different amount is communicated to the European Commission by 15 October, and shall apply from 1 January the following year. The European Commission shall notify the United Kingdom of the relevant amounts. The Union may establish other limits which it will communicate to the United Kingdom; and

(c) for the United Kingdom, products whose total value exceeds the limits set under the domestic law of the United Kingdom. The United Kingdom will communicate these limits to the Union.

3. The importer shall be responsible for the correctness of the declaration and for the compliance with the requirements provided for in this Chapter. The record-keeping requirements set out in Article 59 shall not apply to the importer under this Article.

ARTICLE 61

Verification

1. The customs authority of the importing Party may conduct a verification as to whether a product is originating or whether the other requirements of this Chapter are satisfied, on the basis of risk assessment methods, which may include random selection. Such verifications may be conducted by means of a request for information from the importer who made the claim referred to in Article 54, at the time the import declaration is submitted, before the release of the products, or after the release of the products.

2. The information requested pursuant to paragraph 1 shall cover no more than the following elements:

(a) if the claim was based on a statement on origin, that statement on origin; and

(b) information pertaining to the fulfilment of origin criteria, which is:

(i) where the origin criterion is "wholly obtained", the applicable category (such as harvesting, mining, fishing) and the place of production;

(ii) where the origin criterion is based on change in tariff classification, a list of all the non-originating materials, including their tariff classification (in 2, 4 or 6-digit format, depending on the origin criterion);

(iii) where the origin criterion is based on a value method, the value of the final product as well as the value of all the non-originating materials used in the production of that product;

(iv) where the origin criterion is based on weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the final product;

(v) where the origin criterion is based on a specific production process, a description of that specific process.

3. When providing the requested information, the importer may add any other information that it considers relevant for the purpose of verification.

4. If the claim for preferential tariff treatment is based on a statement on origin, the importer shall provide that statement on origin but may reply to the customs authority of the importing Party that the importer is not in a position to provide the information referred to in point (b) of paragraph 2.

5. If the claim for preferential tariff treatment is based on the importer's knowledge, after having first requested information in accordance with paragraph 1, the customs authority of the importing Party conducting the verification may request the importer to provide additional information if that customs authority considers that additional information is necessary in order to verify the originating status of the product or whether the other requirements of this Chapter are met. The customs authority of the importing Party may request the importer for specific documentation and information, if appropriate.

6. If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the product concerned while awaiting the results of the verification, the release of the products shall be offered to the importer subject to appropriate precautionary measures including guarantees. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained the originating status of the products concerned, or the fulfilment of the other requirements of this Chapter.

ARTICLE 62

Administrative cooperation

1. In order to ensure the proper application of this Chapter, the Parties shall cooperate, through the customs authority of each Party, in verifying whether a product is originating and is in compliance with the other requirements provided for in this Chapter.

2. If the claim for preferential tariff treatment was based on a statement on origin, as appropriate after having first requested information in accordance with Article 61(1) and based on the reply from the importer, the customs authority of the importing Party conducting the verification may also request information from the customs authority of the exporting Party within a period of two years after the importation of the products, or from the moment the claim is made pursuant to point (a) of Article 55(2) if the customs authority of the importing Party conducting the verification considers that additional information is necessary in order to verify the originating status of the product or to verify that the other requirements provided for in this Chapter have been met. The request for information shall include the following elements:

(a) the statement on origin;

(b) the identity of the customs authority issuing the request;

(c) the name of the exporter;

(d) the subject and scope of the verification; and

(e) any relevant documentation.

In addition, the customs authority of the importing Party may request the customs authority of the exporting Party to provide specific documentation and information, where appropriate.

3. The customs authority of the exporting Party may, in accordance with its laws and regulations, request documentation or examination by calling for any evidence, or by visiting the premises of the exporter, to review records and observe the facilities used in the production of the product.

4. Without prejudice to paragraph 5, the customs authority of the exporting Party receiving the request referred to in paragraph 2 shall provide the customs authority of the importing Party with the following information:

(a) the requested documentation, where available;

(b) an opinion on the originating status of the product;

(c) the description of the product that is subject to examination and the tariff classification relevant to the application of this Chapter;

(d) a description and explanation of the production process that is sufficient to support the originating status of the product;

(e) information on the manner in which the examination of the product was conducted; and

(f) supporting documentation, where appropriate.

5. The customs authority of the exporting Party shall not provide the information referred to in points (a), (d) and (f) of paragraph 4 to the customs authority of the importing Party if that information is deemed confidential by the exporter.

6. Each Party shall notify the other Party of the contact details of the customs authorities and shall notify the other Party of any change to those contact details within 30 days after the date of the change.

ARTICLE 63

Denial of preferential tariff treatment

1. Without prejudice to paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment, if:

(a) within three months after the date of a request for information pursuant to Article 61(1):

(i) no reply has been provided by the importer;

(ii) where the claim for preferential tariff treatment was based on a statement on origin, no statement on origin has been provided; or

(iii) where the claim for preferential tariff treatment was based on the importer's knowledge, the information provided by the importer is inadequate to confirm that the product is originating;

(b) within three months after the date of a request for additional information pursuant to Article 61(5):

(i) no reply has been provided by the importer; or

(ii) the information provided by the importer is inadequate to confirm that the product is originating;

(c) within 10 months[1] after the date of a request for information pursuant to Article 62(2):

(i) no reply has been provided by the customs authority of the exporting Party; or

(ii) the information provided by the customs authority of the exporting Party is inadequate to confirm that the product is originating.

[1] The period will be of 12 months for requests of information pursuant to Article 62(2) addressed to the customs authority of the exporting Party during the first three months of the application of this Agreement.

2. The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment where the importer fails to comply with requirements under this Chapter other than those relating to the originating status of the products.

3. If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment under paragraph 1 of this Article, in cases where the customs authority of the exporting Party has provided an opinion pursuant to point (b) of Article 62(4) confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion.

If such notification is made, consultations shall be held at the request of either Party, within three months after the date of the notification. The period for consultation may be extended on a case-by-case basis by mutual agreement between the customs authorities of the Parties. The consultation may take place in accordance with the procedure set by the Trade Specialised Committee on Customs Cooperation and Rules of Origin.

Upon the expiry of the period for consultation, if the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has a sufficient justification for doing so and after having granted the importer the right to be heard. However, when the customs authority of the exporting Party confirms the originating status of the products and provides justification for such conclusion, the customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 62(5) has been applied.

4. In all cases, the settlement of differences between the importer and the customs authority of the Party of import shall be under the law of the Party of import.

ARTICLE 64

Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of any information provided to it by the other Party, pursuant to this Chapter, and shall protect that information from disclosure.

2. Where, notwithstanding Article 62(5), confidential business information has been obtained from the exporter by the customs authority of the exporting Party or importing Party through the application of Articles 61 and 62, that information shall not be disclosed.

3. Each Party shall ensure that confidential information collected pursuant to this Chapter shall not be used for purposes other than the administration and enforcement of decisions and determinations relating to origin and to customs matters, except with the permission of the person or Party who provided the confidential information.

4. Notwithstanding paragraph 3, a Party may allow information collected pursuant to this Chapter to be used in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs-related laws implementing this Chapter. A Party shall notify the person or Party who provided the information in advance of such use.

ARTICLE 65

Administrative measures and sanctions

Each Party shall ensure the effective enforcement of this Chapter. Each Party shall ensure that the competent authorities are able to impose administrative measures, and, where appropriate, sanctions, in accordance with its laws and regulations, on any person who draws up a document, or causes a document to be drawn up, which contains incorrect information that was provided for the purpose of obtaining a preferential tariff treatment for a product, who does not comply with the requirements set out in Article 59, or who does not provide the evidence, or refuses to submit to a visit, as referred to in Article 62(3).

SECTION 3

OTHER PROVISIONS

ARTICLE 66

Ceuta and Melilla

1. For purposes of this Chapter, in the case of the Union, the term "Party" does not include Ceuta and Melilla.

2. Products originating in the United Kingdom, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs treatment under this Agreement as that which is applied to products originating in the customs territory of the Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Union. The United Kingdom shall grant to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs treatment as that which is granted to products imported from and originating in the Union.

3. The rules of origin and origin procedures referred to in this Chapter apply *mutatis mutandis* to products exported from the United Kingdom to Ceuta and Melilla and to products exported from Ceuta and Melilla to the United Kingdom.

4. Ceuta and Melilla shall be considered as a single territory.

5. Article 40 applies to import and exports of products between the Union, the United Kingdom and Ceuta and Melilla.

6. The exporters shall enter "the United Kingdom" or "Ceuta and Melilla" in field 3 of the text of the statement on origin, depending on the origin of the product.

7. The customs authority of the Kingdom of Spain shall be responsible for the application and implementation of this Chapter in Ceuta and Melilla.

ARTICLE 67

Transitional provisions for products in transit or storage

The provisions of this Agreement may be applied to products which comply with the provisions of this Chapter and which on the date of entry into force of this Agreement are either in transit from the exporting Party to the importing Party or under customs control in the importing Party without payment of import duties and taxes, subject to the making of a claim for preferential tariff treatment referred to in Article 54 to the customs authority of the importing Party, within 12 months of that date.

ARTICLE 68

Amendment to this Chapter and its Annexes

The Partnership Council may amend this Chapter and its Annexes.

CHAPTER 3

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 69

Objectives

The objectives of this Chapter are to:

(a) protect human, animal and plant life or health in the territories of the Parties while facilitating trade between the Parties;

(b) further the implementation of the SPS Agreement;

(c) ensure that the Parties' sanitary and phytosanitary ("SPS") measures do not create unnecessary barriers to trade;

(d) promote greater transparency and understanding on the application of each Party's SPS measures;

(e) enhance cooperation between the Parties in the fight against antimicrobial resistance, promotion of sustainable food systems, protection of animal welfare, and on electronic certification;

(f) enhance cooperation in the relevant international organisations to develop international standards, guidelines and recommendations on animal health, food safety and plant health; and

(g) promote implementation by each Party of international standards, guidelines and recommendations.

ARTICLE 70

Scope

1. This Chapter applies to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.

2. This Chapter also lays down separate provisions regarding cooperation on animal welfare, antimicrobial resistance and sustainable food systems.

ARTICLE 71

Definitions

1. For the purposes of this Chapter, the following definitions apply:

(a) the definitions contained in Annex A of the SPS Agreement;

(b) the definitions adopted under the auspices of the Codex Alimentarius Commission (the "Codex");

(c) the definitions adopted under the auspices of the World Organisation for Animal Health (the "OIE"); and

(d) the definitions adopted under the auspices of the International Plant Protection Convention (the "IPPC").

2. For the purposes of this Chapter, the following definitions apply:

(a) "import conditions" means any SPS measures that are required to be fulfilled for the import of products; and

(b) "protected zone" for a specified regulated plant pest means an officially defined geographical area in which that pest is not established in spite of favourable conditions and its presence in other parts of the territory of the Party, and into which that pest is not allowed to be introduced.

3. The Trade Specialised Committee on Sanitary and Phytosanitary Measures may adopt other definitions for the purposes of this Chapter, taking into consideration the glossaries and definitions of the relevant international organisations, such as the Codex, OIE and IPPC.

4. The definitions under the SPS Agreement prevail to the extent that there is an inconsistency between the definitions adopted by the Trade Specialised Committee on Sanitary and Phytosanitary Measures or adopted under the auspices of the Codex, the OIE, the IPPC and the definitions under the SPS Agreement. In the event of an inconsistency between definitions adopted by the Trade Specialised Committee on Sanitary and Phytosanitary Measures and the definitions set out in the Codex, OIE or IPPC, the definitions set out in the Codex, OIE or IPPC shall prevail.

ARTICLE 72

Rights and obligations

The Parties reaffirm their rights and obligations under the SPS Agreement. This includes the right to adopt measures in accordance with Article 5(7) of the SPS Agreement.

ARTICLE 73

General principles

1. The Parties shall apply SPS measures for achieving their appropriate level of protection that are based on risk assessments in accordance with relevant provisions, including Article 5 of the SPS Agreement.

2. The Parties shall not use SPS measures to create unjustified barriers to trade.

3. Regarding trade-related SPS procedures and approvals established under this Chapter, each Party shall ensure that those procedures and related SPS measures:

(a) are initiated and completed without undue delay;

(b) do not include unnecessary, scientifically and technically unjustified or unduly burdensome information requests that might delay access to each other's markets;

(c) are not applied in a manner which would constitute arbitrary or unjustifiable discrimination against the other Party's entire territory or parts of the other Party's territory where identical or similar SPS conditions exist; and

(d) are proportionate to the risks identified and not more trade restrictive than necessary to achieve the importing Party's appropriate level of protection.

4. The Parties shall not use the procedures referred to in paragraph 3, or any requests for additional information, to delay access to their markets without scientific and technical justification.

5. Each Party shall ensure that any administrative procedure it requires concerning the import conditions on food safety, animal health or plant health is not more burdensome or trade restrictive than necessary to give the importing Party adequate confidence that these conditions are met. Each Party shall ensure that the negative effects on trade of any administrative procedures are kept to a minimum and that the clearance processes remain simple and expeditious while meeting the importing Party's conditions.

6. The importing Party shall not put in place any additional administrative system or procedure that unnecessarily hampers trade.

ARTICLE 74

Official certification

1. Where the importing Party requires official certificates, the model certificates shall be:

(a) set in line with the principles as laid down in the international standards of the Codex, the IPPC and the OIE; and

(b) applicable to imports from all parts of the territory of the exporting Party.

2. The Trade Specialised Committee on Sanitary and Phytosanitary Measures may agree on specific cases where the model certificates referred to in paragraph 1 would be established only for a part or parts of the territory of the exporting Party. The Parties shall promote the implementation of electronic certification and other technologies to facilitate trade.

ARTICLE 75

Import conditions and procedures

1. Without prejudice to the rights and obligations each Party has under the SPS Agreement and this Chapter, the import conditions of the importing Party shall apply to the entire territory of the exporting Party in a consistent manner.

2. The exporting Party shall ensure that products exported to the other Party, such as animals and animal products, plants and plant products, or other related objects, meet the SPS requirements of the importing Party.

3. The importing Party may require that imports of particular products are subject to authorisation. Such authorisation shall be granted where a request is made by the relevant competent authority of the exporting Party which objectively demonstrates, to the satisfaction of the importing Party, that the authorisation requirements of the importing Party are fulfilled. The relevant competent authority of the exporting Party may make a request for authorisation in respect of the entire territory of the exporting Party. The importing Party shall grant such requests on that basis, where they fulfil the authorisation requirements of the importing Party as set out in this paragraph.

4. The importing Party shall not introduce authorisation requirements which are additional to those which apply at the end of the transition period, unless the application of such requirements to further products is justified to mitigate a significant risk to human, animal or plant health.

5. The importing Party shall establish and communicate to the other Party import conditions for all products. The importing Party shall ensure that its import conditions are applied in a proportionate and non-discriminatory manner.

6. Without prejudice to provisional measures under Article 5(7) of the SPS Agreement, for products, or other related objects, where a phytosanitary concern exists, the import conditions shall be restricted to measures to protect against regulated pests of the importing Party and shall be applicable to the entire territory of the exporting Party.

7. Notwithstanding paragraphs 1 and 3, in the case of import authorisation requests for a specific product, where the exporting Party has requested to be examined only for a part, or certain parts, of its territory (in the case of the Union, individual Member States), the importing Party shall promptly proceed to the examination of that request. Where the importing Party receives requests in respect of the specific product from more than one part of the exporting Party, or, where further requests are received in respect of a product which has already been authorised, the importing Party shall expedite completion of the authorisation procedure, taking into account the identical or similar SPS regime applicable in the different parts of the exporting Party.

8. Each Party shall ensure that all SPS control, inspection and approval procedures are initiated and completed without undue delay. Information requirements shall be limited to what is necessary for the approval process to take into account information already available in the importing Party, such as on the legislative framework and audit reports of the exporting Party.

9. Except in duly justified circumstances related to its level of protection, each Party shall provide a transition period between the publication of any changes to its approval procedures and their application to allow the other Party to become familiar with and adapt to such changes. Each Party shall not unduly prolong the approval process for applications submitted prior to publication of the changes.

10. In relation to the processes set out in paragraphs 3 to 8, the following actions shall be taken:

(a) as soon as the importing Party has positively concluded its assessment, it shall promptly take all necessary legislative and administrative measures to allow trade to take place without undue delay;

(b) the exporting Party shall:

(i) provide all relevant information required by the importing Party; and

(ii) give reasonable access to the importing Party for audit and other relevant procedures.

(c) the importing party shall establish a list of regulated pests for products, or other related objects, where a phytosanitary concern exists. That list shall contain:

(i) the pests not known to occur within any part of its own territory;

(ii) the pests known to occur within its own territory and under official control;

(iii) the pests known to occur within parts of its own territory and for which pest free areas or protected zones are established; and

(iv) non-quarantine pests known to occur within its own territory and under official control for specified planting material.

11. The importing Party shall accept consignments without requiring that the importing Party verifies compliance of those consignments before their departure from the territory of the exporting Party.

12. A Party may collect fees for the costs incurred to conduct specific SPS frontier checks, which should not exceed the recovery of the costs.

13. The importing Party shall have the right to carry out import checks on products imported from the exporting Party for the purposes of ensuring compliance with its SPS import requirements.

14. The import checks carried out on products imported from the exporting Party shall be based on the SPS risk associated with such importations. Import checks shall be carried out only to the extent necessary to protect human, animal or plant life and health, without undue delay and with a minimum effect on trade between the Parties.

15. Information on the proportion of products from the exporting Party checked at import shall be made available by the importing Party upon request of the exporting Party.

16. If import checks reveal non-compliance with the relevant import conditions the action taken by the importing Party must be based on an assessment of the risk involved and not be more trade restrictive than required to achieve the Party's appropriate level of SPS protection.

ARTICLE 76

Lists of approved establishments

1. Whenever justified, the importing Party may maintain a list of approved establishments meeting its import requirements as a condition to allow imports of animal products from these establishments.

2. Unless justified to mitigate a significant risk to human or animal health, lists of approved establishments shall only be required for the products for which they were required at the end of the transition period.

3. The exporting Party shall inform the importing Party of its list of establishments meeting the importing Party's conditions which shall be based on guarantees provided by the exporting Party.

4. Upon a request from the exporting Party, the importing Party shall approve establishments which are situated in the territory of the exporting Party, based on guarantees provided by the exporting Party, without prior inspection of individual establishments.

5. Unless the importing Party requests additional information and subject to guarantees being provided by the exporting party, the importing Party shall take the necessary legislative or administrative measures, in accordance with its applicable legal procedures, to allow imports from those establishments without undue delay.

6. The list of the approved establishments shall be made publicly available by the importing Party.

7. Where the importing Party decides to reject the request of the exporting Party to accept adding an establishment to the list of approved establishments, it shall inform the exporting Party without delay and shall submit a reply, including information about the non-conformities which led to the rejection of the establishment's approval.

ARTICLE 77

Transparency and exchange of information

1. Each Party shall pursue transparency as regards SPS measures applicable to trade and shall for those purposes undertake the following actions:

(a) promptly communicate to the other Party any changes to its SPS measures and approval procedures, including changes that may affect its capacity to fulfil the SPS import requirements of the other Party for certain products;

(b) enhance mutual understanding of its SPS measures and their application;

(c) exchange information with the other Party on matters related to the development and application of SPS measures, including the progress on new available scientific evidence, that affect, or may affect, trade between the Parties with a view to minimising negative trade effects;

(d) upon request of the other Party, communicate the conditions that apply for the import of specific products within 20 working days;

(e) upon request of the other Party, communicate the state of play of the procedure for the authorisation of specific products within 20 working days;

(f) communicate to the other Party any significant change to the structure or organisation of a Party's competent authority;

(g) on request, communicate the results of a Party's official control and a report that concerns the results of the control carried out;

(h) on request, communicate the results of an import check provided for in case of a rejected or a non-compliant consignment; and

(i) on request, communicate, without undue delay, a risk assessment or scientific opinion produced by a Party that is relevant to this Chapter.

2. Where a Party has made available the information in paragraph 1 via notification to the WTO's Central Registry of Notifications or to the relevant international standard-setting body, in accordance with its relevant rules, the requirements in paragraph 1, as they apply to that information, are fulfilled.

ARTICLE 78

Adaptation to regional conditions

1. The Parties shall recognise the concept of zoning including disease or pest-free areas, protected zones and areas of low disease or pest prevalence and shall apply it to the trade between the Parties, in accordance with the SPS Agreement, including the guidelines to further the practical implementation of Article 6 of the SPS Agreement (WTO/SPS Committee Decision G/SPS/48) and the relevant recommendations, standards and guidelines of the OIE and IPPC. The Trade Specialised Committee on Sanitary and Phytosanitary Measures may define further details for these procedures, taking into account any relevant SPS Agreement, OIE and IPPC standards, guidelines or recommendations.

2. The Parties may also agree to cooperate on the concept of compartmentalisation as referred to in Chapters 4.4 and 4.5 of the OIE Terrestrial Animal Health Code and Chapters 4.1 and 4.2 of the OIE Aquatic Animal Health Code.

3. When establishing or maintaining the zones referred to in paragraph 1, the Parties shall consider factors such as geographical location, ecosystems, epidemiological surveillance and the effectiveness of SPS controls.

4. With regard to animals and animal products, when establishing or maintaining import conditions upon the request of the exporting Party, the importing Party shall recognise the disease-free areas established by the exporting Party as a basis for consideration towards the determination of allowing or maintaining the import, without prejudice to paragraphs 8 and 9.

5. The exporting Party shall identify the parts of its territory referred to in paragraph 4 and, if requested, provide a full explanation and supporting data based on the OIE standards, or in other ways established by the Trade Specialised Committee on Sanitary and Phytosanitary Measures, based on the knowledge acquired through experience of the exporting Party's relevant authorities.

6. With regard to plants, plant products, and other related objects, when establishing or maintaining phytosanitary import conditions on request of the exporting Party, the importing Party shall recognise the pest-free areas, pest-free places of production, pest-free production sites, areas of low pest prevalence and protected zones established by the exporting Party as a basis for consideration towards the determination to allow or maintain the import, without prejudice to paragraphs 8 and 9.

7. The exporting Party shall identify its pest-free areas, pest-free places of production, pest-free production sites and areas of low pest prevalence or protected zones. If requested by the importing Party, the exporting Party shall provide a full explanation and supporting data based on the International Standards for Phytosanitary Measures developed under the IPPC, or in other ways established by the Trade Specialised Committee on Sanitary and Phytosanitary Measures, based on the knowledge acquired through experience of the exporting Party's relevant phytosanitary authorities.

8. The Parties shall recognise disease-free areas and protected zones which are in place at the end of the transition period.

9. Paragraph 8 shall also apply to subsequent adaptations to the disease-free areas and protected zones (in the case of the United Kingdom pest-free areas), except in cases of significant changes in the disease or pest situations.

10. The Parties may carry out audits and verifications pursuant to Article 79 to implement paragraphs 4 to 9 of this Article.

11. The Parties shall establish close cooperation with the objective of maintaining confidence in the procedures in relation to the establishment of disease- or pest-free areas, pest-free places of production, pest-free production sites and areas of low pest or disease prevalence and protected zones, with the aim to minimise trade disruption.

12. The importing Party shall base its own determination of the animal or plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement, OIE and IPPC standards, and take into consideration any determination made by the exporting Party.

13. Where the importing Party does not accept the determination made by the exporting Party as referred to in paragraph 12 of this Article, the importing Party shall objectively justify and explain to the exporting Party the reasons for that rejection and, upon request, hold consultations, in accordance with Article 80(2).

14. Each Party shall ensure that the obligations set out in paragraphs 4 to 9, 12 and 13 are carried out without undue delay. The importing Party will expedite the recognition of the disease or pest status when the status has been recovered after an outbreak.

15. Where a Party considers that a specific region has a special status with respect to a specific disease and which fulfils the criteria laid down in the OIE Terrestrial Animal Health Code Chapter 1.2 or the OIE Aquatic Animal Health Code Chapter 1.2, it may request recognition of this status. The importing Party may request additional guarantees in respect of imports of live animals and animal products appropriate to the agreed status.

ARTICLE 79

Audits and verifications

1. The importing Party may carry out audits and verifications of the following:

(a) all or part of the other Party's authorities' inspection and certification system;

(b) the results of the controls carried out under the exporting Party's inspection and certification system.

2. The Parties shall carry out those audits and verifications in accordance with the provisions of the SPS Agreement, taking into account the relevant international standards, guidelines and recommendations of the Codex, OIE or IPPC.

3. For the purposes of carrying out such audits and verifications, the importing Party may conduct audits and verifications by means of requests of information from the exporting Party or audit and verification visits to the exporting Party, which may include:

(a) an assessment of all or part of the responsible authorities' total control programme, including, where appropriate, reviews of regulatory audit and inspection activities;

(b) on-the-spot checks; and

(c) the collection of information and data to assess the causes of recurring or emerging problems in relation to exports of products.

4. The importing Party shall share with the exporting Party the results and conclusions of the audits and verifications carried out pursuant to paragraph 1. The importing Party may make these results publicly available.

5. Prior to the commencement of an audit or verification, the Parties shall discuss the objectives and scope of the audit or verification, the criteria or requirements against which the exporting Party will be assessed, and the itinerary and procedures for conducting the audit or verification which shall be laid down in an audit or verification plan. Unless otherwise agreed by the Parties, the importing Party shall provide the exporting Party with an audit or verification plan at least 30 days prior to the commencement of the audit or verification.

6. The importing Party shall provide the exporting Party the opportunity to comment on the draft audit or verification report. The importing Party shall provide a final report in writing to the exporting Party normally within two months from the date of receipt of those comments.

7. Each Party shall bear its own costs associated with such an audit or verification.

ARTICLE 80

Notification and consultation

1. A Party shall notify the other Party without undue delay of:

(a) a significant change to pest or disease status;

(b) the emergence of a new animal disease;

(c) a finding of epidemiological importance with respect to an animal disease;

(d) a significant food safety issue identified by a Party;

(e) any additional measures beyond the basic requirements of their respective SPS measures taken to control or eradicate animal disease or protect human health, and any changes in preventive policies, including vaccination policies;

(f) on request, the results of a Party's official control and a report that concerns the results of the control carried out; and

(g) any significant changes to the functions of a system or database.

2. If a Party has a significant concern with respect to food safety, plant health, or animal health, or an SPS measure that the other Party has proposed or implemented, that Party may request technical consultations with the other Party. The requested Party should respond to the request without undue delay. Each Party shall endeavour to provide the information necessary to avoid a disruption to trade and, as the case may be, to reach a mutually acceptable solution.

3. Consultations referred to in paragraph 2 may be held via telephone conference, videoconference, or any other means of communication mutually agreed on by the Parties.

ARTICLE 81

Emergency measures

1. If the importing Party considers that there is a serious risk to human, animal or plant life and health, it may take without prior notification the necessary measures for the protection of human, animal or plant life and health. For consignments that are in transit between the Parties, the importing Party shall consider the most suitable and proportionate solution to avoid unnecessary disruptions to trade.

2. The Party taking the measures shall notify the other Party of an emergency SPS measure as soon as possible after its decision to implement the measure and no later than 24 hours after the decision has been taken. If a Party requests technical consultations to address the emergency SPS measure, the technical consultations must be held within 10 days of the notification of the emergency SPS measure. The Parties shall consider any information provided through the technical consultations. These consultations shall be carried out in order to avoid unnecessary disruptions to trade. The Parties may consider options for the facilitation of the implementation or the replacement of the measures.

3. The importing Party shall consider, in a timely manner, information that was provided by the exporting Party when it makes its decision with respect to consignments that, at the time of adoption of the emergency SPS measure, are being transported between the Parties, in order to avoid unnecessary disruptions to trade.

4. The importing Party shall ensure that any emergency measure taken on the grounds referred to in paragraph 1 of this Article is not maintained without scientific evidence or, in cases where scientific evidence is insufficient, is adopted in accordance with Article 5(7) of the SPS Agreement.

ARTICLE 82

Multilateral international fora

The Parties agree to cooperate in multilateral international fora on the development of international standards, guidelines and recommendations in the areas under the scope of this Chapter.

ARTICLE 83

Implementation and competent authorities

1. For the purposes of the implementation of this Chapter, each Party shall take all of the following into account:

(a) decisions of the WTO SPS Committee;

(b) the work of the relevant international standard setting bodies;

(c) any knowledge and past experience it has of trading with the exporting Party; and

(d) information provided by the other Party.

2. The Parties shall, without delay, provide each other with a description of the competent authorities of the Parties for the implementation of this Chapter. The Parties shall notify each other of any significant change to these competent authorities.

3. Each Party shall ensure that its competent authorities have the necessary resources to effectively implement this Chapter.

ARTICLE 84

Cooperation on animal welfare

1. The Parties recognise that animals are sentient beings. They also recognise the connection between improved welfare of animals and sustainable food production systems.

2. The Parties undertake to cooperate in international fora to promote the development of the best possible animal welfare practices and their implementation. In particular, the Parties shall cooperate to reinforce and broaden the scope of the OIE animal welfare standards, as well as their implementation, with a focus on farmed animals.

3. The Parties shall exchange information, expertise and experiences in the field of animal welfare, particularly related to breeding, holding, handling, transportation and slaughter of food-producing animals.

4. The Parties shall strengthen their cooperation on research in the area of animal welfare in relation to animal breeding and the treatment of animals on farms, during transport and at slaughter.

ARTICLE 85

Cooperation on antimicrobial resistance

1. The Parties shall provide a framework for dialogue and cooperation with a view to strengthening the fight against the development of antimicrobial resistance.

2. The Parties recognise that antimicrobial resistance is a serious threat to human and animal health. Misuse of antimicrobials in animal production, including non-therapeutic use, can contribute to antimicrobial resistance that may represent a risk to human life. The Parties recognise that the nature of the threat requires a transnational and One Health approach.

3. With a view to combating antimicrobial resistance, the Parties shall endeavour to cooperate internationally with regional or multilateral work programmes to reduce the unnecessary use of antibiotics in animal production and to work towards the cessation of the use of antibiotics as growth promotors internationally to combat antimicrobial resistance in line with the One Health approach, and in compliance with the Global Action Plan.

4. The Parties shall collaborate in the development of international guidelines, standards, recommendations and actions in relevant international organisations aiming to promote the prudent and responsible use of antibiotics in animal husbandry and veterinary practices.

5. The dialogue referred to in paragraph 1 shall cover, inter alia:

(a) collaboration to follow up existing and future guidelines, standards, recommendations and actions developed in relevant international organisations and existing and future initiatives and national plans aiming to promote the prudent and responsible use of antibiotics and relating to animal production and veterinary practices;

(b) collaboration in the implementation of the recommendations of OIE, WHO and Codex, in particular CAC-RCP61/2005;

(c) the exchange of information on good farming practices;

(d) the promotion of research, innovation and development;

(e) the promotion of multidisciplinary approaches to combat antimicrobial resistance, including the One Health approach of the WHO, OIE and Codex.

ARTICLE 86

Sustainable food systems

Each Party shall encourage its food safety, animal and plant health services to cooperate with their counterparts in the other Party with the aim of promoting sustainable food production methods and food systems.

ARTICLE 87

Trade Specialised Committee on Sanitary and Phytosanitary Measures

The Trade Specialised Committee on Sanitary and Phytosanitary Measures shall supervise the implementation and operation of this Chapter and have the following functions:

(a) promptly clarifying and addressing, where possible, any issue raised by a Party relating to the development, adoption or application of sanitary and phytosanitary requirements, standards and recommendations under this Chapter or the SPS Agreement;

(b) discussing ongoing processes on the development of new regulations;

(c) discussing as expeditiously as possible concerns expressed by a Party with regard to the SPS import conditions and procedures applied by the other Party;

(d) regularly reviewing the Parties' SPS measures, including certification requirements and border clearance processes, and their application, in order to facilitate trade between the Parties, in accordance with the principles, objectives and procedures set out in Article 5 of the SPS Agreement. Each Party shall identify any appropriate action it will take, including in relation to the frequency of identity and physical checks, taking into consideration the results of this review and based on the criteria laid down in Annex 10 of this Agreement;

(e) exchanging views, information, and experiences with respect to the cooperation activities on protecting animal welfare and the fight against antimicrobial resistance carried out under Articles 84 and 85;

(f) on request of a Party, considering what constitutes a significant change in the disease or pest situation referred to in Article 78(9);

(g) adopting decisions to:

(i) add definitions as referred to in Article 71;

(ii) define the specific cases referred to in Article 74(2);

(iii) define details for the procedures referred to in Article 78(1);

(iv) establish other ways to support the explanations referred to in Article 78(5) and (7).

CHAPTER 4

TECHNICAL BARRIERS TO TRADE

ARTICLE 88

Objective

The objective of this Chapter is to facilitate trade in goods between the Parties by preventing, identifying and eliminating unnecessary technical barriers to trade.

ARTICLE 89

Scope

1. This Chapter applies to the preparation, adoption and application of all standards, technical regulations and conformity assessment procedures, which may affect trade in goods between the Parties.

2. This Chapter does not apply to:

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

(b) SPS measures that fall within the scope of Chapter 3 of this Title.

3. The Annexes to this Chapter apply in addition to this Chapter in respect of products within the scope of those Annexes. Any provision in an Annex to this Chapter that an international standard or body or organisation is to be considered or recognised as relevant shall not prevent a standard developed by any other body or organisation from being considered to be a relevant international standard pursuant to Article 91(4) and (5).

ARTICLE 90

Relationship with the TBT Agreement

1. Articles 2 to 9 of and Annexes 1 and 3 to the TBT Agreement are incorporated into and made part of this Agreement *mutatis mutandis*.

2. Terms referred to in this Chapter and in the Annexes to this Chapter shall have the same meaning as they have in the TBT Agreement.

ARTICLE 91

Technical regulations

1. Each Party shall carry out impact assessments of planned technical regulations in accordance with its respective rules and procedures. The rules and procedures referred to in this paragraph and in paragraph 8 may provide for exceptions.

2. Each Party shall assess the available regulatory and non-regulatory alternatives to the proposed technical regulation that may fulfil the Party's legitimate objectives, in accordance with Article 2.2 of the TBT Agreement.

3. Each Party shall use relevant international standards as a basis for its technical regulations except when it can demonstrate that such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued.

4. International standards developed by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and the Codex Alimentarius Commission (Codex) shall be the relevant international standards within the meaning of Article 2, Article 5 and Annex 3 of the TBT Agreement.

5. A standard developed by other international organisations may also be considered a relevant international standard within the meaning of Article 2, Article 5 and Annex 3 of the TBT Agreement, provided that:

(a) it has been developed by a standardising body which seeks to establish consensus either:

(i) among national delegations of the participating WTO Members representing all the national standardising bodies in their territory that have adopted, or expect to adopt, standards on the subject matter to which the international standardisation activity relates, or,

(ii) among governmental bodies of participating WTO Members; and

(b) it has been developed in accordance with the Decision of the WTO Committee on Technical Barriers to Trade on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5, and Annex 3 of the TBT Agreement.[1]

6. Where a Party does not use international standards as a basis for a technical regulation, on request of the other Party, it shall identify any substantial deviation from the relevant international standard, explain the reasons why such standards were judged inappropriate or ineffective for the objective pursued, and provide the scientific or technical evidence on which that assessment was based.

[1] G/TBT/9, 13 November 2000, Annex 4.

7. Each Party shall review its technical regulations to increase the convergence of those technical regulations with relevant international standards, taking into account, inter alia, any new developments in the relevant international standards or any changes in the circumstances that have given rise to divergence from any relevant international standards.

8. In accordance with its respective rules and procedures and without prejudice to Title X of this Heading, when developing a major technical regulation which may have a significant effect on trade, each Party shall ensure that procedures exist that allow persons to express their opinion in a public consultation, except where urgent problems of safety, health, environment or national security arise or threaten to arise. Each Party shall allow persons of the other Party to participate in such consultations on terms that are no less favourable than those accorded to its own nationals, and shall make the results of those consultations public.

ARTICLE 92

Standards

1. Each Party shall encourage the standardising bodies established within its territory, as well as the regional standardising bodies of which a Party or the standardising bodies established in its territory are members:

(a) to participate, within the limits of their resources, in the preparation of international standards by relevant international standardising bodies;

(b) to use relevant international standards as a basis for the standards they develop, except where such international standards would be ineffective or inappropriate, for example because of an insufficient level of protection, fundamental climatic or geographical factors or fundamental technological problems;

(c) to avoid duplications of, or overlaps with, the work of international standardising bodies;

(d) to review national and regional standards that are not based on relevant international standards at regular intervals, with a view to increasing the convergence of those standards with relevant international standards;

(e) to cooperate with the relevant standardising bodies of the other Party in international standardisation activities, including through cooperation in the international standardising bodies or at regional level;

(f) to foster bilateral cooperation with the standardising bodies of the other Party; and

(g) to exchange information between standardising bodies.

2. The Parties shall exchange information on:

(a) their respective use of standards in support of technical regulations; and

(b) their respective standardisation processes, and the extent to which they use international, regional or sub-regional standards as a basis for their national standards.

3. Where standards are rendered mandatory in a draft technical regulation or conformity assessment procedure, through incorporation or reference, the transparency obligations set out in Article 94 and in Article 2 or 5 of the TBT Agreement shall apply.

ARTICLE 93

Conformity assessment

1. Article 91 concerning the preparation, adoption and application of technical regulations shall also apply to conformity assessment procedures, *mutatis mutandis*.

2. Where a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation, it shall:

(a) select conformity assessment procedures that are proportionate to the risks involved, as determined on the basis of a risk-assessment;

(b) consider as proof of compliance with technical regulations the use of a supplier's declaration of conformity, i.e. a declaration of conformity issued by the manufacturer on the sole responsibility of the manufacturer without a mandatory third-party assessment, as assurance of conformity among the options for showing compliance with technical regulations;

(c) where requested by the other Party, provide information on the criteria used to select the conformity assessment procedures for specific products.

3. Where a Party requires third party conformity assessment as a positive assurance that a product conforms with a technical regulation and it has not reserved this task to a government authority as specified in paragraph 4, it shall:

(a) use accreditation, as appropriate, as a means to demonstrate technical competence to qualify conformity assessment bodies. Without prejudice to its right to establish requirements for conformity assessment bodies, each Party recognises the valuable role that accreditation operated with authority derived from government and on a non-commercial basis can play in the qualification of conformity assessment bodies;

(b) use relevant international standards for accreditation and conformity assessment;

(c) encourage accreditation bodies and conformity assessment bodies located within its territory to join any relevant functioning international agreements or arrangements for harmonisation or facilitation of acceptance of conformity assessment results;

(d) if two or more conformity assessment bodies are authorised by a Party to carry out conformity assessment procedures required for placing a product on the market, ensure that economic operators have a choice amongst the conformity assessment bodies designated by the authorities of a Party for a particular product or set of products;

(e) ensure that conformity assessment bodies are independent of manufacturers, importers and economic operators in general and that there are no conflicts of interest between accreditation bodies and conformity assessment bodies;

(f) allow conformity assessment bodies to use subcontractors to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of the other Party, and may require subcontractors to meet the same requirements the conformity assessment body must meet to perform such testing or inspections itself; and

(g) publish on a single website a list of the bodies that it has designated to perform such conformity assessment and the relevant information on the scope of designation of each such body.

4. Nothing in this Article shall preclude a Party from requiring that conformity assessment in relation to specific products is performed by its specified government authorities. If a Party requires that conformity assessment is performed by its specified government authorities, that Party shall:

(a) limit the conformity assessment fees to the approximate cost of the services rendered and, at the request of an applicant for conformity assessment, explain how any fees it imposes for that conformity assessment are limited to the approximate cost of services rendered; and

(b) make publicly available the conformity assessment fees.

5. Notwithstanding paragraphs 2 to 4, each Party shall accept a supplier's declaration of conformity as proof of compliance with its technical regulations in those product areas where it does so on the date of entry into force of this Agreement.

6. Each Party shall publish and maintain a list of the product areas referred to in paragraph 5 for information purposes, together with the references to the applicable technical regulations.

7. Notwithstanding paragraph 5, either Party may introduce requirements for the mandatory third party testing or certification of the product areas referred to in that paragraph, provided that such requirements are justified on grounds of legitimate objectives and are proportionate to the purpose of giving the importing Party adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks that non-conformity would create.

8. A Party proposing to introduce the conformity assessment procedures referred to in paragraph 7 shall notify the other Party at an early stage and shall take the comments of the other Party into account in devising any such conformity assessment procedures.

ARTICLE 94

Transparency

1. Except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, each Party shall allow the other Party to provide written comments on notified proposed technical regulations and conformity assessment procedures within a period of at least 60 days from the date of the transmission of the notification of such regulations or procedures to the WTO Central Registry of Notifications. A Party shall give positive consideration to a reasonable request to extend that comment period.

2. Each Party shall provide the electronic version of the full notified text together with the notification. In the event that the notified text is not in one of the official WTO languages, the notifying Party shall provide a detailed and comprehensive description of the content of the measure in the WTO notification format.

3. If a Party receives written comments on its proposed technical regulation or conformity assessment procedure from the other Party, it shall:

(a) if requested by the other Party, discuss the written comments with the participation of its competent regulatory authority, at a time when they can be taken into account; and

(b) reply in writing to the comments no later than the date of publication of the technical regulation or conformity assessment procedure.

4. Each Party shall endeavour to publish on a website its responses to the comments it receives following the notification referred to in paragraph 1 no later than on the date of publication of the adopted technical regulation or conformity assessment procedure.

5. Each Party shall, where requested by the other Party, provide information regarding the objectives of, legal basis for and rationale for, any technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

6. Each Party shall ensure that the technical regulations and conformity assessment procedures it has adopted are published on a website that is accessible free of charge.

7. Each Party shall provide information on the adoption and the entry into force of technical regulations or conformity assessment procedures and the adopted final texts through an addendum to the original notification to the WTO.

8. Each Party shall allow a reasonable interval between the publication of technical regulations and their entry into force, in order to allow time for the economic operators of the other Party to adapt. "Reasonable interval" means a period of at least six months, unless this would be ineffective in fulfilling the legitimate objectives pursued.

9. A Party shall give positive consideration to a reasonable request from the other Party received prior to the end of the comment period set out in paragraph 1 to extend the period of time between the adoption of the technical regulation and its entry into force, except where the delay would be ineffective in fulfilling the legitimate objectives pursued.

10. Each Party shall ensure that the enquiry point established in accordance with Article 10 of the TBT Agreement provides information and answers in one of the official WTO languages to reasonable enquiries from the other Party or from interested persons of the other Party regarding adopted technical regulations and conformity assessment procedures.

ARTICLE 95

Marking and labelling

1. The technical regulations of a Party may include or exclusively address mandatory marking or labelling requirements. In such cases, the principles of Article 2.2 of the TBT Agreement apply to these technical regulations.

2. Where a Party requires mandatory marking or labelling of products, all of the following conditions shall apply:

(a) it shall only require information which is relevant for consumers or users of the product or information that indicates that the product conforms to the mandatory technical requirements;

(b) it shall not require any prior approval, registration or certification of the labels or markings of products, nor any fee disbursement, as a precondition for placing on its market products that otherwise comply with its mandatory technical requirements unless it is necessary in view of legitimate objectives;

(c) where the Party requires the use of a unique identification number by economic operators, it shall issue such a number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;

(d) unless the information listed in point (i), (ii) or (iii) would be misleading, contradictory or confusing in relation to the information that the importing Party requires with respect to the goods, the importing Party shall permit:

(i) information in other languages in addition to the language required in the importing Party of the goods;

(ii) internationally-accepted nomenclatures, pictograms, symbols or graphics; and

(iii) additional information to that required in the importing Party of the goods;

(e) it shall accept that labelling, including supplementary labelling or corrections to labelling, take place in customs warehouses or other designated areas in the country of import as an alternative to labelling in the country of origin, unless such labelling is required to be carried out by approved persons for reasons of public health or safety; and

(f) unless it considers that legitimate objectives may be undermined, it shall endeavour to accept the use of non-permanent or detachable labels, or marking or labelling in the accompanying documentation, rather than requiring labels or marking to be physically attached to the product.

ARTICLE 96

Cooperation on market surveillance and non-food product safety and compliance

1. The Parties recognise the importance of cooperation on market surveillance, compliance and the safety of non-food products for the facilitation of trade and for the protection of consumers and other users, and the importance of building mutual trust based on shared information.

2. To guarantee the independent and impartial functioning of market surveillance, the Parties shall ensure:

(a) the separation of market surveillance functions from conformity assessment functions; and

(b) the absence of any interests that would affect the impartiality of market surveillance authorities in the performance of their control or supervision of economic operators.

3. The Parties shall cooperate and exchange information in the area of non-food product safety and compliance, which may include in particular the following:

(a) market surveillance and enforcement activities and measures;

(b) risk assessment methods and product testing;

(c) coordinated product recalls or other similar actions;

(d) scientific, technical and regulatory matters in order to improve non-food product safety and compliance;

(e) emerging issues of significant health and safety relevance;

(f) standardisation-related activities;

(g) exchanges of officials.

4. The Partnership Council shall use its best endeavours to establish in Annex 16, as soon as possible and preferably within six months of entry into force of this Agreement, an arrangement for the regular exchange of information between the Rapid Alert System for non-food products (RAPEX), or its successor, and the database relating to market surveillance and product safety established under the General Product Safety Regulations 2005, or its successor, in relation to the safety of non-food products and related preventive, restrictive and corrective measures.

The arrangement shall set out the modalities under which:

(a) the Union is to provide the United Kingdom with selected information from its RAPEX alert system, or its successor, as referred to in Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, or its successor;

(b) the United Kingdom is to provide the Union with selected information from its database relating to market surveillance and product safety established under the General Product Safety Regulations 2005, or its successor; and

(c) the Parties are to inform each other of any follow-up actions and measures taken in response to the information exchanged.

5. The Partnership Council may establish in Annex 17 an arrangement on the regular exchange of information, including the exchange of information by electronic means, regarding measures taken on non-compliant non-food products, other than those covered by paragraph 4.

6. Each Party shall use the information obtained pursuant to paragraphs 3, 4 and 5 for the sole purpose of protecting consumers, health, safety or the environment.

7. Each Party shall treat the information obtained pursuant to paragraphs 3, 4 and 5 as confidential.

8. The arrangements referred to in paragraphs 4 and 5 shall specify the type of information to be exchanged, the modalities for the exchange and the application of confidentiality and personal data protection rules. The Partnership Council shall have the power to adopt decisions in order to determine or amend the arrangements set out in Annexes 16 and 17.

9. For the purposes of this Article, "market surveillance" means activities conducted and measures taken by market surveillance and enforcement authorities, including activities conducted and measures taken in cooperation with economic operators, on the basis of procedures of a Party to enable that Party to monitor or address safety of products and their compliance with the requirements set out in its laws and regulations.

10. Each Party shall ensure that any measure taken by its market surveillance or enforcement authorities to withdraw or recall from its market or to prohibit or restrict the making available on its market of a product imported from the territory of the other Party, for reasons related to non-compliance with the applicable legislation, is proportionate, states the exact grounds on which the measure is based and is communicated without delay to the relevant economic operator.

ARTICLE 97

Technical discussions

1. If a Party considers that a draft or proposed technical regulation or conformity assessment procedure of the other Party might have a significant effect on trade between the Parties, it may request technical discussions on the matter. The request shall be made in writing to the other Party and shall identify:

(a) the measure at issue;

(b) the provisions of this Chapter or of an Annex to this Chapter to which the concerns relate; and

(c) the reasons for the request, including a description of the requesting Party's concerns regarding the measure.

2. A Party shall deliver its request to the contact point of the other Party designated pursuant to Article 99.

3. At the request of either Party, the Parties shall meet to discuss the concerns raised in the request, in person or via videoconference or teleconference, within 60 days of the date of the request and shall endeavour to resolve the matter as expeditiously as possible. If a requesting Party believes that the matter is urgent, it may request that any meeting take place within a shorter time frame. In such cases, the responding Party shall give positive consideration to such a request.

ARTICLE 98

Cooperation

1. The Parties shall cooperate in the field of technical regulations, standards and conformity assessment procedures, where it is in their mutual interest, and without prejudice to the autonomy of their own respective decision-making and legal orders. The Trade Specialised Committee on Technical Barriers to Trade may exchange views with respect to the cooperation activities carried out under this Article or the Annexes to this Chapter.

2. For the purposes of paragraph 1, the Parties shall seek to identify, develop and promote cooperation activities of mutual interest. These activities may in particular relate to:

(a) the exchange of information, experience and data related to technical regulations, standards and conformity assessment procedures;

(b) ensuring efficient interaction and cooperation of their respective regulatory authorities at international, regional or national level;

(c) exchanging information, to the extent possible, about international agreements and arrangements regarding technical barriers to trade to which one or both Parties are party; and

(d) establishment of or participation in trade facilitating initiatives.

3. For the purposes of this Article and the provisions on cooperation under the Annexes to this Chapter, the European Commission shall act on behalf of the Union.

ARTICLE 99

Contact points

1. Upon the entry into force of this Agreement, each Party shall designate a contact point for the implementation of this Chapter and shall notify the other Party of the contact details for the contact point, including information regarding the relevant officials. The Parties shall promptly notify each other of any change of those contact details.

2. The contact point shall provide any information or explanation requested by the contact point of the other Party in relation to the implementation of this Chapter within a reasonable period of time and, if possible, within 60 days of the date of receipt of the request.

ARTICLE 100

Trade Specialised Committee on Technical Barriers to Trade

The Trade Specialised Committee on Technical Barriers to Trade shall supervise the implementation and operation of this Chapter and its Annexes and shall promptly clarify and address, where possible, any issue raised by a Party relating to the development, adoption or application of technical regulations, standards and conformity assessment procedures under this Chapter or the TBT Agreement.

CHAPTER 5

CUSTOMS AND TRADE FACILITATION

ARTICLE 101

Objective

The objectives of this Chapter are:

(a) to reinforce cooperation between the Parties in the area of customs and trade facilitation and to support or maintain, where relevant, appropriate levels of compatibility of their customs legislation and practices with a view to ensuring that relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs controls and effective enforcement of customs legislation and trade related laws and regulations, the proper protection of security and safety of citizens and the respect of prohibitions and restrictions and financial interests of the Parties;

(b) to reinforce administrative cooperation between the Parties in the field of VAT and mutual assistance in claims related to taxes and duties;

(c) to ensure that the legislation of each Party is non-discriminatory and that customs procedures are based upon the use of modern methods and effective controls to combat fraud and to promote legitimate trade; and

(d) to ensure that legitimate public policy objectives, including in relation to security, safety and the fight against fraud are not compromised in any way.

ARTICLE 102

Definitions

For the purposes of this Chapter and Annex 18 and the Protocol on mutual administrative assistance in customs matters and the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties, the following definitions apply:

(a) "Agreement on Pre-shipment Inspection" means the Agreement on Pre-shipment Inspection, contained in Annex 1A to the WTO Agreement;

(b) "ATA and Istanbul Conventions" means the Customs Convention on the ATA Carnet for the Temporary Admission of Goods done in Brussels on 6 December 1961 and the Istanbul Convention on Temporary Admission done on 26 June 1990;

(c) "Common Transit Convention" means the Convention of 20 May 1987 on a common transit procedure;

(d) "Customs Data Model of the WCO" means the library of data components and electronic templates for the exchange of business data and compilation of international standards on data and information used in applying regulatory facilitation and controls in global trade, as published by the WCO Data Model Project Team from time to time;

(e) "customs legislation" means any legal or regulatory provision applicable in the territory of either Party, governing the entry or import of goods, exit or export of goods, the transit of goods and the placing of goods under any other customs regime or procedure, including measures of prohibition, restriction and control;

(f) "information" means any data, document, image, report, communication or authenticated copy, in any format, including in electronic format, whether or not processed or analysed;

(g) "person" means any person as defined in point (l) of Article 512[1];

(h) "SAFE Framework" means the SAFE Framework of Standards to Secure and Facilitate Global Trade adopted at the June 2005 World Customs Organisation Session in Brussels and as updated from time to time; and

[1] For greater certainty, it is understood that, in particular for the purposes of this Chapter, the notion of "person" includes any association of persons lacking the legal status of a legal person but recognized under applicable law as having the capacity to perform legal acts.

(i) "WTO Trade Facilitation Agreement" means the Agreement on Trade Facilitation annexed to the Protocol Amending the WTO Agreement (decision of 27 November 2014).

ARTICLE 103

Customs cooperation

1. The relevant authorities of the Parties shall cooperate on customs matters to support the objectives set out in Article 101, taking into account the resources of their respective authorities. For the purpose of this Title, the Convention of 20 May 1987 on the Simplification of Formalities in Trade in Goods applies.

2. The Parties shall develop cooperation, including in the following areas:

(a) exchanging information concerning customs legislation, the implementation of customs legislation and customs procedures; particularly in the following areas:

(i) the simplification and modernisation of customs procedures;

(ii) the facilitation of transit movements and transhipment;

(iii) relations with the business community; and

(iv) supply chain security and risk management;

(b) working together on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework;

(c) considering developing joint initiatives relating to import, export and other customs procedures including technical assistance, as well as towards ensuring an effective service to the business community;

(d) strengthening their cooperation in the field of customs in international organisations such as the WTO and the WCO, and exchanging information or holding discussions with a view to establishing where possible common positions in those international organisations and in UNCTAD, UNECE;

(e) endeavouring to harmonise their data requirements for import, export and other customs procedures by implementing common standards and data elements in accordance with the Customs Data Model of the WCO;

(f) strengthening their cooperation on risk management techniques, including sharing best practices, and, where appropriate, risk information and control results. Where relevant and appropriate, the Parties may also consider mutual recognition of risk management techniques, risk standards and controls and customs security measures; the Parties may also consider, where relevant and appropriate, the development of compatible risk criteria and standards, control measures and priority control areas;

(g) establishing mutual recognition of Authorised Economic Operator programmes to secure and facilitate trade;

(h) fostering cooperation between customs and other government authorities or agencies in relation to Authorised Economic Operator programmes, which may be achieved, inter alia, by agreeing on the highest standards, facilitating access to benefits and minimising unnecessary duplication;

(i) enforcing intellectual property rights by customs authorities, including exchanging information and best practices in customs operations focusing in particular on intellectual property rights enforcement;

(j) maintaining compatible customs procedures, where appropriate and practicable to do so, including the application of a single administrative document for customs declaration; and

(k) exchanging, where relevant and appropriate and under arrangements to be agreed, certain categories of customs-related information between the customs authorities of the Parties through structured and recurrent communication, for the purposes of improving risk management and the effectiveness of customs controls, targeting goods at risk in terms of revenue collection or safety and security, and facilitating legitimate trade; such exchanges may include export and import declaration data on trade between the Parties, with the possibility of exploring, through pilot initiatives, the development of interoperable mechanisms to avoid duplication in the submission of such information. Exchanges under this point shall be without prejudice to exchanges of information that may take place between the Parties pursuant to the Protocol on mutual administrative assistance in customs matters.

3. Without prejudice to other forms of cooperation envisaged in this Agreement, the customs authorities of the Parties shall provide each other with mutual administrative assistance in the matters covered by this Chapter in accordance with the Protocol on mutual administrative assistance in customs matters.

4. Any exchange of information between the Parties under this Chapter shall be subject to the confidentiality and protection of information set out in Article 12 of the Protocol on mutual administrative assistance in customs matters, *mutatis mutandis*, as well as to any confidentiality requirements set out in the legislation of the Parties.

ARTICLE 104

Customs and other trade related legislation and procedures

1. Each Party shall ensure that its customs provisions and procedures:

(a) are consistent with international instruments and standards applicable in the area of customs and trade, including the WTO Trade Facilitation Agreement, the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, the International Convention on the Harmonised Commodity Description and Coding System, as well as the SAFE Framework and the Customs Data Model of the WCO;

(b) provide the protection and facilitation of legitimate trade taking into account the evolution of trade practices through effective enforcement including in case of breaches of its laws and regulations, duty evasion and smuggling and through ensuring compliance with legislative requirements;

(c) are based on legislation that is proportionate and non-discriminatory, avoids unnecessary burdens on economic operators, provides for further facilitation for operators with high levels of compliance including favourable treatment with respect to customs controls prior to the release of goods, and ensures safeguards against fraud and illicit or damageable activities while ensuring a high level of protection of security and safety of citizens and the respect of prohibitions and restrictions and financial interests of the Parties; and

(d) contain rules that ensure that any penalty imposed for breaches of customs regulations or procedural requirements is proportionate and non-discriminatory and that the imposition of such penalties does not result in unjustified delays.

Each Party should periodically review its legislation and customs procedures. Customs procedures should also be applied in a manner that is predictable, consistent and transparent.

2. In order to improve working methods and to ensure non-discrimination, transparency, efficiency, integrity and the accountability of operations, each Party shall:

(a) simplify and review requirements and formalities wherever possible with a view to ensuring the rapid release and clearance of goods;

(b) work towards the further simplification and standardisation of the data and documentation required by customs and other agencies; and

(c) promote coordination between all border agencies, both internally and across borders, to facilitate border-crossing processes and enhance control, taking into account joint border controls where feasible and appropriate.

ARTICLE 105

Release of goods

1. Each Party shall adopt or maintain customs procedures that:

(a) provide for the prompt release of goods within a period that is no longer than necessary to ensure compliance with its laws and regulations;

(b) provide for advance electronic submission and processing of documentation and any other required information prior to the arrival of the goods, to enable the release of goods promptly upon arrival if no risk has been identified through risk analysis or if no random checks or other checks are to be performed;

(c) provide for the possibility, where appropriate and if the necessary conditions are satisfied, of releasing goods for free circulation at the first point of arrival; and

(d) allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

2. As a condition for such release, each Party may require a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations. Such guarantee shall not be greater than the amount the Party requires to ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee. The guarantee shall be discharged when it is no longer required.

3. The Parties shall ensure that the customs and other authorities responsible for border controls and procedures dealing with importation, exportation and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade and expedite the release of goods.

ARTICLE 106

Simplified customs procedures

1. Each Party shall work towards simplification of its requirements and formalities for customs procedures in order to reduce the time and costs thereof for traders or operators, including small and medium-sized enterprises.

2. Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its laws and regulations to benefit from further simplification of customs procedures. Such measures may include inter alia:

(a) customs declarations containing a reduced set of data or supporting documents;

(b) periodical customs declarations for the determination and payment of customs duties and taxes covering multiple imports within a given period after the release of those imported goods;

(c) self-assessment of and the deferred payment of customs duties and taxes until after the release of those imported goods; and

(d) the use of a guarantee with a reduced amount or a waiver from the obligation to provide a guarantee.

3. Where a Party chooses to adopt one of these measures, it will offer, where considered appropriate and practicable by that Party and in accordance with its laws and regulations, these simplifications to all traders who meet the relevant criteria.

ARTICLE 107

Transit and transhipment

1. For the purposes of Article 20, the Common Transit Convention shall apply.

2. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through their respective territories.

3. Each Party shall promote and implement regional transit arrangements with a view to facilitating trade in compliance with the Common Transit Convention.

4. Each Party shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories in order to facilitate traffic in transit.

5. Each Party shall allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 108

Risk management

1. Each Party shall adopt or maintain a risk management system for customs controls with a view to reducing the likelihood and the impact of an event which would prevent the correct application of customs legislation, compromise the financial interest of the Parties or pose a threat to the security and safety of the Parties and their residents, to human, animal or plant health, to the environment or to consumers.

2. Customs controls, other than random checks, shall primarily be based on risk analysis using electronic data-processing techniques.

3. Each Party shall design and apply risk management in such a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

4. Each Party shall concentrate customs controls and other relevant border controls on high-risk consignments and shall expedite the release of low-risk consignments. Each Party may also select consignments for such controls on a random basis as part of its risk management.

5. Each Party shall base risk management on the assessment of risk through appropriate selectivity criteria.

ARTICLE 109

Post-clearance audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

2. Each Party shall select persons and consignments for post-clearance audits in a risk-based manner, which may include using appropriate selectivity criteria. Each Party shall conduct post-clearance audits in a transparent manner. Where a person is involved in the audit process and conclusive results have been achieved, the Party shall notify the person whose record is audited of the results, the person's rights and obligations and the reasons for the results, without delay.

3. The information obtained in post-clearance audits may be used in further administrative or judicial proceedings.

4. The Parties shall, wherever practicable, use the results of post-clearance audit for risk management purposes.

ARTICLE 110

Authorised Economic Operators

1. Each Party shall maintain a partnership programme for operators who meet the specified criteria in Annex 18.

2. The Parties shall recognise their respective programmes for Authorised Economic Operators in accordance with Annex 18.

ARTICLE 111

Publication and availability of information

1. Each Party shall ensure that its customs legislation and other trade-related laws and regulations, as well as its general administrative procedures and relevant information of general application that relate to trade, are published and readily available to any interested person in an easily accessible manner, including, as appropriate, through the Internet.

2. Each Party shall promptly publish new legislation and general procedures related to customs and trade facilitation issues as early as possible prior to the entry into force of any such legislation or procedures, and shall promptly publish any changes to and interpretations of such legislation and procedures. Such publication shall include:

(a) relevant notices of an administrative nature;

(b) importation, exportation and transit procedures (including port, airport, and other entry-point procedures) and required forms and documents;

(c) applied rates of duty and taxes of any kind imposed on or in connection with importation or exportation;

(d) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

(e) rules for the classification or valuation of products for customs purposes;

(f) laws, regulations and administrative rulings of general application relating to rules of origin;

(g) import, export or transit restrictions or prohibitions;

(h) penalty provisions against breaches of import, export or transit formalities;

(i) appeal procedures;

(j) agreements or parts thereof with any country or countries relating to importation, exportation or transit;

(k) procedures relating to the administration of tariff quotas;

(l) hours of operation and operating procedures for customs offices at ports and border crossing points; and

(m) points of contact for information enquiries.

3. Each Party shall ensure there is a reasonable time period between the publication of new or amended legislation, procedures and fees or charges and their entry into force.

4. Each Party shall make the following available through the internet:

(a) a description of its importation, exportation and transit procedures, including appeal procedures, informing of the practical steps needed to import and export, and for transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Party; and

(c) contact information regarding enquiry points.

Each party shall ensure that the descriptions, forms, documents and information referred to in points (a), (b) and (c) of the first subparagraph are kept up to date.

5. Each Party shall establish or maintain one or more enquiry points to answer enquiries of governments, traders and other interested parties regarding customs and other trade-related matters within a reasonable time. The Parties shall not require the payment of a fee for answering enquiries.

ARTICLE 112

Advance rulings

1. Each Party, through its customs authorities, shall issue advance rulings upon application by economic operators setting forth the treatment to be accorded to the goods concerned. Such rulings shall be issued in writing or in electronic format in a time bound manner and shall contain all necessary information in accordance with the legislation of the issuing Party.

2. Advance rulings shall be valid for a period of at least three years from the starting date of their validity unless the ruling no longer conforms to the law or the facts or circumstances supporting the original ruling have changed.

3. A Party may refuse to issue an advance ruling if the question raised in the application is the subject of an administrative or judicial review, or if the application does not relate to any intended use of the advance ruling or any intended use of a customs procedure. If a Party declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

4. Each Party shall publish, at least:

(a) the requirements for applying for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

5. If a Party revokes, modifies, invalidates or annuls an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. A Party shall only revoke, modify, invalidate or annul an advance ruling with retroactive effect if the ruling was based on incomplete, incorrect, false or misleading information.

6. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it. The Party may provide that the advance ruling is binding on the applicant.

7. Each Party shall provide, at the written request of the holder, a review of an advance ruling or of a decision to revoke, modify or invalidate an advance ruling.

8. Each Party shall make publicly available information on advance rulings, taking into account the need to protect personal and commercially confidential information.

9. Advance rulings shall be issued with regard to:

(a) the tariff classification of goods;

(b) the origin of goods; and

(c) any other matter the Parties may agree upon.

ARTICLE 113

Customs brokers

The customs provisions and procedures of a Party shall not require the mandatory use of customs brokers or other agents. Each Party shall publish its measures on the use of customs brokers. Each Party shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

ARTICLE 114

Pre-shipment inspections

A Party shall not require the mandatory use of pre-shipment inspections as defined in the WTO Agreement on Pre-shipment Inspection, or any other inspection activity performed at destination, by private companies, before customs clearance.

ARTICLE 115

Review and appeal

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures that guarantee the right of appeal against administrative actions, rulings and decisions of customs or other competent authorities that affect the import or export of goods or goods in transit.

2. The procedures referred to in paragraph 1 shall include:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and

(b) a judicial appeal or review of the decision.

3. Each Party shall ensure that, in cases where the decision on appeal or review under point (a) of paragraph 2 is not given within the time period provided for in its laws and regulations or is not given without undue delay, the petitioner has the right to further administrative or judicial appeal or review or any other recourse to judicial authority in accordance with that Party's laws and regulations.

4. Each Party shall ensure that the petitioner is provided with the reasons for the administrative decision so as to enable the petitioner to have recourse to appeal or review procedures where necessary.

ARTICLE 116

Relations with the business community

1. Each Party shall hold timely and regular consultations with trade representatives on legislative proposals and general procedures related to customs and trade facilitation issues. To that end, appropriate consultation between administrations and the business community shall be maintained by each Party.

2. Each Party shall ensure that its customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and restrict trade as little as possible.

ARTICLE 117

Temporary admission

1. For the purposes of this Article, "temporary admission" means the customs procedure under which certain goods, including means of transport, can be brought into a customs territory with conditional relief from the payment of import duties and taxes and without the application of import prohibitions or restrictions of an economic character, on the condition that the goods are imported for a specific purpose and are intended for re-exportation within a specified period without having undergone any change except normal depreciation due to the use made of those goods.

2. Each Party shall grant temporary admission, with total conditional relief from import duties and taxes and without application of import restrictions or prohibitions of economic character, as provided for in its laws and regulations, to the following types of goods:

(a) goods for display or use at exhibitions, fairs, meetings or similar events (goods intended for display or demonstration at an event; goods intended for use in connection with the display of foreign products at an event; equipment including interpretation equipment, sound and image recording apparatus and films of an educational, scientific or cultural character intended for use at international meetings, conferences or congresses); products obtained incidentally during the event from temporarily imported goods, as a result of the demonstration of displayed machinery or apparatus;

(b) professional equipment (equipment for the press, for sound or television broadcasting which is necessary for representatives of the press, of broadcasting or television organisations visiting the territory of another country for purposes of reporting, in order to transmit or record material for specified programmes; cinematographic equipment necessary for a person visiting the territory of another country in order to make a specified film or films; any other equipment necessary for the exercise of the calling, trade or profession of a person visiting the territory of another country to perform a specified task, insofar as it is not to be used for the industrial manufacture or packaging of goods or (except in the case of hand tools) for the exploitation of natural resources, for the construction, repair or maintenance of buildings or for earth moving and like projects; ancillary apparatus for the equipment mentioned above, and accessories therefor); component parts imported for repair of professional equipment temporarily admitted;

(c) goods imported in connection with a commercial operation but whose importation does not in itself constitute a commercial operation (packings which are imported filled for re-exportation empty or filled, or are imported empty for re-exportation filled; containers, whether or not filled with goods, and accessories and equipment for temporarily admitted containers, which are either imported with a container to be re-exported separately or with another container, or are imported separately to be re-exported with a container and component parts intended for the repair of containers granted temporary admission; pallets; samples; advertising films; other goods imported in connection with a commercial operation);

(d) goods imported in connection with a manufacturing operation (matrices, blocks, plates, moulds, drawings, plans, models and other similar articles; measuring, controlling and checking instruments and other similar articles; special tools and instruments, imported for use during a manufacturing process); replacement means of production (instruments, apparatus and machines made available to a customer by a supplier or repairer, pending the delivery or repair of similar goods);

(e) goods imported exclusively for educational, scientific or cultural purposes (scientific equipment, pedagogic material, welfare material for seafarers, and any other goods imported in connection with educational, scientific or cultural activities); spare parts for scientific equipment and pedagogic material which has been granted temporary admission; tools specially designed for the maintenance, checking, gauging or repair of such equipment;

(f) personal effects (all articles, new or used, which a traveller may reasonably require for his or her personal use during the journey, taking into account all the circumstances of the journey, but excluding any goods imported for commercial purposes); goods imported for sports purposes (sports requisites and other articles for use by travellers in sports contests or demonstrations or for training in the territory of temporary admission);

(g) tourist publicity material (goods imported for the purpose of encouraging the public to visit another foreign country, in particular in order to attend cultural, religious, touristic, sporting or professional meetings or demonstrations held there);

(h) goods imported for humanitarian purposes (medical, surgical and laboratory equipment and relief consignments, such as vehicles and other means of transport, blankets, tents, prefabricated houses or other goods of prime necessity, forwarded as aid to those affected by natural disaster and similar catastrophes); and

(i) animals imported for specific purposes (dressage, training, breeding, shoeing or weighing, veterinary treatment, testing (for example, with a view to purchase), participation in shows, exhibitions, contests, competitions or demonstrations, entertainment (circus animals, etc.), touring (including pet animals of travellers), exercise of function (police dogs or horses; detector dogs, dogs for the blind, etc.), rescue operations, transhumance or grazing, performance of work or transport, medical purposes (delivery of snake poison, etc.).

3. Each Party shall, for the temporary admission of the goods referred to in paragraph 2 and regardless of their origin, accept a carnet as prescribed for the purposes of the ATA and Istanbul Conventions issued in the other Party, endorsed there and guaranteed by an association forming part of the international guarantee chain, certified by the competent authorities and valid in the customs territory of the importing Party.

ARTICLE 118

Single window

Each Party shall endeavour to establish a single window that enables traders to submit documentation or data required for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies.

ARTICLE 119

Facilitation of roll-on, roll-off traffic

1. In recognition of the high volume of sea-crossings and, in particular, the high volume of roll on, roll off traffic between their respective customs territories, the Parties agree to cooperate in order to facilitate such traffic as well as other alternative modes of traffic.

2. The Parties acknowledge:

(a) the right of each Party to adopt trade facilitating customs formalities and procedures for traffic between the Parties within their respective legal frameworks; and

(b) the right of ports, port authorities and operators to act, within the legal orders of their respective Parties, in accordance with their rules and their operating and business models.

3. To this effect the Parties:

(a) shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival; and

(b) undertake to facilitate the use by operators of the transit procedure, including simplifications of the transit procedure as provided for under the Common Transit Convention.

4. The Parties agree to encourage cooperation between their respective customs authorities on bilateral sea-crossing routes, and to exchange information on the functioning of ports handling traffic between them and on the applicable rules and procedures. They will make public, and promote knowledge by operators of, information on the measures they have in place and the processes established by ports to facilitate such traffic.

ARTICLE 120

Administrative cooperation in VAT and mutual assistance for recovery of taxes and duties

The competent authorities of the Parties shall cooperate with each other to ensure compliance with VAT legislation and in recovering claims relating to taxes and duties in accordance with the Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for the recovery of claims relating to taxes and duties.

ARTICLE 121

Trade Specialised Committee on Customs Cooperation and Rules of Origin

1. The Trade Specialised Committee on Customs Cooperation and Rules of Origin shall:

(a) hold regular consultations; and

(b) in relation to the review of the provisions of Annex 18:

(i) jointly validate programme members to identify strengths and weaknesses in implementing Annex 18; and

(ii) exchange views on data to be shared and treatment of operators.

2. The Trade Specialised Committee on Customs Cooperation and Rules of Origin may adopt decisions or recommendations:

(a) on the exchange of customs-related information, on mutual recognition of risk management techniques, risk standards and controls, customs security measures, on advanced rulings, on common approaches to customs valuation and on other issues related to the implementation of this Chapter;

(b) on the arrangements relating to the automatic exchange of information as referred to in Article 10 of the Protocol on mutual administrative assistance in customs matters, and on other issues relating to the implementation of that Protocol;

(c) on any issues relating to the implementation of Annex 18; and

(d) on the procedures for the consultation established in Article 63 and on any technical or administrative matters relating to the implementation of Chapter 2 of this Title, including on interpretative notes aimed at ensuring the uniform administration of the rules of origin.

ARTICLE 122

Amendments

1. The Partnership Council may amend:

(a) Annex 18, the Protocol on mutual administrative assistance in customs matters and the list of goods set out in Article 117(2); and

(b) the Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for the recovery of claims relating to taxes and duties.

2. The Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties may amend the value referred to in Article 33(4) of the Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for the recovery of claims relating to taxes and duties.

TITLE II

SERVICES AND INVESTMENT

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 123

Objective and scope

1. The Parties affirm their commitment to establish a favourable climate for the development of trade and investment between them.

2. The Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as: the protection of public health; social services; public education; safety; the environment, including climate change; public morals; social or consumer protection; privacy and data protection or the promotion and protection of cultural diversity.

3. This Title does not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party or to measures regarding nationality, citizenship, residence or employment on a permanent basis.

4. This Title shall not prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of its borders and to ensure the orderly movement of natural persons across them, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Title. The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under this Title.

5. This Title does not apply to:

(a) air services or related services in support of air services[1], other than:

(i) aircraft repair and maintenance services;

(ii) computer reservation system services;

(iii) ground handling services;

(iv) the following services provided using a manned aircraft, subject to compliance with the Parties' respective laws and regulations governing the admission of aircrafts to, departure from and operation within, their territory: aerial fire-fighting; flight training; spraying; surveying; mapping; photography; and other airborne agricultural, industrial and inspection services; and

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

(b) audio-visual services;

[1] Air services or related services in support of air services include, but are not limited to, the following services: air transportation; services provided by using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; the rental of aircraft with crew; and airport operation services.

(c) national maritime cabotage[1]; and

(d) inland waterways transport.

6. This Title does not apply to any measure of a Party with respect to public procurement of a good or service purchased for governmental purposes, and not with a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is "covered procurement" within the meaning of Article 277.

7. Except for Article 132, this Title does not apply to subsidies or grants provided by the Parties, including government-supported loans, guarantees and insurance.

[1] National maritime cabotage covers: for the Union, without prejudice to the scope of activities that may be considered cabotage under the relevant national legislation, transportation of passengers or goods between a port or point located in a Member State and another port or point located in that same Member State, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea and traffic originating and terminating in the same port or point located in a Member State; for the United Kingdom, transportation of passengers or goods between a port or point located in the United Kingdom and another port or point located in the United Kingdom, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea and traffic originating and terminating in the same port or point located in the United Kingdom.

ARTICLE 124

Definitions

For the purposes of this Title, the following definitions apply:

(a) "activities performed in the exercise of governmental authority" means activities which are performed, including services which are supplied, neither on a commercial basis nor in competition with one or more economic operators;[1]

(b) "aircraft repair and maintenance services" means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;

(c) "computer reservation system services" means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

(d) "covered enterprise" means an enterprise in the territory of a Party established in accordance with point (h) by an investor of the other Party, in accordance with the applicable law, existing on the date of entry into force of this Agreement or established thereafter;

[1] For greater certainty, the term "activities performed in the exercise of governmental authority" when used in relation to measures of a Party affecting the supply of services, includes "services supplied in the exercise of governmental authority" as defined in point (p) of Article 124.

(e) "cross-border trade in services" means the supply of a service:

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

(ii) in the territory of a Party to the service consumer of the other Party;

(f) "economic activity" means any activity of an industrial, commercial or professional character or activities of craftsmen, including the supply of services, except for activities performed in the exercise of governmental authority;

(g) "enterprise" means a legal person or a branch or a representative office of a legal person;

(h) "establishment" means the setting up or the acquisition of a legal person, including through capital participation, or the creation of a branch or representative office in the territory of a Party, with a view to creating or maintaining lasting economic links;

(i) "ground handling services" means the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering; air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning; ground handling services do not include: self-handling; security; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra airport transport systems;

(j) "investor of a Party" means a natural or legal person of a Party that seeks to establish, is establishing or has established an enterprise in accordance with point (h) in the territory of the other Party;

(k) "legal person of a Party"[1] means:

(i) for the Union:

(A) a legal person constituted or organised under the law of the Union or at least one of its Member States and engaged, in the territory of the Union, in substantive business operations, understood by the Union, in line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), as equivalent to the concept of "effective and continuous link" with the economy of a Member State enshrined in Article 54 of the Treaty on the Functioning of the European Union (TFEU); and

(B) shipping companies established outside the Union, and controlled by natural persons of a Member State, whose vessels are registered in, and fly the flag of, a Member State;

[1] For greater certainty, the shipping companies referred to in this point are only considered as legal persons of a Party with respect to their activities relating to the supply of maritime transport services.

(ii) for the United Kingdom:

(A) a legal person constituted or organised under the law of the United Kingdom and engaged in substantive business operations in the territory of the United Kingdom; and

(B) shipping companies established outside the United Kingdom and controlled by natural persons of the United Kingdom, whose vessels are registered in, and fly the flag of, the United Kingdom;

(l) "operation" means the conduct, management, maintenance, use, enjoyment, or sale or other form of disposal of an enterprise;

(m) "professional qualifications" means qualifications attested by evidence of formal qualification, professional experience, or other attestation of competence;

(n) "selling and marketing of air transport services" means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution, but not including the pricing of air transport services nor the applicable conditions;

(o) "service" means any service in any sector except services supplied in the exercise of governmental authority;

(p) "services 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;

(q) "service supplier" means any natural or legal person that seeks to supply or supplies a service;

(r) "service supplier of a Party" means a natural or legal person of a Party that seeks to supply or supplies a service.

ARTICLE 125

Denial of benefits

1. A Party may deny the benefits of this Title and Title IV of this Heading to an investor or service supplier of the other Party, or to a covered enterprise, if the denying Party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights, which:

(a) prohibit transactions with that investor, service supplier or covered enterprise; or

(b) would be violated or circumvented if the benefits of this Title and Title IV of this Heading were accorded to that investor, service supplier or covered enterprise, including where the measures prohibit transactions with a natural or legal person which owns or controls any of them.

2. For greater certainty, paragraph 1 is applicable to Title IV of this Heading to the extent that it relates to services or investment with respect to which a Party has denied the benefits of this Title.

ARTICLE 126

Review

1. With a view to introducing possible improvements to the provisions of this Title, and consistent with their commitments under international agreements, the Parties shall review their legal framework relating to trade in services and investment, including this Agreement, in accordance with Article 776.

2. The Parties shall endeavour, where appropriate, to review the non-conforming measures and reservations set out in Annexes 19, 20, 21 and 22 and the activities for short term business visitors set out in Annex 21, with a view to agreeing to possible improvements in their mutual interest.

3. This Article shall not apply with respect to financial services.

CHAPTER 2

INVESTMENT LIBERALISATION

ARTICLE 127

Scope

This Chapter applies to measures of a Party affecting the establishment of an enterprise to perform economic activities and the operation of such an enterprise by:

(a) investors of the other Party;

(b) covered enterprises; and

(c) for the purposes of Article 132, any enterprise in the territory of the Party which adopts or maintains the measure.

ARTICLE 128

Market access

A Party shall not adopt or maintain, with regard to establishment of an enterprise by an investor of the other Party or by a covered enterprise, or operation of a covered enterprise, either on the basis of its entire territory or on the basis of a territorial sub-division, measures that:

(a) impose limitations on:

(i) the number of enterprises that may carry out a specific economic activity, whether in the form of numerical quotas, monopolies, exclusive rights or the requirement of an economic needs test;

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

(iii) the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;[1] [2]

[1] Points (a)(i) to (iii) of Article 128 do not cover measures taken in order to limit the production of an agricultural or fishery product.

[2] Point (a)(iii) of Article 128 does not cover measures by a Party which limit inputs for the supply of services.

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

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

(b) restrict or require specific types of legal entity or joint venture through which an investor of the other Party may perform an economic activity.

ARTICLE 129

National treatment

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to its own investors and to their enterprises, with respect to their establishment and operation in its territory.

2. The treatment accorded by a Party under paragraph 1 means:

(a) with respect to a regional or local level of government of the United Kingdom, treatment no less favourable than the most favourable treatment accorded, in like situations, by that level of government to investors of the United Kingdom and to their enterprises in its territory; and

(b) with respect to a government of, or in, a Member State, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to investors of that Member State and to their enterprises in its territory.

ARTICLE 130

Most-favoured-nation-treatment

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to investors of a third country and to their enterprises, with respect to establishment in its territory.

2. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to investors of a third country and to their enterprises, with respect to operation in its territory.

3. Paragraphs 1 and 2 shall not be construed as obliging a Party to extend to investors of the other Party or to covered enterprises the benefit of any treatment resulting from:

(a) an international agreement for the avoidance of double taxation or other international agreement or arrangement relating wholly or mainly to taxation; or

(b) measures providing for recognition, including the recognition of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or the recognition of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services.

4. For greater certainty, the "treatment" referred to in paragraphs 1 and 2 does not include investor-to-state dispute settlement procedures provided for in other international agreements.

5. For greater certainty, the existence of substantive provisions in other international agreements concluded by a Party with a third country, or the mere formal transposition of those provisions into domestic law to the extent that it is necessary in order to incorporate them into the domestic legal order, do not in themselves constitute the "treatment" referred to in paragraphs 1 and 2. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article.

ARTICLE 131

Senior management and boards of directors

A Party shall not require a covered enterprise to appoint individuals of any particular nationality as executives, managers or members of boards of directors.

ARTICLE 132

Performance requirements

1. A Party shall not impose or enforce any requirement, or enforce any commitment or undertaking, in connection with the establishment or operation of any enterprise in its territory:

(a) to export a given level or percentage of goods or services;

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

(c) to purchase, use or accord a preference to goods produced or services provided in its territory or to purchase goods or services from natural or legal persons or any other entities in its territory;

(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such enterprise;

(e) to restrict sales of goods or services in its territory that such enterprise produces or supplies, by relating those sales in any way to the volume or value of its exports or foreign exchange inflows;

(f) to transfer technology, a production process or other proprietary knowledge to a natural or legal person or any other entity in its territory[1];

(g) to supply exclusively from the territory of that Party a good produced or a service supplied by the enterprise to a specific regional or world market;

(h) to locate the headquarters for a specific region of the world which is broader than the territory of the Party or the world market in its territory;

(i) to employ a given number or percentage of natural persons of that Party;

(j) to achieve a given level or value of research and development in its territory;

(k) to restrict the exportation or sale for export; or

[1] For greater certainty, point (f) of Article 132(1) is without prejudice to the provisions of Article 207.

(l) with regard to any licence contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or with regard to any future licence contract freely entered into between the enterprise and a natural or legal person or any other entity in its territory, if the requirement is imposed or enforced or the commitment or undertaking is enforced, in a manner that constitutes direct interference with that licence contract by an exercise of non-judicial governmental authority of a Party, to adopt:

(i) a rate or amount of royalty below a certain level; or

(ii) a given duration of the term of a licence contract.

This point does not apply where the licence contract is concluded between the enterprise and the Party. For the purposes of this point, a "licence contract" means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

2. A Party shall not condition the receipt or continued receipt of an advantage, in connection with the establishment or operation of an enterprise in its territory, on compliance with any of the following requirements:

(a) achieving a given level or percentage of domestic content;

(b) purchasing, using or according a preference to goods produced or services supplied in its territory, or to purchase goods or services from natural or legal persons or any other entity in its territory;

(c) relating in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that enterprise;

(d) restricting the sales of goods or services in its territory that that enterprise produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange inflows; or

(e) restricting the exportation or sale for export.

3. Paragraph 2 shall not be construed as preventing a Party from conditioning the receipt or continued receipt of an advantage, in connection with the establishment or operation of any enterprise in its territory, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

4. Points (f) and (l) of paragraph 1 of this Article do not apply where:

(a) the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a court or administrative tribunal, or by a competition authority pursuant to a Party's competition law to prevent or remedy a restriction or a distortion of competition; or

(b) a Party authorises the use of an intellectual property right in accordance with Article 31 or Article 31bis of the TRIPS Agreement, or adopts or maintains measures requiring the disclosure of data or proprietary information that fall within the scope of, and are consistent with, paragraph 3 of Article 39 of the TRIPS Agreement.

5. Points (a) to (c) of paragraph 1 and points (a) and (b) of paragraph 2 do not apply to qualification requirements for goods or services with respect to participation in export promotion and foreign aid programmes.

6. For greater certainty, this Article does not preclude the enforcement by the competent authorities of a Party of any commitment or undertaking given between persons other than a Party which was not directly or indirectly imposed or required by that Party.

7. For greater certainty, points (a) and (b) of paragraph 2 do not apply to requirements imposed by an importing Party in relation to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

8. Point (l) of paragraph 1 does not apply if the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a tribunal as equitable remuneration under the Party's copyright laws.

9. A Party shall neither impose nor enforce any measure inconsistent with its obligations under the Agreement on Trade-Related Investment Measures (TRIMs), even where such measure has been listed by that Party in Annex 19 or 20.

10. For greater certainty, this Article shall not be construed as requiring a Party to permit a particular service to be supplied on a cross-border basis where that Party adopts or maintains restrictions or prohibitions on such provision of services which are consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in Annex 19 or 20.

11. A condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a requirement or a commitment or undertaking for the purposes of paragraph 1.

ARTICLE 133

Non-conforming measures and exceptions

1. Articles 128, 129, 130, 131 and 132 do not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as set out in the Schedule of the Union in Annex 19;

(B) The central government of a Member State, as set out in the Schedule of the Union in Annex 19;

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex 19; or

(D) a local government, other than that referred to in point (C); and

(ii) for the United Kingdom:

(A) the central government, as set out in the Schedule of the United Kingdom in Annex 19;

(B) a regional government, as set out in the Schedule of the United Kingdom in Annex 19;

or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in point (a) of this paragraph; or

(c) a modification to any non-conforming measure referred to in points (a) and (b) of this paragraph, to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with Article 128, 129, 130, 131 or 132.

2. Articles 128, 129, 130, 131 and 132 do not apply to a measure of a Party which is consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in Annex 20.

3. Articles 129 and 130 of this Agreement do not apply to any measure that constitutes an exception to, or a derogation from, Article 3 or 4 of the TRIPS Agreement, as specifically provided for in Articles 3 to 5 of that Agreement.

4. For greater certainty, Articles 129 and 130 shall not be construed as preventing a Party from prescribing information requirements, including for statistical purposes, in connection with the establishment or operation of investors of the other Party or of covered enterprises, provided that it does not constitute a means to circumvent that Party's obligations under those Articles.

CHAPTER 3

CROSS-BORDER TRADE IN SERVICES

ARTICLE 134

Scope

This Chapter applies to measures of a Party affecting the cross-border trade in services by service suppliers of the other Party.

ARTICLE 135

Market access

A Party shall not adopt or maintain, either on the basis of its entire territory or on the basis of a territorial sub-division, measures that:

(a) impose limitations on:

(i) the number of service suppliers that may supply a specific service, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

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

(iii) the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test[1]; or

(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

[1] Point (a) (iii) of Article 135 does not cover measures by a Party which limit inputs for the supply of services.

ARTICLE 136

Local presence

A Party shall not require a service supplier of the other Party to establish or maintain an enterprise or to be resident in its territory as a condition for the cross-border supply of a service.

ARTICLE 137

National treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to its own services and service suppliers.

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

4. Nothing in this Article shall be construed as requiring either Party to compensate for inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

ARTICLE 138

Most-favoured-nation treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to services and service suppliers of a third country.

2. Paragraph 1 shall not be construed as obliging a Party to extend to services and service suppliers of the other Party the benefit of any treatment resulting from:

(a) an international agreement for the avoidance of double taxation or other international agreement or arrangement relating wholly or mainly to taxation; or

(b) measures providing for recognition, including of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services.

3. For greater certainty, the existence of substantive provisions in other international agreements concluded by a Party with a third country, or mere formal transposition of those provisions into domestic law to the extent that it is necessary in order to incorporate them into the domestic legal order, do not in themselves constitute the "treatment" referred to in paragraph 1. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article.

ARTICLE 139

Non-conforming measures

1. Articles 135, 136, 137 and 138 do not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as set out in the Schedule of the Union in Annex 19;

(B) the central government of a Member State, as set out in the Schedule of the Union in Annex 19;

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex 19; or

(D) a local government, other than that referred to in point (C); and

(ii) for the United Kingdom:

(A) the central government, as set out in the Schedule of the United Kingdom in Annex 19;

(B) a regional government, as set out in the Schedule of the United Kingdom in Annex 19; or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in point (a) of this paragraph; or

(c) a modification to any non-conforming measure referred to in points (a) and (b) of this paragraph to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with Articles 135, 136, 137 and 138.

2. Articles 135, 136, 137 and 138 do not apply to any measure of a Party which is consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in Annex 20.

CHAPTER 4

ENTRY AND TEMPORARY STAY OF NATURAL PERSONS FOR BUSINESS PURPOSES

ARTICLE 140

Scope and definitions

1. This Chapter applies to measures of a Party affecting the performance of economic activities through the entry and temporary stay in its territory of natural persons of the other Party, who are business visitors for establishment purposes, contractual service suppliers, independent professionals, intra-corporate transferees and short-term business visitors.

2. To the extent that commitments are not undertaken in this Chapter, all requirements provided for in the law of a Party regarding the entry and temporary stay of natural persons shall continue to apply, including laws and regulations concerning the period of stay.

3. Notwithstanding the provisions of this Chapter, all requirements provided for in the law of a Party regarding work and social security measures shall continue to apply, including laws and regulations concerning minimum wages and collective wage agreements.

4. Commitments on the entry and temporary stay of natural persons for business purposes do not apply in cases where the intent or effect of the entry and temporary stay is to interfere with or otherwise affect the outcome of any labour or management dispute or negotiation, or the employment of any natural person who is involved in that dispute.

5. For the purposes of this Chapter:

(a) "business visitors for establishment purposes" means natural persons working in a senior position within a legal person of a Party, who:

(i) are responsible for setting up an enterprise of such legal person in the territory of the other Party;

(ii) do not offer or provide services or engage in any economic activity other than that which is required for the purposes of the establishment of that enterprise; and

(iii) do not receive remuneration from a source located within the other Party;

(b) "contractual service suppliers" means natural persons employed by a legal person of a Party (other than through an agency for placement and supply services of personnel), which is not established in the territory of the other Party and has concluded a *bona fide* contract, not exceeding 12 months, to supply services to a final consumer in the other Party requiring the temporary presence of its employees who:

(i) have offered the same type of services as employees of the legal person for a period of not less than one year immediately preceding the date of their application for entry and temporary stay;

(ii) possess, on that date, at least three years professional experience, obtained after having reached the age of majority, in the sector of activity that is the object of the contract, a university degree or a qualification demonstrating knowledge of an equivalent level and the professional qualifications legally required to exercise that activity in the other Party[1]; and

(iii) do not receive remuneration from a source located within the other Party;

(c) "independent professionals" means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who:

(i) have not established in the territory of the other Party;

[1] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

(ii) have concluded a *bona fide* contract (other than through an agency for placement and supply services of personnel) for a period not exceeding 12 months to supply services to a final consumer in the other Party, requiring their presence on a temporary basis; and

(iii) possess, on the date of their application for entry and temporary stay, at least six years professional experience in the relevant activity, a university degree or a qualification demonstrating knowledge of an equivalent level and the professional qualifications legally required to exercise that activity in the other Party[1];

(d) "intra-corporate transferees" means natural persons, who:

(i) have been employed by a legal person of a Party, or have been partners in it, for a period, immediately preceding the date of the intra-corporate transfer, of not less than one year in the case of managers and specialists and of not less than six months in the case of trainee employees;

(ii) at the time of application reside outside the territory of the other Party;

[1] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

(iii) are temporarily transferred to an enterprise of the legal person in the territory of the other Party which is a member of the same group as the originating legal person, including its representative office, subsidiary, branch or head company[1]; and

(iv) belong to one of the following categories:

(A) managers[2];

(B) specialists; or

(C) trainee employees;

(e) "manager" means a natural person working in a senior position, who primarily directs the management of the enterprise in the other Party, receiving general supervision or direction principally from the board of directors or from shareholders of the business or their equivalent and whose responsibilities include:

(i) directing the enterprise or a department or subdivision thereof;

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1 Managers and specialists may be required to demonstrate they possess the professional qualifications and experience needed in the legal person to which they are transferred.

2 While managers do not directly perform tasks concerning the actual supply of the services, this does not prevent them, in the course of executing their duties as described above, from performing such tasks as may be necessary for the provision of the services.

(ii) supervising and controlling the work of other supervisory, professional or managerial employees; and

(iii) having the authority to recommend hiring, dismissing or other personnel-related actions;

(f) "specialist" means a natural person possessing specialised knowledge, essential to the enterprise's areas of activity, techniques or management, which is to be assessed taking into account not only knowledge specific to the enterprise, but also whether the person has a high level of qualification, including adequate professional experience of a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession; and

(g) "trainee employee" means a natural person possessing a university degree who is temporarily transferred for career development purposes or to obtain training in business techniques or methods and is paid during the period of the transfer.[1]

6. The service contract referred to in points (b) and (c) of paragraph 5 shall comply with the requirements of the law of the Party where the contract is executed.

[1] The recipient enterprise may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For AT, CZ, DE, FR, ES, HU and LT, training must be linked to the university degree which has been obtained.

ARTICLE 141

Intra-corporate transferees and business visitors for establishment purposes

1. Subject to the relevant conditions and qualifications specified in Annex 21:

(a) each Party shall allow:

(i) the entry and temporary stay of intra-corporate transferees;

(ii) the entry and temporary stay of business visitors for establishment purposes without requiring a work permit or other prior approval procedure of similar intent; and

(iii) the employment in its territory of intra-corporate transferees of the other Party;

(b) a Party shall not maintain or adopt limitations in the form of numerical quotas or economic needs tests regarding the total number of natural persons that, in a specific sector, are allowed entry as business visitors for establishment purposes or that an investor of the other Party may employ as intra-corporate transferees, either on the basis of a territorial subdivision or on the basis of its entire territory; and

(c) each Party shall accord to intra-corporate transferees and business visitors for establishment purposes of the other Party, during their temporary stay in its territory, treatment no less favourable than that it accords, in like situations, to its own natural persons.

2. The permissible length of stay shall be for a period of up to three years for managers and specialists, up to one year for trainee employees and up to 90 days within any six-month period for business visitors for establishment purposes.

ARTICLE 142

Short-term business visitors

1. Subject to the relevant conditions and qualifications specified in Annex 21, each Party shall allow the entry and temporary stay of short-term business visitors of the other Party for the purposes of carrying out the activities listed in Annex 21, subject to the following conditions:

(a) the short-term business visitors are not engaged in selling their goods or supplying services to the general public;

(b) the short-term business visitors do not, on their own behalf, receive remuneration from within the Party where they are staying temporarily; and

(c) the short-term business visitors are not engaged in the supply of a service in the framework of a contract concluded between a legal person that has not established in the territory of the Party where they are staying temporarily, and a consumer there, except as provided for in Annex 21.

2. Unless otherwise specified in Annex 21, a Party shall allow entry of short-term business visitors without the requirement of a work permit, economic needs test or other prior approval procedures of similar intent.

3. If short-term business visitors of a Party are engaged in the supply of a service to a consumer in the territory of the Party where they are staying temporarily in accordance with Annex 21, that Party shall accord to them, with regard to the supply of that service, treatment no less favourable than that it accords, in like situations, to its own service suppliers.

4. The permissible length of stay shall be for a period of up to 90 days in any six-month period.

ARTICLE 143

Contractual service suppliers and independent professionals

1. In the sectors, subsectors and activities specified in Annex 22 and subject to the relevant conditions and qualifications specified therein:

(a) a Party shall allow the entry and temporary stay of contractual service suppliers and independent professionals in its territory;

(b) a Party shall not adopt or maintain limitations on the total number of contractual service suppliers and independent professionals of the other Party allowed entry and temporary stay, in the form of numerical quotas or an economic needs test; and

(c) each Party shall accord to contractual service suppliers and independent professionals of the other Party, with regard to the supply of their services in its territory, treatment no less favourable than that it accords, in like situations, to its own service suppliers.

2. Access accorded under this Article relates only to the service which is the subject of the contract and does not confer entitlement to use the professional title of the Party where the service is provided.

3. The number of persons covered by the service contract shall not be greater than necessary to fulfil the contract, as it may be required by the law of the Party where the service is supplied.

4. The permissible length of stay shall be for a cumulative period of 12 months, or for the duration of the contract, whichever is less.

ARTICLE 144

Non-conforming measures

To the extent that the relevant measure affects the temporary stay of natural persons for business purposes, points (b) and (c) of Article 141(1), Article 142(3) and points (b) and (c) of Article 143(1) do not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as set out in the Schedule of the Union in Annex 19;

(B) the central government of a Member State, as set out in the Schedule of the Union in Annex 19;

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex 19; or

(D) a local government, other than that referred to in point (C); and

(ii) for the United Kingdom:

(A) the central government, as set out in the Schedule of the United Kingdom in Annex 19;

(B) a regional subdivision, as set out in the Schedule of the United Kingdom in Annex 19; or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in point (a) of this Article;

(c) a modification to any non-conforming measure referred to in points (a) and (b) of this Article to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with points (b) and (c) of Article 141(1), Article 142(3) and points (b) and (c) of Article 143(1); or

(d) any measure of a Party consistent with a condition or qualification specified in Annex 20.

ARTICLE 145

Transparency

1. Each Party shall make publicly available information on relevant measures that pertain to the entry and temporary stay of natural persons of the other Party, referred to in Article 140(1).

2. The information referred to in paragraph 1 shall, to the extent possible, include the following information relevant to the entry and temporary stay of natural persons:

(a) categories of visa, permits or any similar type of authorisation regarding the entry and temporary stay;

(b) documentation required and conditions to be met;

(c) method of filing an application and options on where to file, such as consular offices or online;

(d) application fees and an indicative timeframe of the processing of an application;

(e) the maximum length of stay under each type of authorisation described in point (a);

(f) conditions for any available extension or renewal;

(g) rules regarding accompanying dependants;

(h) available review or appeal procedures; and

(i) relevant laws of general application pertaining to the entry and temporary stay of natural persons for business purposes.

3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly inform the other Party of the introduction of any new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, temporary stay in and, where applicable, permission to work in the former Party.

CHAPTER 5

REGULATORY FRAMEWORK

SECTION 1

DOMESTIC REGULATION

ARTICLE 146

Scope and definitions

1. This Section applies to measures by the Parties relating to licensing requirements and procedures, qualification requirements and procedures, formalities and technical standards that affect:

(a) cross-border trade in services;

(b) establishment or operation; or

(c) the supply of a service through the presence of a natural person of a Party in the territory of the other Party as set out in Article 140.

As far as measures relating to technical standards are concerned, this Section only applies to measures that affect trade in services. For the purposes of this Section, the term "technical standards" does not include regulatory or implementing technical standards for financial services.

2. This Section does not apply to licensing requirements and procedures, qualification requirements and procedures, formalities and technical standards pursuant to a measure:

(a) that does not conform with Article 128 or 129 and is referred to in points (a) to (c) of Article 133(1) or with Article 135, 136 or 137 and is referred to in points (a) to (c) of Article 139(1) or with points (b) and (c) of Article 141(1), or Article 142(3) or with points (b) and (c) of Article 143(1) and is referred to in Article 144; or

(b) referred to in Article 133(2) or Article 139(2).

3. For the purposes of this Section, the following definitions apply:

(a) "authorisation" means the permission to carry out any of the activities referred to in points (a) to (c) of paragraph 1 resulting from a procedure a natural or legal person must adhere to in order to demonstrate compliance with licensing requirements, qualification requirements, technical standards or formalities for the purposes of obtaining, maintaining or renewing that permission; and

(b) "competent authority" means a central, regional or local government or authority or non-governmental body in the exercise of powers delegated by central, regional or local governments or authorities, which is entitled to take a decision concerning the authorisation referred to in point (a).

ARTICLE 147

Submission of applications

Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If an activity for which authorisation is requested is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.

ARTICLE 148

Application timeframes

If a Party requires authorisation, it shall ensure that its competent authorities, to the extent practicable, permit the submission of an application at any time throughout the year. If a specific time period for applying for authorisation exists, the Party shall ensure that the competent authorities allow a reasonable period of time for the submission of an application.

ARTICLE 149

Electronic applications and acceptance of copies

If a Party requires authorisation, it shall ensure that its competent authorities:

(a) to the extent possible provide for applications to be completed by electronic means, including from within the territory of the other Party; and

(b) accept copies of documents, that are authenticated in accordance with the Party's domestic law, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorisation process.

ARTICLE 150

Processing of applications

1. If a Party requires authorisation, it shall ensure that its competent authorities:

(a) process applications throughout the year. Where that is not possible, this information should be made public in advance, to the extent practicable;

(b) to the extent practicable, provide an indicative timeframe for the processing of an application. That timeframe shall be reasonable to the extent practicable;

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

(d) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's domestic laws and regulations;

(e) if they consider an application complete for the purposes of processing under the Party's domestic laws and regulations,[1] within a reasonable period of time after the submission of the application ensure that:

(i) the processing of the application is completed; and

(ii) the applicant is informed of the decision concerning the application, to the extent possible, in writing;[2]

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1 Balancing resource constraints against the potential burden on businesses, in cases where it is reasonable to do so, competent authorities may require that all information is submitted in a specified format to consider it "complete for the purposes of processing".

2 Competent authorities may meet the requirement set out in point (ii) by informing an applicant in advance in writing, including through a published measure, that a lack of response after a specified period of time from the date of submission of the application indicates acceptance of the application. The reference to "in writing" should be understood as including electronic format.

(f) if they consider an application incomplete for the purposes of processing under the Party's domestic laws and regulations, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and

(iii) provide the applicant with the opportunity to provide the additional information that is required to complete the application;[1]

however, if none of the actions referred to in points (i), (ii) and (iii) is practicable, and the application is rejected due to incompleteness, the competent authorities shall ensure that they inform the applicant within a reasonable period of time; and

(g) if an application is rejected, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection and of the timeframe for an appeal against that decision and, if applicable, the procedures for resubmission of an application; an applicant shall not be prevented from submitting another application solely on the basis of a previously rejected application.

[1] Such "opportunity" does not require a competent authority to provide extensions of deadlines.

2. The Parties shall ensure that their competent authorities grant an authorisation as soon as it is established, on the basis of an appropriate examination, that the applicant meets the conditions for obtaining it.

3. The Parties shall ensure that, once granted, an authorisation enters into effect without undue delay, subject to the applicable terms and conditions.[1]

ARTICLE 151

Fees

1. For all economic activities other than financial services, each Party shall ensure that the authorisation fees charged by its competent authorities are reasonable and transparent and do not in themselves restrict the supply of the relevant service or the pursuit of any other economic activity. Having regard to the cost and administrative burden, each Party is encouraged to accept payment of authorisation fees by electronic means.

2. With regard to financial services, each Party shall ensure that its competent authorities, with respect to authorisation fees that they charge, provide applicants with a schedule of fees or information on how fee amounts are determined, and do not use the fees as a means of avoiding the Party's commitments or obligations.

[1] Competent authorities are not responsible for delays due to reasons outside their competence.

3. Authorisation fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions or mandated contributions to universal service provision.

ARTICLE 152

Assessment of qualifications

If a Party requires an examination to assess the qualifications of an applicant for authorisation, it shall ensure that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. To the extent practicable, each Party shall accept requests in electronic format to take such examinations and shall consider the use of electronic means in other aspects of examination processes.

ARTICLE 153

Publication and information available

1. If a Party requires authorisation, the Party shall promptly publish the information necessary for persons carrying out or seeking to carry out the activities referred to in Article 146(1) for which the authorisation is required to comply with the requirements, formalities, technical standards and procedures for obtaining, maintaining, amending and renewing such authorisation. Such information shall include, to the extent it exists:

(a) the licensing and qualification requirements and procedures and formalities;

(b) contact information of relevant competent authorities;

(c) authorisation fees;

(d) applicable technical standards;

(e) procedures for appeal or review of decisions concerning applications;

(f) procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;

(g) opportunities for public involvement, such as through hearings or comments; and

(h) indicative timeframes for the processing of an application.

For the purposes of this Section, "publish" means to include in an official publication, such as an official journal, or on an official website. Parties shall consolidate electronic publications into a single online portal or otherwise ensure that competent authorities make them easily accessible through alternative electronic means.

2. Each Party shall require each of its competent authorities to respond to any request for information or assistance, to the extent practicable.

ARTICLE 154

Technical standards

Each Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organisations, designated to develop technical standards to do so through open and transparent processes.

ARTICLE 155

Conditions for authorisation

1. Each Party shall ensure that measures relating to authorisation are based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary manner and may include, inter alia, competence and the ability to supply a service or any other economic activity, including to do so in compliance with a Party's regulatory requirements such as health and environmental requirements. For the avoidance of doubt, the Parties understand that in reaching decisions a competent authority may balance criteria.

2. The criteria referred to in paragraph 1 shall be:

(a) clear and unambiguous;

(b) objective and transparent;

(c) pre-established;

(d) made public in advance;

(e) impartial; and

(f) easily accessible.

3. If a Party adopts or maintains a measure relating to authorisation, it shall ensure that:

(a) the competent authority concerned processes applications, and reaches and administers its decisions, objectively and impartially and in a manner independent of the undue influence of any person carrying out the economic activity for which authorisation is required; and

(b) the procedures themselves do not prevent fulfilment of the requirements.

ARTICLE 156

Limited numbers of licences

If the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, a Party shall apply a selection procedure to potential candidates which provides full guarantees of impartiality, objectivity and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure. In establishing the rules for the selection procedure, a Party may take into account legitimate policy objectives, including considerations of health, safety, the protection of the environment and the preservation of cultural heritage.

SECTION 2

PROVISIONS OF GENERAL APPLICATION

ARTICLE 157

Review procedures for administrative decisions

A Party shall maintain judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected investor or service supplier of the other Party, for the prompt review of, and if justified appropriate remedies for, administrative decisions that affect establishment or operation, cross-border trade in services or the supply of a service through the presence of a natural person of a Party in the territory of the other Party. For the purposes of this Section, "administrative decisions" means a decision or action with a legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision or take such action when that is so required by a Party's law. If such procedures are not independent of the competent authority entrusted with the administrative decision concerned, a Party shall ensure that the procedures in fact provide for an objective and impartial review.

ARTICLE 158

Professional qualifications

1. Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary professional qualifications specified in the territory where the activity is performed, for the sector of activity concerned[1].

2. The professional bodies or authorities, which are relevant for the sector of activity concerned in their respective territories, may develop and provide joint recommendations on the recognition of professional qualifications to the Partnership Council. Such joint recommendations shall be supported by an evidence-based assessment of:

(a) the economic value of an envisaged arrangement on the recognition of professional qualifications; and

(b) the compatibility of the respective regimes, that is, the extent to which the requirements applied by each Party for the authorisation, licensing, operation and certification are compatible.

[1] For greater certainty, this Article shall not be construed to prevent the negotiation and conclusion of one or more agreements between the Parties on the recognition of professional qualifications on conditions and requirements different from those provided for in this Article.

3. On receipt of a joint recommendation, the Partnership Council shall review its consistency with this Title within a reasonable period of time. The Partnership Council may, following such review, develop and adopt an arrangement on the conditions for the recognition of professional qualifications by decision as an annex to this Agreement, which shall be considered to form an integral part of this Title.[1]

4. An arrangement referred to in paragraph 3 shall provide for the conditions for recognition of professional qualifications acquired in the Union and professional qualifications acquired in the United Kingdom relating to an activity covered by this Title and Title III of this Heading.

5. The Guidelines for arrangements on the recognition of professional qualifications set out in Annex 24 shall be taken into account in the development of the joint recommendations referred to in paragraph 2 of this Article and by the Partnership Council when assessing whether to adopt such an Arrangement, as referred to in paragraph 3 of this Article.

[1] For greater certainty, such arrangements shall not lead to the automatic recognition of qualifications but shall set, in the mutual interest of both Parties, the conditions for the competent authorities granting recognition.

SECTION 3

DELIVERY SERVICES

ARTICLE 159

Scope and definitions

1. This Section applies to measures of a Party affecting the supply of delivery services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.

2. For the purposes of this Section, the following definitions apply:

(a) "delivery services" means postal services, courier services, express delivery services or express mail services, which include the following activities: the collection, sorting, transport, and delivery of postal items;

(b) "express delivery services" means the collection, sorting, transport and delivery of postal items at accelerated speed and reliability and may include value added elements such as collection from point of origin, personal delivery to the addressee, tracing, possibility of changing the destination and addressee in transit or confirmation of receipt;

(c) "express mail services" means international express delivery services supplied through the EMS Cooperative, which is the voluntary association of designated postal operators under Universal Postal Union (UPU);

(d) "licence" means an authorisation that a regulatory authority of a Party may require of an individual supplier in order for that supplier to offer postal or courier services;

(e) "postal item" means an item up to 31.5 kg addressed in the final form in which it is to be carried by any type of supplier of delivery services, whether public or private and may include items such as a letter, parcel, newspaper or catalogue;

(f) "postal monopoly" means the exclusive right to supply specified delivery services within a Party's territory or a subdivision thereof pursuant to the law of that Party; and

(g) "universal service" means the permanent supply of a delivery service of specified quality at all points in the territory of a Party or a subdivision thereof at affordable prices for all users.

ARTICLE 160

Universal service

1. Each Party has the right to define the kind of universal service obligation it wishes to maintain and to decide on its scope and implementation. Any universal service obligation shall be administered in a transparent, non-discriminatory and neutral manner with regard to all suppliers subject to the obligation.

2. If a Party requires inbound express mail services to be supplied on a universal service basis, it shall not accord preferential treatment to those services over other international express delivery services.

ARTICLE 161

Universal service funding

A party shall not impose fees or other charges on the supply of a delivery service that is not a universal service for the purposes of funding the supply of a universal service. This Article does not apply to generally applicable taxation measures or administrative fees.

ARTICLE 162

Prevention of market distortive practices

Each party shall ensure that suppliers of delivery services subject to a universal service obligation or postal monopolies do not engage in market distortive practices such as:

(a) using revenues derived from the supply of the service subject to a universal service obligation or from a postal monopoly to cross-subsidise the supply of an express delivery service or any delivery service which is not subject to a universal service obligation; or

(b) unjustifiably differentiating between consumers with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service or a postal monopoly.

ARTICLE 163

Licences

1. If a Party requires a licence for the provision of delivery services, it shall make publicly available:

(a) all the licensing requirements and the period of time normally required to reach a decision concerning an application for a licence; and

(b) the terms and conditions of licences.

2. The procedures, obligations and requirements of a licence shall be transparent, non-discriminatory and based on objective criteria.

3. If a licence application is rejected by the competent authority, it shall inform the applicant of the reasons for the rejection in writing. Each Party shall establish an appeal procedure through an independent body available to applicants whose licence has been rejected. That body may be a court.

ARTICLE 164

Independence of the regulatory body

1. Each Party shall establish or maintain a regulatory body which shall be legally distinct from and functionally independent from any supplier of delivery services. If a Party owns or controls a supplier of delivery services, it shall ensure the effective structural separation of the regulatory function from activities associated with ownership or control.

2. The regulatory bodies shall perform their tasks in a transparent and timely manner and have adequate financial and human resources to carry out the task assigned to them. Their decisions shall be impartial with respect to all market participants.

SECTION 4

TELECOMMUNICATIONS SERVICES

ARTICLE 165

Scope

This Section applies to measures of a Party affecting the supply of telecommunications services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.

ARTICLE 166

Definitions

For the purposes of this Section, the following definitions apply:

(a) "associated facilities" means associated services, physical infrastructure and other facilities or elements associated with a telecommunications network or telecommunications service which enable or support the supply of services via that network or service or have the potential to do so;

(b) "end user" means a final consumer of, or subscriber to, a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

(c) "essential facilities" means facilities of a public telecommunications network or a public telecommunications service that:

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(d) "interconnection" means the linking of public telecommunications networks used by the same or different suppliers of telecommunications networks or telecommunications services in order to allow the users of one supplier to communicate with users of the same or another supplier or to access services provided by another supplier, irrespective of whether those services are provided by the suppliers involved or any other supplier who has access to the network;

(e) "international mobile roaming service" means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications services that enables an end user to use its home mobile handset or other device for voice, data or messaging services while outside the territory in which the end user's home public telecommunications network is located;

(f) "internet access service" means a public telecommunications service that provides access to the internet and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used;

(g) "leased circuit" means telecommunications services or facilities, including those of a virtual nature, that set aside capacity for the dedicated use by, or availability to, a user between two or more designated points;

(h) "major supplier" means a supplier of telecommunications networks or telecommunications services which has the ability to materially affect the terms of participation, having regard to price and supply, in a relevant market for telecommunications networks or telecommunications services as a result of control over essential facilities or the use of its position in that market;

(i) "network element" means a facility or equipment used in supplying a telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

(j) "number portability" means the ability of subscribers who so request to retain the same telephone numbers, at the same location in the case of a fixed line, without impairment of quality, reliability or convenience when switching between the same category of suppliers of public telecommunications services;

(k) "public telecommunications network" means any telecommunications network used wholly or mainly for the provision of public telecommunications services which supports the transfer of information between network termination points;

(l) "public telecommunications service" means any telecommunications service that is offered to the public generally;

(m) "subscriber" means any natural or legal person which is party to a contract with a supplier of public telecommunications services for the supply of such services;

(n) "telecommunications" means the transmission and reception of signals by any electromagnetic means;

(o) "telecommunications network" means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the transmission and reception of signals by wire, radio, optical, or other electromagnetic means;

(p) "telecommunications regulatory authority" means the body or bodies charged by a Party with the regulation of telecommunications networks and telecommunications services covered by this Section;

(q) "telecommunications service" means a service which consists wholly or mainly in the transmission and reception of signals, including broadcasting signals, over telecommunications networks, including those used for broadcasting, but not a service providing, or exercising editorial control over, content transmitted using telecommunications networks and telecommunications services;

(r) "universal service" means the minimum set of services of specified quality that must be made available to all users, or to a set of users, in the territory of a Party, or in a subdivision thereof, regardless of their geographical location and at an affordable price; and

(s) "user" means any natural or legal person using a public telecommunications service.

ARTICLE 167

Telecommunications regulatory authority

1. Each Party shall establish or maintain a telecommunications regulatory authority that:

(a) is legally distinct and functionally independent from any supplier of telecommunications networks, telecommunications services or telecommunications equipment;

(b) uses procedures and issues decisions that are impartial with respect to all market participants;

(c) acts independently and does not seek or take instructions from any other body in relation to the exercise of the tasks assigned to it by law to enforce the obligations set out in Articles 169, 170, 171, 173 and 174;

(d) has the regulatory power, as well as adequate financial and human resources, to carry out the tasks mentioned in point (c) of this Article;

(e) has the power to ensure that suppliers of telecommunications networks or telecommunications services provide it, promptly upon request, with all the information[1], including financial information, which is necessary to enable it to carry out the tasks mentioned in point (c) of this Article; and

(f) exercises its powers transparently and in a timely manner.

2. Each Party shall ensure that the tasks assigned to the telecommunications regulatory authority are made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

3. A Party that retains ownership or control of suppliers of telecommunications networks or telecommunications services shall ensure the effective structural separation of the regulatory function from activities associated with ownership or control.

[1] Information requested shall be treated in accordance with the requirements of confidentiality.

4. Each Party shall ensure that a user or supplier of telecommunications networks or telecommunications services affected by a decision of the telecommunications regulatory authority has a right of appeal before an appeal body which is independent of the regulatory authority and other affected parties. Pending the outcome of the appeal, the decision shall stand, unless interim measures are granted in accordance with the Party's law.

ARTICLE 168

Authorisation to provide telecommunications networks or services

1. Each Party shall permit the provision of telecommunications networks or telecommunications services without a prior formal authorisation.

2. Each Party shall make publicly available all the criteria, applicable procedures and terms and conditions under which suppliers are permitted to provide telecommunications networks or telecommunications services.

3. Any authorisation criteria and applicable procedures shall be as simple as possible, objective, transparent, non-discriminatory and proportionate. Any obligations and conditions imposed on or associated with an authorisation shall be non-discriminatory, transparent and proportionate, and shall be related to the services or networks provided.

4. Each Party shall ensure that an applicant for an authorisation receives in writing the reasons for any denial or revocation of an authorisation or the imposition of supplier-specific conditions. In such cases, the applicant shall have a right of appeal before an appeal body.

5. Administrative fees imposed on suppliers shall be objective, transparent, non-discriminatory and commensurate with the administrative costs reasonably incurred in the management, control and enforcement of the obligations set out in this Section[1].

ARTICLE 169

Interconnection

Each Party shall ensure that a supplier of public telecommunications networks or public telecommunications services has the right and, when so requested by another supplier of public telecommunications networks or public telecommunications services, the obligation to negotiate interconnection for the purposes of providing public telecommunications networks or public telecommunications services.

[1] Administrative fees do not include payments for rights to use scarce resources and mandated contributions to universal service provision.

ARTICLE 170

Access and use

1. Each Party shall ensure that any covered enterprise or service supplier of the other Party is accorded access to and use of public telecommunications networks or public telecommunications services on reasonable and non-discriminatory[1] terms and conditions. This obligation shall be applied, inter alia, to paragraphs 2 to 5.

2. Each Party shall ensure that covered enterprises or service suppliers of the other Party have access to and use of any public telecommunications network or public telecommunications service offered within or across its border, including private leased circuits, and to that end shall ensure, subject to paragraph 5, that such enterprises and suppliers are permitted:

(a) to purchase or lease and attach terminal or other equipment which interfaces with the network and which is necessary to conduct their operations;

(b) to interconnect private leased or owned circuits with public telecommunications networks or with circuits leased or owned by another covered enterprise or service supplier; and

(c) to use the operating protocols of their choice in their operations, other than as necessary to ensure the availability of telecommunications services to the public generally.

[1] For the purposes of this Article, "non-discriminatory" means most-favoured-nation and national treatment as defined in Articles 129, 130, 136 and 137, as well as under terms and conditions no less favourable than those accorded to any other user of like public telecommunications networks or services in like situations.

3. Each Party shall ensure that covered enterprises or service suppliers of the other Party may use public telecommunications networks and public telecommunications services for the movement of information within and across borders, including for their intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of communications, subject to the requirement that such measures are not applied in a manner which would constitute either a disguised restriction on trade in services or a means of arbitrary or unjustifiable discrimination or of nullification or impairment of benefits under this Title.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services other than as necessary:

(a) to safeguard the public service responsibilities of suppliers of public telecommunications networks or public telecommunications services, in particular their ability to make their services available to the public generally; or

(b) to protect the technical integrity of public telecommunications networks or services.

ARTICLE 171

Resolution of telecommunications disputes

1. Each Party shall ensure that, in the event of a dispute arising between suppliers of telecommunications networks or telecommunications services in connection with rights and obligations that arise from this Section, and upon request of either party involved in the dispute, the telecommunications regulatory authority issues a binding decision within a reasonable timeframe to resolve the dispute.

2. The decision by the telecommunications regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The parties concerned shall be given a full statement of the reasons on which it is based and shall have the right of appeal referred to in Article 167(4).

3. The procedure referred to in paragraphs 1 and 2 shall not preclude either party concerned from bringing an action before a judicial authority.

ARTICLE 172

Competitive safeguards on major suppliers

Each Party shall introduce or maintain appropriate measures for the purpose of preventing suppliers of telecommunications networks or telecommunications services who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other service suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

ARTICLE 173

Interconnection with major suppliers

1. Each Party shall ensure that major suppliers of public telecommunications networks or public telecommunications services provide interconnection at any technically feasible point in the network. Such interconnection shall be provided:

(a) under non-discriminatory terms and conditions (including as regards rates, technical standards, specifications, quality and maintenance) and of a quality no less favourable than that provided for the own like services of such major supplier, or for like services of its subsidiaries or other affiliates;

(b) in a timely fashion, on terms and conditions (including as regards rates, technical standards, specifications, quality and maintenance) that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network elements or facilities that it does not require for the service to be provided; and

(c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2. The procedures applicable for interconnection to a major supplier shall be made publicly available.

3. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers as appropriate.

ARTICLE 174

Access to major suppliers' essential facilities

Each Party shall ensure that major suppliers in its territory make their essential facilities available to suppliers of telecommunications networks or telecommunications services on reasonable, transparent and non-discriminatory terms and conditions for the purpose of providing public telecommunications services, except where this is not necessary to achieve effective competition on the basis of the facts collected and the assessment of the market conducted by the telecommunications regulatory authority. The major supplier's essential facilities may include network elements, leased circuits services and associated facilities.

ARTICLE 175

Scarce resources

1. Each Party shall ensure that the allocation and granting of rights of use of scarce resources, including radio spectrum, numbers and rights of way, is carried out in an open, objective, timely, transparent, non-discriminatory and proportionate manner and by taking into account general interest objectives. Procedures, and conditions and obligations attached to rights of use, shall be based on objective, transparent, non-discriminatory and proportionate criteria.

2. The current use of allocated frequency bands shall be made publicly available, but detailed identification of radio spectrum allocated for specific government uses is not required.

3. Parties may rely on market-based approaches, such as bidding procedures, to assign spectrum for commercial use.

4. The Parties understand that measures of a Party allocating and assigning spectrum and managing frequency are not in and of themselves inconsistent with Articles 128 and 135. Each Party retains the right to establish and apply spectrum and frequency management measures that may have the effect of limiting the number of suppliers of telecommunications services, provided that it does so in a manner consistent with this Agreement. This includes the ability to allocate frequency bands taking into account current and future needs and spectrum availability.

ARTICLE 176

Universal service

1. Each Party has the right to define the kind of universal service obligations it wishes to maintain and to decide on their scope and implementation.

2. Each Party shall administer the universal service obligations in a proportionate, transparent, objective and non-discriminatory way, which is neutral with respect to competition and not more burdensome than necessary for the kind of universal service defined by the Party.

3. Each Party shall ensure that procedures for the designation of universal service suppliers are open to all suppliers of public telecommunications networks or public telecommunications services. Such designation shall be made through an efficient, transparent and non-discriminatory mechanism.

4. If a Party decides to compensate the universal service suppliers, it shall ensure that such compensation does not exceed the net cost caused by the universal service obligation.

ARTICLE 177

Number portability

Each Party shall ensure that suppliers of public telecommunications services provide number portability on reasonable terms and conditions.

ARTICLE 178

Open internet access

1. Each Party shall ensure that, subject to its laws and regulations, suppliers of internet access services enable users of those services to:

(a) access and distribute information and content, use and provide applications and services of their choice, subject to non-discriminatory, reasonable, transparent and proportionate network management; and

(b) use devices of their choice, provided that such devices do not harm the security of other devices, the network or services provided over the network.

2. For greater certainty, nothing in this Article shall prevent the Parties from adopting measures with the aim of protecting public safety with regards to users online.

ARTICLE 179

Confidentiality of information

1. Each Party shall ensure that suppliers that acquire information from another supplier in the process of negotiating arrangements pursuant to Articles 169, 170, 173 and 174 use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

2. Each Party shall ensure the confidentiality of communications and related traffic data transmitted in the use of public telecommunications networks or public telecommunications services subject to the requirement that measures applied to that end do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

ARTICLE 180

Foreign shareholding

With regard to the provision of telecommunications networks or telecommunications services through establishment and notwithstanding Article 133, a Party shall not impose joint venture requirements or limit the participation of foreign capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment.

ARTICLE 181

International mobile roaming[1]

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services in ways that can help promote the growth of trade among the Parties and enhance consumer welfare.

2. Parties may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:

(a) ensuring that information regarding retail rates is easily accessible to end users; and

(b) minimising impediments to the use of technological alternatives to roaming, whereby end users visiting the territory of a Party from the territory of the other Party can access telecommunications services using the device of their choice.

3. Each Party shall encourage suppliers of public telecommunications services in its territory to make publicly available information on retail rates for international mobile roaming services for voice, data and text messages offered to their end users when visiting the territory of the other Party.

[1] This Article does not apply to intra-European Union roaming services, which are commercial mobile services provided pursuant to a commercial agreement between suppliers of public telecommunications services that enable an end user to use its home mobile handset or other device for voice, data or messaging services in a Member State other than that in which the end user's home public telecommunications network is located.

4. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

SECTION 5

FINANCIAL SERVICES

ARTICLE 182

Scope

1. This Section applies to measures of a Party affecting the supply of financial services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.

2. For the purposes of this Section, the term "activities performed in the exercise of governmental authority" referred to in point (f) of Article 124 means the following[1]:

(a) activities conducted by a central bank or a monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

[1] For greater certainty, this modification applies to "services supplied in the exercise of governmental authority" in point (o) of Article 124 as it applies to "activities performed in the exercise of governmental authority" in point (f) of Article 124.

(b) activities forming part of a statutory system of social security or public retirement plans; and

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Party or its public entities.

3. For the purposes of the application of point (f) of Article 124 to this Section, if a Party allows any of the activities referred to in point (b) or (c) of paragraph 2 of this Article to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "activities performed in the exercise of governmental authority" does not include those activities.

4. Point (a) of Article 124 does not apply to services covered by this Section.

ARTICLE 183

Definitions

For the purposes of this Title, the following definitions apply:

(a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party and includes the following activities:

(i) insurance and insurance-related services:

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

(aa) life;

(bb) non-life;

(B) reinsurance and retrocession;

(C) insurance intermediation, such as brokerage and agency; and

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

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

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

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

(C) financial leasing;

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

(E) guarantees and commitments;

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

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

(bb) foreign exchange;

(cc) derivative products including, but not limited to, futures and options;

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

(ee) transferable securities; and

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

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

(H) money broking;

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

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

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

(L) advisory, intermediation and other auxiliary financial services on all the activities listed in points (A) to (K), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) "financial service supplier" means any natural or legal person of a Party that seeks to supply or supplies financial services and does not include a public entity;

(c) "new financial service" means a service of a financial nature including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party;

(d) "public entity" means:

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

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions;

(e) "self-regulatory organisation" means any non-governmental body, including a securities or futures exchange or market, clearing agency, other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by statute or delegation from central, regional or local governments or authorities, where applicable.

ARTICLE 184

Prudential carve-out

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons[1], such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or

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

2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

[1] For greater certainty, this shall not prevent a Party from adopting or maintaining measures for prudential reasons in relation to branches established in its territory by legal persons in the other Party.

ARTICLE 185

Confidential information

Without prejudice to Part Three, nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

ARTICLE 186

International standards

The Parties shall make their best endeavours to ensure that internationally agreed standards in the financial services sector for regulation and supervision, for the fight against money laundering and terrorist financing and for the fight against tax evasion and avoidance, are implemented and applied in their territory. Such internationally agreed standards are, inter alia, those adopted by: the G20; the Financial Stability Board; the Basel Committee on Banking Supervision, in particular its "Core Principle for Effective Banking Supervision"; the International Association of Insurance Supervisors, in particular its "Insurance Core Principles"; the International Organisation of Securities Commissions, in particular its "Objectives and Principles of Securities Regulation"; the Financial Action Task Force; and the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organisation for Economic Cooperation and Development.

ARTICLE 187

Financial services new to the territory of a Party

1. Each Party shall permit a financial service supplier of the other Party established in its territory to supply any new financial service that it would permit its own financial service suppliers to supply in accordance with its law in like situations, provided that the introduction of the new financial service does not require the adoption of a new law or the amendment of an existing law. This does not apply to branches of the other Party established in the territory of a Party.

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

ARTICLE 188

Self-regulatory organisations

Where a Party requires membership of, participation in, or access to, any self-regulatory organisation in order for financial service suppliers of the other Party to supply financial services in its territory, the Party shall ensure observance by that self-regulatory organisation of the obligations under Articles 129, 130, 137 and 138.

ARTICLE 189

Clearing and payment systems

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article does not confer access to the Party's lender of last resort facilities.

SECTION 6

INTERNATIONAL MARITIME TRANSPORT SERVICES

ARTICLE 190

Scope and definitions

1. This Section applies to measures of a Party affecting the supply of international maritime transport services in addition to Chapters 1, 2, 3, 4 and Section 1 of this Chapter.

2. For the purposes of this Section and Chapters 1, 2, 3 and 4 of this Title, the following definitions apply:

(a) "international maritime transport services" means the transport of passengers or cargo by sea-going vessels between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States, including the direct contracting with providers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document, but does not include the right to provide such other transport services;

(b) "door-to-door or multimodal transport operations" means the transport of international cargo using more than one mode of transport, that includes an international sea-leg, under a single transport document;

(c) "international cargo" means cargo transported between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States;

(d) "maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services, maritime freight forwarding services and storage and warehousing services;

(e) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators but not including the direct activities of dockers if the workforce is organised independently of the stevedoring or terminal operator companies; the activities covered include the organisation and supervision of:

(i) loading or discharging of cargo to or from a ship;

(ii) the lashing or unlashing of cargo; and

(iii) the reception or delivery and safekeeping of cargoes before shipment or after discharge;

(f) "customs clearance services" means activities consisting in carrying out, on behalf of another party, customs formalities concerning import, export or through transport of cargoes, irrespective of whether these services are the main activity of the service supplier or a usual complement of its main activity;

(g) "container station and depot services" means activities that consist of storing, stuffing, stripping or repairing of containers and making containers available for shipment, whether in port areas or inland;

(h) "maritime agency services" means activities that consist of representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

(i) marketing and sales of maritime transport and related services, from quotation to invoicing, issuance of bills of lading on behalf of the lines or companies, acquisition and resale of the necessary related services, preparation of documentation and provision of business information; and

(ii) acting on behalf of the lines or companies organising the call of the ship or taking over cargoes when required;

(i) "feeder services" means, without prejudice to the scope of activities that may be considered cabotage under the relevant national legislation, the pre- and onward transportation by sea of international cargo, including containerised, break bulk and dry or liquid bulk cargo, between ports located in the territory of a Party, provided such international cargo is "en route", that is, directed to a destination, or coming from a port of shipment, outside the territory of that Party;

(j) "maritime freight forwarding services" means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the arrangement of transport and related services, preparation of documentation and provision of business information;

(k) "port services" means services provided inside a maritime port area or on the waterway access to such area by the managing body of a port, its subcontractors, or other service providers to support the transport of cargo or passengers; and

(l) "storage and warehousing services" means storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and other storage or warehousing services.

ARTICLE 191

Obligations

1. Without prejudice to non-conforming measures or other measures referred to in Articles 133 and 139, each Party shall implement the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis by:

(a) according to ships flying the flag of the other Party, or operated by service suppliers of the other Party, treatment no less favourable than that accorded to its own ships with regard to, inter alia:

(i) access to ports;

(ii) the use of port infrastructure;

(iii) the use of maritime auxiliary services; and

(iv) customs facilities and the assignment of berths and facilities for loading and unloading, including related fees and charges;

(b) making available to international maritime transport service suppliers of the other Party, on terms and conditions which are both reasonable and no less favourable than those applicable to its own suppliers or vessels or to vessels or suppliers of a third country (including fees and charges, specifications and quality of the service to be provided), the following port services: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, emergency repair facilities, anchorage, berth, berthing and unberthing services and shore-based operational services essential to ship operations, including communications, water and electrical supplies;

(c) permitting international maritime transport service suppliers of the other Party, subject to the authorisation by the competent authority where applicable, to re-position owned or leased empty containers, which are not being carried as cargo against payment, between ports of the United Kingdom or between ports of a Member State; and

(d) permitting international maritime transport service suppliers of the other Party to provide feeder services between ports of the United Kingdom or between ports of a Member State, subject to the authorisation by the competent authority where applicable.

2. In applying the principle referred to in paragraph 1, a Party shall:

(a) not introduce cargo-sharing arrangements in future agreements with third countries concerning international maritime transport services, including dry and liquid bulk and liner trade, and terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous agreements;

(b) not adopt or maintain a measure that requires all or part of any international cargo to be transported exclusively by vessels registered in that Party or owned or controlled by natural persons of that Party;

(c) abolish and abstain from introducing any unilateral measures or administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of international maritime transport services; and

(d) not prevent international maritime transport service suppliers of the other Party from directly contracting with other transport service suppliers for door-to-door or multimodal transport operations.

SECTION 7

LEGAL SERVICES

ARTICLE 192

Scope

1. This Section applies to measures of a Party affecting the supply of designated legal services in addition to Chapters 1, 2, 3 and 4 of this Title and to Sections 1 and 2 of this Chapter.

2. Nothing in this Section shall affect the right of a Party to regulate and supervise the supply of designated legal services in its territory in a non-discriminatory manner.

ARTICLE 193

Definitions

For the purposes of this Section, the following definitions apply:

(a) "designated legal services" means legal services in relation to home jurisdiction law and public international law, excluding Union law;

(b) "home jurisdiction" means the jurisdiction (or a part of the jurisdiction) of the Member State or of the United Kingdom in which a lawyer acquired their home jurisdiction professional title or, in the case of a lawyer who has acquired a home jurisdiction professional title in more than one jurisdiction, any of those jurisdictions;

(c) "home jurisdiction law" means the law of the lawyer's home jurisdiction[1];

(d) "home jurisdiction professional title" means:

(i) for a lawyer of the Union, a professional title acquired in a Member State authorising the supply of legal services in that Member State; or

(ii) for a lawyer of the United Kingdom, the title of advocate, barrister or solicitor, authorising the supply of legal services in any part of the jurisdiction of the United Kingdom;

(e) "lawyer" means:

(i) a natural person of the Union who is authorised in a Member State to supply legal services under a home jurisdiction professional title; or

[1] For greater certainty, for the purposes of this Title, Union law is part of the home jurisdiction law of the lawyers referred to in point (e)(i) of this Article.

(ii) a natural person of the United Kingdom who is authorised in any part of the jurisdiction of the United Kingdom to supply legal services under a home jurisdiction professional title;

(f) "lawyer of the other Party" means:

(i) where "the other Party" is the Union, a lawyer referred to in point (e)(i); or

(ii) where "the other Party" is the United Kingdom, a lawyer referred to in point (e)(ii); and

(g) "legal services" means the following services:

(i) legal advisory services; and

(ii) legal arbitration, conciliation and mediation services (but excluding such services when supplied by natural persons as set out in Article 140).[1]

[1] "Legal arbitration, conciliation and mediation services" means the preparation of documents to be submitted to, the preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. It does not include arbitration, conciliation and mediation services in disputes not involving the application and interpretation of law, which fall under services incidental to management consulting. It also does not include acting as an arbitrator, conciliator or mediator. As a sub-category, international legal arbitration, conciliation or mediation services refers to the same services when the dispute involves parties from two or more countries.

"Legal services" do not include legal representation before administrative agencies, the courts, and other duly constituted official tribunals of a Party, legal advisory and legal authorisation, documentation and certification services supplied by legal professionals entrusted with public functions in the administration of justice such as notaries, "huissiers de justice" or other "officiers publics et ministériels", and services supplied by bailiffs who are appointed by an official act of government.

ARTICLE 194

Obligations

1. A Party shall allow a lawyer of the other Party to supply in its territory designated legal services under that lawyer's home jurisdiction professional title in accordance with Articles 128, 129, 135, 137 and 143.

2. Where a Party (the "host jurisdiction") requires registration in its territory as a condition for a lawyer of the other Party to supply designated legal services pursuant to paragraph 1, the requirements and process for such registration shall not:

(a) be less favourable than those which apply to a natural person of a third country who is supplying legal services in relation to third country law or public international law under that person's third country professional title in the territory of the host jurisdiction; and

(b) amount to or be equivalent to any requirement to requalify into or be admitted to the legal profession of the host jurisdiction.

3. Paragraph 4 applies to the supply of designated legal services pursuant to paragraph 1 through establishment.

4. A Party shall allow a legal person of the other Party to establish a branch in its territory through which designated legal services[1] are supplied pursuant to paragraph 1, in accordance with and subject to the conditions set out in Chapter 2 of this Title. This shall be without prejudice to requirements that a certain percentage of the shareholders, owners, partners, or directors of a legal person be qualified or practice a certain profession such as lawyers or accountants.

[1] For greater certainty, for the purposes of this paragraph "designated legal services" means, for services supplied in the Union, legal services in relation to the law of the United Kingdom or any part of it and public international law (excluding Union law), and for services supplied in the United Kingdom, legal services in relation to the law of the Member States (including Union law) and public international law (excluding Union law).

ARTICLE 195

Non-conforming measures

1. Article 194 does not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as set out in the Schedule of the Union in Annex 19;

(B) the central government of a Member State, as set out in the Schedule of the Union in Annex 19;

(C) a regional government of a Member State, as set out in the Schedule of the Union in Annex 19; or

(D) a local government, other than that referred to in point (C); and

(ii) for the United Kingdom:

(A) the central government, as set out in the Schedule of the United Kingdom in Annex 19;

(B) a regional government, as set out in the Schedule of the United Kingdom in Annex 19; or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in point (a) of this paragraph; or

(c) a modification to any non-conforming measure referred to in points (a) and (b) of this paragraph to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with Article 194.

2. Article 194 does not apply to any measure of a Party which is consistent with the reservations, conditions or qualifications specified with respect to a sector, subsector or activity listed in Annex 20.

3. This Section applies without prejudice to Annex 22.

TITLE III

DIGITAL TRADE

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 196

Objective

The objective of this Title is to facilitate digital trade, to address unjustified barriers to trade enabled by electronic means and to ensure an open, secure and trustworthy online environment for businesses and consumers.

ARTICLE 197

Scope

1. This Title applies to measures of a Party affecting trade enabled by electronic means.

2. This Title does not apply to audio-visual services.

ARTICLE 198

Right to regulate

The Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity.

ARTICLE 199

Exceptions

For greater certainty, nothing in this Title prevents the Parties from adopting or maintaining measures in accordance with Articles 184, 412 and 415 for the public interest reasons set out therein.

ARTICLE 200

Definitions

1. The definitions in Article 124 apply to this Title.

2. For the purposes of this Title, the following definitions apply:

(a) "consumer" means any natural person using a public telecommunications service for other than professional purposes;

(b) "direct marketing communication" means any form of commercial advertising by which a natural or legal person communicates marketing messages directly to a user via a public telecommunications service and covers at least electronic mail and text and multimedia messages (SMS and MMS);

(c) "electronic authentication" means an electronic process that enables the confirmation of:

(i) the electronic identification of a natural or legal person, or

(ii) the origin and integrity of data in electronic form;

(d) "electronic registered delivery service" means a service that makes it possible to transmit data between third parties by electronic means and provides evidence relating to the handling of the transmitted data, including proof of sending and receiving the data, and that protects transmitted data against the risk of loss, theft, damage or any unauthorised alterations;

(e) "electronic seal" means data in electronic form used by a legal person which is attached to or logically associated with other data in electronic form to ensure the latter's origin and integrity;

(f) "electronic signature" means data in electronic form which is attached to or logically associated with other data in electronic form that:

(i) is used by a natural person to agree on the data in electronic form to which it relates; and

(ii) is linked to the data in electronic form to which it relates in such a way that any subsequent alteration in the data is detectable;

(g) "electronic time stamp" means data in electronic form which binds other data in electronic form to a particular time establishing evidence that the latter data existed at that time;

(h) "electronic trust service" means an electronic service consisting of:

(i) the creation, verification and validation of electronic signatures, electronic seals, electronic time stamps, electronic registered delivery services and certificates related to those services;

(ii) the creation, verification and validation of certificates for website authentication; or

(iii) the preservation of electronic signatures, seals or certificates related to those services;

(i) "government data" means data owned or held by any level of government and by non-governmental bodies in the exercise of powers conferred on them by any level of government;

(j) "public telecommunications service" means any telecommunications service that is offered to the public generally;

(k) "user" means any natural or legal person using a public telecommunications service.

CHAPTER 2

DATA FLOWS AND PERSONAL DATA PROTECTION

ARTICLE 201

Cross-border data flows

1. The Parties are committed to ensuring cross-border data flows to facilitate trade in the digital economy. To that end, cross-border data flows shall not be restricted between the Parties by a Party:

(a) requiring the use of computing facilities or network elements in the Party's territory for processing, including by imposing the use of computing facilities or network elements that are certified or approved in the territory of a Party;

(b) requiring the localisation of data in the Party's territory for storage or processing;

(c) prohibiting the storage or processing in the territory of the other Party; or

(d) making the cross-border transfer of data contingent upon use of computing facilities or network elements in the Parties' territory or upon localisation requirements in the Parties' territory.

2. The Parties shall keep the implementation of this provision under review and assess its functioning within three years of the date of entry into force of this Agreement. A Party may at any time propose to the other Party to review the list of restrictions listed in paragraph 1. Such a request shall be accorded sympathetic consideration.

ARTICLE 202

Protection of personal data and privacy

1. Each Party recognises that individuals have a right to the protection of personal data and privacy and that high standards in this regard contribute to trust in the digital economy and to the development of trade.

2. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures on the protection of personal data and privacy, including with respect to cross-border data transfers, provided that the law of the Party provides for instruments enabling transfers under conditions of general application[1] for the protection of the data transferred.

3. Each Party shall inform the other Party about any measure referred to in paragraph 2 that it adopts or maintains.

CHAPTER 3

SPECIFIC PROVISIONS

ARTICLE 203

Customs duties on electronic transmissions

1. Electronic transmissions shall be considered as the supply of a service within the meaning of Title II of this Heading.

2. The Parties shall not impose customs duties on electronic transmissions.

[1] For greater certainty, "conditions of general application" refer to conditions formulated in objective terms that apply horizontally to an unidentified number of economic operators and thus cover a range of situations and cases.

ARTICLE 204

No prior authorisation

1. A Party shall not require prior authorisation of the provision of a service by electronic means solely on the ground that the service is provided online, and shall not adopt or maintain any other requirement having an equivalent effect.

A service is provided online when it is provided by electronic means and without the parties being simultaneously present.

2. Paragraph 1 does not apply to telecommunications services, broadcasting services, gambling services, legal representation services or to the services of notaries or equivalent professions to the extent that they involve a direct and specific connection with the exercise of public authority.

ARTICLE 205

Conclusion of contracts by electronic means

1. Each Party shall ensure that contracts may be concluded by electronic means and that its law neither creates obstacles for the use of electronic contracts nor results in contracts being deprived of legal effect and validity solely on the ground that the contract has been made by electronic means.

2. Paragraph 1 does not apply to the following:

(a) broadcasting services;

(b) gambling services;

(c) legal representation services;

(d) the services of notaries or equivalent professions involving a direct and specific connection with the exercise of public authority;

(e) contracts that require witnessing in person;

(f) contracts that establish or transfer rights in real estate;

(g) contracts requiring by law the involvement of courts, public authorities or professions exercising public authority;

(h) contracts of suretyship granted, collateral securities furnished by persons acting for purposes outside their trade, business or profession; or

(i) contracts governed by family law or by the law of succession.

ARTICLE 206

Electronic authentication and electronic trust services

1. A Party shall not deny the legal effect and admissibility as evidence in legal proceedings of an electronic document, an electronic signature, an electronic seal or an electronic time stamp, or of data sent and received using an electronic registered delivery service, solely on the ground that it is in electronic form.

2. A Party shall not adopt or maintain measures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication methods for their transaction; or

(b) prevent parties to an electronic transaction from being able to prove to judicial and administrative authorities that the use of electronic authentication or an electronic trust service in that transaction complies with the applicable legal requirements.

3. Notwithstanding paragraph 2, a Party may require that for a particular category of transactions, the method of electronic authentication or trust service is certified by an authority accredited in accordance with its law or meets certain performance standards which shall be objective, transparent and non-discriminatory and only relate to the specific characteristics of the category of transactions concerned.

ARTICLE 207

Transfer of or access to source code

1. A Party shall not require the transfer of, or access to, the source code of software owned by a natural or legal person of the other Party.

2. For greater certainty:

(a) the general exceptions, security exceptions and prudential carve-out referred to in Article 199 apply to measures of a Party adopted or maintained in the context of a certification procedure; and

(b) paragraph 1 of this Article does not apply to the voluntary transfer of, or granting of access to, source code on a commercial basis by a natural or legal person of the other Party, such as in the context of a public procurement transaction or a freely negotiated contract.

3. Nothing in this Article shall affect:

(a) a requirement by a court or administrative tribunal, or a requirement by a competition authority pursuant to a Party's competition law to prevent or remedy a restriction or a distortion of competition;

(b) a requirement by a regulatory body pursuant to a Party's laws or regulations related to the protection of public safety with regard to users online, subject to safeguards against unauthorised disclosure;

(c) the protection and enforcement of intellectual property rights; and

(d) the right of a Party to take measures in accordance with Article III of the GPA as incorporated by Article 277 of this Agreement.

ARTICLE 208

Online consumer trust

1. Recognising the importance of enhancing consumer trust in digital trade, each Party shall adopt or maintain measures to ensure the effective protection of consumers engaging in electronic commerce transactions, including but not limited to measures that:

(a) proscribe fraudulent and deceptive commercial practices;

(b) require suppliers of goods and services to act in good faith and abide by fair commercial practices, including through the prohibition of charging consumers for unsolicited goods and services;

(c) require suppliers of goods or services to provide consumers with clear and thorough information, including when they act through intermediary service suppliers, regarding their identity and contact details, the transaction concerned, including the main characteristics of the goods or services and the full price inclusive of all applicable charges, and the applicable consumer rights (in the case of intermediary service suppliers, this includes enabling the provision of such information by the supplier of goods or services); and

(d) grant consumers access to redress for breaches of their rights, including a right to remedies if goods or services are paid for and are not delivered or provided as agreed.

2. The Parties recognise the importance of entrusting their consumer protection agencies or other relevant bodies with adequate enforcement powers and the importance of cooperation between these agencies in order to protect consumers and enhance online consumer trust.

ARTICLE 209

Unsolicited direct marketing communications

1. Each Party shall ensure that users are effectively protected against unsolicited direct marketing communications.

2. Each Party shall ensure that direct marketing communications are not sent to users who are natural persons unless they have given their consent in accordance with each Party's laws to receiving such communications.

3. Notwithstanding paragraph 2, a Party shall allow natural or legal persons who have collected, in accordance with conditions laid down in the law of that Party, the contact details of a user in the context of the supply of goods or services, to send direct marketing communications to that user for their own similar goods or services.

4. Each Party shall ensure that direct marketing communications are clearly identifiable as such, clearly disclose on whose behalf they are made and contain the necessary information to enable users to request cessation free of charge and at any moment.

5. Each Party shall provide users with access to redress against suppliers of direct marketing communications that do not comply with the measures adopted or maintained pursuant to paragraphs 1 to 4.

ARTICLE 210

Open government data

1. The Parties recognise that facilitating public access to, and use of, government data contributes to stimulating economic and social development, competitiveness, productivity and innovation.

2. To the extent that a Party chooses to make government data accessible to the public, it shall endeavour to ensure, to the extent practicable, that the data:

(a) is in a format that allows it to be easily searched, retrieved, used, reused, and redistributed;

(b) is in a machine-readable and spatially-enabled format;

(c) contains descriptive metadata, which is as standard as possible;

(d) is made available via reliable, user-friendly and freely available Application Programming Interfaces;

(e) is regularly updated;

(f) is not subject to use conditions that are discriminatory or that unnecessarily restrict re-use; and

(g) is made available for re-use in full compliance with the Parties' respective personal data protection rules.

3. The Parties shall endeavour to cooperate to identify ways in which each Party can expand access to, and use of, government data that the Party has made public, with a view to enhancing and generating business opportunities, beyond its use by the public sector.

ARTICLE 211

Cooperation on regulatory issues with regard to digital trade

1. The Parties shall exchange information on regulatory matters in the context of digital trade, which shall address the following:

(a) the recognition and facilitation of interoperable electronic authentication and electronic trust services;

(b) the treatment of direct marketing communications;

(c) the protection of consumers; and

(d) any other matter relevant for the development of digital trade, including emerging technologies.

2. Paragraph 1 shall not apply to a Party's rules and safeguards for the protection of personal data and privacy, including on cross-border transfers of personal data.

ARTICLE 212

Understanding on computer services

1. The Parties agree that, for the purpose of liberalising trade in services and investment in accordance with Title II of this Heading, the following services shall be considered as computer and related services, regardless of whether they are delivered via a network, including the internet:

(a) consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance or management of or for computers or computer systems;

(b) computer programmes defined as the sets of instructions required to make computers work and communicate (in and of themselves), as well as consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programmes;

(c) data processing, data storage, data hosting or database services;

(d) maintenance and repair services for office machinery and equipment, including computers; and

(e) training services for staff of clients, related to computer programmes, computers or computer systems, and not elsewhere classified.

2. For greater certainty, services enabled by computer and related services, other than those listed in paragraph 1, shall not be regarded as computer and related services in themselves.

TITLE IV

CAPITAL MOVEMENTS, PAYMENTS, TRANSFERS AND TEMPORARY SAFEGUARD MEASURES

ARTICLE 213

Objectives

The objective of this Title is to enable the free movement of capital and payments related to transactions liberalised under this Agreement.

ARTICLE 214

Current account

Each Party shall allow, in freely convertible currency and in accordance with the Articles of Agreement of the International Monetary Fund, any payments and transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

ARTICLE 215

Capital movements

1. Each Party shall allow, with regard to transactions on the capital and financial account of the balance of payments, the free movement of capital for the purpose of liberalisation of investment and other transactions as provided for in Title II of this Heading.

2. The Parties shall consult each other in the Trade Specialised Committee on Services, Investment and Digital Trade to facilitate the movement of capital between them in order to promote trade and investment.

ARTICLE 216

Measures affecting capital movements, payments or transfers

1. Articles 214 and 215 shall not be construed as preventing a Party from applying its laws and regulations relating to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities, or futures, options and other financial instruments;

(c) financial reporting or record keeping of capital movements, payments or transfers where necessary to assist law enforcement or financial regulatory authorities;

(d) criminal or penal offences, deceptive or fraudulent practices;

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings; or

(f) social security, public retirement or compulsory savings schemes.

2. The laws and regulations referred to in paragraph 1 shall not be applied in an arbitrary or discriminatory manner, or otherwise constitute a disguised restriction on capital movements, payments or transfers.

ARTICLE 217

Temporary safeguard measures

1. In exceptional circumstances of serious difficulties for the operation of the Union's economic and monetary union, or threat thereof, the Union may adopt or maintain safeguard measures with regard to capital movements, payments or transfers for a period not exceeding six months.

2. The measures referred to in paragraph 1 shall be limited to the extent that is strictly necessary.

ARTICLE 218

Restrictions in case of balance of payments and external financial difficulties

1. If a Party experiences serious balance of payments or external financial difficulties, or threat thereof, it may adopt or maintain restrictive measures with regard to capital movements, payments or transfers[1].

2. The measures referred to in paragraph 1 shall:

(a) be consistent with the Articles of Agreement of the International Monetary Fund;

[1] For greater certainty, serious balance of payments or external financial difficulties, or threat thereof, may be caused among other factors by serious difficulties related to monetary or exchange rate policies, or threat thereof.

(b) not exceed those necessary to deal with the circumstances described in paragraph 1;

(c) be temporary and be phased out progressively as the situation specified in paragraph 1 improves;

(d) avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and

(e) be non-discriminatory as compared with third countries in like situations.

3. In the case of trade in goods, each Party may adopt or maintain restrictive measures in order to safeguard its external financial position or balance of payments. Those measures shall be in accordance with GATT 1994 and the Understanding on the Balance of Payments provisions of the General Agreement on Tariffs and Trade 1994.

4. In the case of trade in services, each Party may adopt or maintain restrictive measures in order to safeguard its external financial position or balance of payments. Those measures shall be in accordance with Article XII of GATS.

5. A Party maintaining or having adopted measures referred to in paragraphs 1 and 2 shall promptly notify them to the other Party.

6. If a Party adopts or maintains restrictions under this Article, the Parties shall promptly hold consultations in the Trade Specialised Committee on Services, Investment and Digital Trade unless consultations are held in other fora. That Committee shall assess the balance of payments or external financial difficulties that led to the respective measures, taking into account factors such as:

(a) the nature and extent of the difficulties;

(b) the external economic and trading environment; and

(c) alternative corrective measures which may be available.

7. The consultations under paragraph 6 shall address the compliance of any restrictive measures with paragraphs 1 and 2. All relevant findings of a statistical or factual nature presented by the International Monetary Fund, where available, shall be accepted and conclusions shall take into account the assessment by the International Monetary Fund of the balance of payments and the external financial situation of the Party concerned.

TITLE V

INTELLECTUAL PROPERTY

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 219

Objectives

The objectives of this Title are to:

(a) facilitate the production, provision and commercialisation of innovative and creative products and services between the Parties by reducing distortions and impediments to such trade, thereby contributing to a more sustainable and inclusive economy; and

(b) ensure an adequate and effective level of protection and enforcement of intellectual property rights.

ARTICLE 220

Scope

1. This Title shall complement and further specify the rights and obligations of each Party under the TRIPS Agreement and other international treaties in the field of intellectual property to which they are parties.

2. This Title does not preclude either Party from introducing more extensive protection and enforcement of intellectual property rights than required under this Title, provided that such protection and enforcement does not contravene this Title.

ARTICLE 221

Definitions

For the purposes of this Title, the following definitions apply:

(a) "Paris Convention" means the Paris Convention for the Protection of Industrial Property of 20 March 1883, as last revised at Stockholm on 14 July 1967;

(b) "Berne Convention" means the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886 revised at Paris on 24 July 1971 and amended on 28 September 1979;

(c) "Rome Convention" means the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations done at Rome on 26 October 1961;

(d) "WIPO" means the World Intellectual Property Organisation;

(e) "intellectual property rights" means all categories of intellectual property that are covered by Articles 225 to 255 of this Agreement or Sections 1 to 7 of Part II of the TRIPS Agreement. The protection of intellectual property includes protection against unfair competition as referred to in Article 10bis of the Paris Convention;

(f) "national" means, in respect of the relevant intellectual property right, a person of a Party that would meet the criteria for eligibility for protection provided for in the TRIPS Agreement and multilateral agreements concluded and administered under the auspices of WIPO, to which a Party is a contracting party.

ARTICLE 222

International agreements

1. The Parties affirm their commitment to comply with the international agreements to which they are party:

(a) the TRIPS Agreement;

(b) the Rome Convention;

(c) the Berne Convention;

(d) the WIPO Copyright Treaty, adopted at Geneva on 20 December 1996;

(e) the WIPO Performances and Phonograms Treaty, adopted at Geneva on 20 December 1996;

(f) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on 27 June 1989, as last amended on 12 November 2007;

(g) the Trademark Law Treaty, adopted at Geneva on 27 October 1994;

(h) the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, adopted at Marrakesh on 27 June 2013;

(i) the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on 2 July 1999.

2. Each Party shall make all reasonable efforts to ratify or accede to the following international agreements:

(a) the Beijing Treaty on Audiovisual Performances, adopted at Beijing on 24 June 2012;

(b) the Singapore Treaty on the Law of Trademarks adopted at Singapore on 27 March 2006.

ARTICLE 223

Exhaustion

This Title does not affect the freedom of the parties to determine whether and under what conditions the exhaustion of intellectual property rights applies.

ARTICLE 224

National treatment

1. In respect of all categories of intellectual property covered by this Title, each Party shall accord to the nationals of the other Party treatment no less favourable than the treatment it accords to its own nationals with regard to the protection of intellectual property subject where applicable to the exceptions already provided for in, respectively, the Paris Convention, the Berne Convention, the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits, done at Washington on 26 May 1989. In respect of performers, producers of phonograms and broadcasting organisations, this obligation only applies in respect of the rights provided for under this Agreement.

2. For the purposes of paragraph 1 of this Article, "protection" shall include matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically addressed in this Title, including measures to prevent the circumvention of effective technological measures as referred to in Article 234 and measures concerning rights management information as referred to in Article 235.

3. A Party may avail itself of the exceptions permitted pursuant to paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service in its territory, or to appoint an agent in its territory, if such exceptions are:

(a) necessary to secure compliance with the Party's laws or regulations which are not inconsistent with this Title; or

(b) not applied in a manner which would constitute a disguised restriction on trade.

4. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

CHAPTER 2

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SECTION 1

COPYRIGHT AND RELATED RIGHTS

ARTICLE 225

Authors

Each Party shall provide authors with the exclusive right to authorise or prohibit:

(a) direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their works;

(b) any form of distribution to the public by sale or otherwise of the original of their works or of copies thereof;

(c) any communication to the public of their works by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them;

(d) the commercial rental to the public of originals or copies of their works; each Party may provide that this point does not apply to buildings or works of applied art.

ARTICLE 226

Performers

Each Party shall provide performers with the exclusive right to authorise or prohibit:

(a) the fixation of their performances;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their performances;

(c) the distribution to the public, by sale or otherwise, of the fixations of their performances;

(d) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;

(e) the broadcasting by wireless means and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation;

(f) the commercial rental to the public of the fixation of their performances.

ARTICLE 227

Producers of phonograms

Each Party shall provide phonogram producers with the exclusive right to authorise or prohibit:

(a) the direct or indirect, temporary or permanent, reproduction by any means and in any form, in whole or in part, of their phonograms;

(b) the distribution to the public, by sale or otherwise, of their phonograms, including copies thereof;

(c) the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;

(d) the commercial rental of their phonograms to the public.

ARTICLE 228

Broadcasting organisations

Each Party shall provide broadcasting organisations with the exclusive right to authorise or prohibit:

(a) the fixation of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite;

(c) the making available to the public, by wire or wireless means, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite, in such a way that members of the public may access them from a place and at a time individually chosen by them;

(d) the distribution to the public, by sale or otherwise, of fixations, including copies thereof, of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite;

(e) the rebroadcasting of their broadcasts by wireless means, as well as the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

ARTICLE 229

Broadcasting and communication to the public of phonograms published for commercial purposes

1. Each Party shall provide a right in order to ensure that a single equitable remuneration is paid by the user to the performers and producers of phonograms, if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting or any communication to the public.

2. Each Party shall ensure that the single equitable remuneration is shared between the relevant performers and phonogram producers. Each Party may enact legislation that, in the absence of an agreement between performers and producers of phonograms, sets the terms according to which performers and producers of phonograms shall share the single equitable remuneration.

3. Each Party may grant more extensive rights, as regards the broadcasting and communication to the public of phonograms published for commercial purposes, to performers and producers of phonograms.

ARTICLE 230

Term of protection

1. The rights of an author of a work shall run for the life of the author and for 70 years after the author's death, irrespective of the date when the work is lawfully made available to the public.

2. For the purpose of implementing paragraph 1, each Party may provide for specific rules on the calculation of the term of protection of musical composition with words, works of joint authorship as well as cinematographic or audiovisual works. Each Party may provide for specific rules on the calculation of the term of protection of anonymous or pseudonymous works.

3. The rights of broadcasting organisations shall expire 50 years after the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite.

4. The rights of performers for their performances otherwise than in phonograms shall expire 50 years after the date of the fixation of the performance or, if lawfully published or lawfully communicated to the public during this time, 50 years from the first such publication or communication to the public, whichever is the earlier.

5. The rights of performers for their performances fixed in phonograms shall expire 50 years after the date of fixation of the performance or, if lawfully published or lawfully communicated to the public during this time, 70 years from such act, whichever is the earlier.

6. The rights of producers of phonograms shall expire 50 years after the fixation is made or, if lawfully published to the public during this time, 70 years from such publication. In the absence of a lawful publication, if the phonogram has been lawfully communicated to the public during this time, the term of protection shall be 70 years from such act of communication. Each Party may provide for effective measures in order to ensure that the profit generated during the 20 years of protection beyond 50 years is shared fairly between the performers and the producers of phonograms.

7. The terms laid down in this Article shall be counted from the first of January of the year following the year of the event which gives rise to them.

8. Each Party may provide for longer terms of protection than those provided for in this Article.

ARTICLE 231

Resale right

1. Each Party shall provide, for the benefit of the author of an original work of graphic or plastic art, a resale right, to be defined as an inalienable right, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author.

2. The right referred to in paragraph 1 shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art.

3. Each Party may provide that the right referred to in paragraph 1 shall not apply to acts of resale, where the seller has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed a certain minimum amount.

4. The procedure for collection of the remuneration and their amounts shall be determined by the law of each Party.

ARTICLE 232

Collective management of rights

1. The Parties shall promote cooperation between their respective collective management organisations for the purpose of fostering the availability of works and other protected subject matter in their respective territories and the transfer of rights revenue between the respective collective management organisations for the use of such works or other protected subject matter.

2. The Parties shall promote the transparency of collective management organisations, in particular regarding the rights revenue they collect, the deductions they apply to the rights revenue they collect, the use of the rights revenue collected, the distribution policy and their repertoire.

3. The Parties shall endeavour to facilitate arrangements between their respective collective management organisations on non-discriminatory treatment of right holders whose rights these organisations manage under representation agreements.

4. The Parties shall cooperate to support the collective management organisations established in their territory and representing another collective management organisation established in the territory of the other Party by way of a representation agreement with a view to ensuring that they accurately, regularly and diligently pay amounts owed to the represented collective management organisations and provide the represented collective management organisation with the information on the amount of rights revenue collected on its behalf and any deductions made to that rights revenue.

ARTICLE 233

Exceptions and limitations

Each Party shall confine limitations or exceptions to the rights set out in Articles 225 to 229 to certain special cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the right holders.

ARTICLE 234

Protection of technological measures

1. Each Party shall provide adequate legal protection against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that he or she is pursuing that objective. Each Party may provide for a specific regime for legal protection of technological measures used to protect computer programs.

2. Each Party shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:

(a) are promoted, advertised or marketed for the purpose of circumvention of;

(b) have only a limited commercially significant purpose or use other than to circumvent; or

(c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of, any effective technological measures.

3. For the purposes of this Section, the expression "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorised by the right holder of any copyright or related right covered by this Section. Technological measures shall be deemed "effective" where the use of a protected work or other subject matter is controlled by the right holders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective.

4. Notwithstanding the legal protection provided for in paragraph 1 of this Article, each Party may take appropriate measures, as necessary, to ensure that the adequate legal protection against the circumvention of effective technological measures provided for in accordance with this Article does not prevent beneficiaries of exceptions or limitations provided for in accordance with Article 233 from enjoying such exceptions or limitations.

ARTICLE 235

Obligations concerning rights management information

1. Each Party shall provide adequate legal protection against any person knowingly performing without authority any of the following acts:

(a) the removal or alteration of any electronic rights-management information;

(b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject-matter protected pursuant to this Section from which electronic rights-management information has been removed or altered without authority;

if such person knows, or has reasonable grounds to know, that by so doing he or she is inducing, enabling, facilitating or concealing an infringement of any copyright or any related rights as provided by the law of a Party.

2. For the purposes of this Article, "rights-management information" means any information provided by right holders which identifies the work or other subject-matter referred to in this Article, the author or any other right holder, or information about the terms and conditions of use of the work or other subject-matter, and any numbers or codes that represent such information.

3. Paragraph 2 applies if any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject-matter referred to in this Article.

SECTION 2

TRADE MARKS

ARTICLE 236

Trade mark classification

Each Party shall maintain a trade mark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as amended and revised.

ARTICLE 237

Signs of which a trade mark may consist

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

(a) distinguishing the goods or services of one undertaking from those of other undertakings; and

(b) being represented on the respective trade mark register of each Party, in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

ARTICLE 238

Rights conferred by a trade mark

1. Each Party shall provide that the registration of a trade mark confers on the proprietor exclusive rights therein. The proprietor shall be entitled to prevent all third parties not having the proprietor's consent from using in the course of trade:

(a) any sign which is identical with the registered trade mark in relation to goods or services which are identical with those for which the trade mark is registered;

(b) any sign where, because of its identity with, or similarity to, the registered trade mark and the identity or similarity of the goods or services covered by this trade mark and the sign, there exists a likelihood of confusion on the part of the public, including the likelihood of association between the sign and the registered trade mark.

2. The proprietor of a registered trade mark shall be entitled to prevent all third parties from bringing goods, in the course of trade, into the Party where the trade mark is registered without being released for free circulation there, where such goods, including packaging, come from other countries or the other Party and bear without authorisation a trade mark which is identical to the trade mark registered in respect of such goods, or which cannot be distinguished in its essential aspects from that trade mark.

3. The entitlement of the proprietor of a trade mark pursuant to paragraph 2 shall lapse if during the proceedings to determine whether the registered trade mark has been infringed, evidence is provided by the declarant or the holder of the goods that the proprietor of the registered trade mark is not entitled to prohibit the placing of the goods on the market in the country of final destination.

ARTICLE 239

Registration procedure

1. Each Party shall provide for a system for the registration of trade marks in which each final negative decision taken by the relevant trade mark administration, including partial refusals of registration, shall be communicated in writing to the relevant party, duly reasoned and subject to appeal.

2. Each Party shall provide for the possibility for third parties to oppose trade mark applications or, where appropriate, trade mark registrations. Such opposition proceedings shall be adversarial.

3. Each Party shall provide a publicly available electronic database of trade mark applications and trade mark registrations.

4. Each Party shall make best efforts to provide a system for the electronic application for and processing, registration and maintenance of trade marks.

ARTICLE 240

Well-known trade marks

For the purpose of giving effect to protection of well-known trade marks, as referred to in Article 6*bis* of the Paris Convention and Article 16(2) and (3) of the TRIPS Agreement, each Party shall apply the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

ARTICLE 241

Exceptions to the rights conferred by a trade mark

1. Each Party shall provide for limited exceptions to the rights conferred by a trade mark such as the fair use of descriptive terms including geographical indications, and may provide other limited exceptions, provided such exceptions take account of the legitimate interests of the proprietor of the trade mark and of third parties.

2. The trade mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade:

(a) the name or address of the third party, where the third party is a natural person;

(b) signs or indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services; or

(c) the trade mark for the purpose of identifying or referring to goods or services as those of the proprietor of that trade mark, in particular where the use of that trade mark is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts,

provided the third party uses them in accordance with honest practices in industrial or commercial matters.

3. The trade mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade, an earlier right which only applies in a particular locality if that right is recognised by the laws of the Party in question and is used within the limits of the territory in which it is recognised.

ARTICLE 242

Grounds for revocation

1. Each Party shall provide that a trade mark shall be liable to revocation if, within a continuous period of five years it has not been put to genuine use in the relevant territory of a Party by the proprietor or with the proprietor's consent in relation to the goods or services for which it is registered, and there are no proper reasons for non-use.

2. Each Party shall also provide that a trade mark shall be liable to revocation if within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the relevant territory by the proprietor or with the proprietor's consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use.

3. However, no person may claim that the proprietor's rights in a trade mark should be revoked where, during the interval between expiry of the five-year period and filing of the application for revocation, genuine use of the trade mark has been started or resumed. The commencement or resumption of use within a period of three months preceding the filing of the application for revocation which began at the earliest on expiry of the continuous period of five years of non-use, shall, however, be disregarded where preparations for the commencement or resumption occur only after the proprietor becomes aware that the application for revocation may be filed.

4. A trade mark shall also be liable to revocation if, after the date on which it was registered:

(a) as a consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a good or service in respect of which it is registered;

(b) as a consequence of the use made of the trade mark by the proprietor of the trade mark or with the proprietor's consent in respect of the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

ARTICLE 243

The right to prohibit preparatory acts in relation to the use of packaging or other means

Where the risk exists that the packaging, labels, tags, security or authenticity features or devices, or any other means to which the trade mark is affixed could be used in relation to goods or services and that use would constitute an infringement of the rights of the proprietor of the trade mark, the proprietor of that trade mark shall have the right to prohibit the following acts if carried out in the course of trade:

(a) affixing a sign identical with, or similar to, the trade mark on packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark may be affixed; or

(b) offering or placing on the market, or stocking for those purposes, or importing or exporting, packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark is affixed.

ARTICLE 244

Bad faith applications

A trade mark shall be liable to be declared invalid where the application for registration of the trade mark was made in bad faith by the applicant. Each Party may provide that such a trade mark shall not be registered.

SECTION 3

DESIGN

ARTICLE 245

Protection of registered designs

1. Each Party shall provide for the protection of independently created designs that are new and original. This protection shall be provided by registration and shall confer exclusive rights upon their holders in accordance with this Section.

For the purposes of this Article, a Party may consider that a design having individual character is original.

2. The holder of a registered design shall have the right to prevent third parties not having the holder's consent at least from making, offering for sale, selling, importing, exporting, stocking the product bearing and embodying the protected design or using articles bearing or embodying the protected design where such acts are undertaken for commercial purposes.

3. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and original:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and

(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and originality.

4. For the purposes of point (a) of paragraph 3, "normal use" means use by the end user, excluding maintenance, servicing or repair work.

ARTICLE 246

Duration of protection

The duration of protection available for registered designs, including renewals of registered designs, shall amount to a total term of 25 years from the date on which the application was filed[1].

[1] Each Party may determine the relevant date of filing of the application in accordance with its own legislation.

ARTICLE 247

Protection of unregistered designs

1. Each Party shall confer on holders of an unregistered design the right to prevent the use of the unregistered design by any third party not having the holder's consent only if the contested use results from copying the unregistered design in their respective territory[1]. Such use shall at least cover the offering for sale, putting on the market, importing or exporting the product.

2. The duration of protection available for the unregistered design shall amount to at least three years as from the date on which the design was first made available to the public in the territory of the respective Party.

ARTICLE 248

Exceptions and exclusions

1. Each Party may provide limited exceptions to the protection of designs, including unregistered designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of designs, and do not unreasonably prejudice the legitimate interests of the holder of the design, taking account of the legitimate interests of third parties.

[1] This section does not apply to the protection known in the United Kingdom as a design right.

2. Protection shall not extend to designs solely dictated by technical or functional considerations. A design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3. By way of derogation from paragraph 2 of this Article, a design shall, in accordance with the conditions set out in Article 245(1), subsist in a design, which has the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

ARTICLE 249

Relationship to copyright

Each Party shall ensure that designs, including unregistered designs, shall also be eligible for protection under the copyright law of that Party as from the date on which the design was created or fixed in any form. The extent to which, and the conditions under which, such a protection is conferred, including the level of originality required, shall be determined by each Party.

SECTION 4

PATENTS

ARTICLE 250

Patents and public health

1. The Parties recognise the importance of the Declaration on the TRIPS Agreement and Public Health, adopted on 14 November 2001 by the Ministerial Conference of the WTO at Doha (the "Doha Declaration"). In interpreting and implementing the rights and obligations under this Section, each Party shall ensure consistency with the Doha Declaration.

2. Each Party shall implement Article 31*bis* of the TRIPS Agreement, as well as the Annex to the TRIPS Agreement and the Appendix to the Annex to the TRIPS Agreement.

ARTICLE 251

Extension of the period of protection conferred by a patent on medicinal products and on plant protection products

1. The Parties recognise that medicinal products and plant protection products[1] protected by a patent in their respective territory may be subject to an administrative authorisation procedure before being put on their respective markets. The Parties recognise that the period that elapses between the filing of the application for a patent and the first authorisation to place the product on the market, as defined for that purpose by the relevant legislation, may shorten the period of effective protection under the patent.

2. Each Party shall provide for further protection, in accordance with its laws and regulations, for a product which is protected by a patent and which has been subject to an administrative authorisation procedure referred to in paragraph 1 to compensate the holder of a patent for the reduction of effective patent protection. The terms and conditions for the provision of such further protection, including its length, shall be determined in accordance with the laws and regulations of the Parties.

3. For the purposes of this Title, "medicinal product" means:

(a) any substance or combination of substances presented as having properties for treating or preventing disease in human beings or animals; or

[1] For the purposes of this Title, the term "plant protection product" shall be defined for each Party by the respective legislations of the Parties.

(b) any substance or combination of substances which may be used in or administered to human beings or animals either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis.

SECTION 5

PROTECTION OF UNDISCLOSED INFORMATION

ARTICLE 252

Protection of trade secrets

1. Each Party shall provide for appropriate civil judicial procedures and remedies for any trade secret holder to prevent, and obtain redress for, the acquisition, use or disclosure of a trade secret whenever carried out in a manner contrary to honest commercial practices.

2. For the purposes of this Section, the following definitions apply:

(a) "trade secret" means information which meets all of the following requirements:

(i) it is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

(ii) it has commercial value because it is secret; and

(iii) it has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret;

(b) "trade secret holder" means any natural or legal person lawfully controlling a trade secret.

3. For the purposes of this Section, at least the following conduct shall be considered contrary to honest commercial practices:

(a) the acquisition of a trade secret without the consent of the trade secret holder, whenever obtained by unauthorised access to, or by appropriation or copying of, any documents, objects, materials, substances or electronic files that are lawfully under the control of the trade secret holder, and that contain the trade secret or from which the trade secret can be deduced;

(b) the use or disclosure of a trade secret whenever it is carried out, without the consent of the trade secret holder, by a person who is found to meet any of the following conditions:

(i) having acquired the trade secret in a manner referred to in point (a);

(ii) being in breach of a confidentiality agreement or any other duty not to disclose the trade secret; or

(iii) being in breach of a contractual or any other duty to limit the use of the trade secret;

(c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use or disclosure, knew, or ought to have known, under the circumstances that the trade secret had been obtained directly or indirectly from another person who was using or disclosing the trade secret unlawfully within the meaning of point (b).

4. Nothing in this Section shall be understood as requiring either Party to consider any of the following conducts as contrary to honest commercial practices:

(a) independent discovery or creation;

(b) the reverse engineering of a product that has been made available to the public or that is lawfully in the possession of the acquirer of the information, where the acquirer of the information is free from any legally valid duty to limit the acquisition of the trade secret;

(c) the acquisition, use or disclosure of a trade secret required or allowed by the law of each Party;

(d) the exercise of the right of workers or workers' representatives to information and consultation in accordance with the laws and regulations of that Party.

5. Nothing in this Section shall be understood as affecting the exercise of freedom of expression and information, including the freedom and pluralism of the media, as protected in each Party, restricting the mobility of employees, or as affecting the autonomy of social partners and their right to enter into collective agreements, in accordance with the laws and regulations of the Parties.

ARTICLE 253

Protection of data submitted to obtain an authorisation to put a medicinal product on the market

1. Each Party shall protect commercially confidential information submitted to obtain an authorisation to place medicinal products on the market ("marketing authorisation") against disclosure to third parties, unless steps are taken to ensure that the data are protected against unfair commercial use or except where the disclosure is necessary for an overriding public interest.

2. Each Party shall ensure that for a limited period of time to be determined by its domestic law and in accordance with any conditions set out in its domestic law, the authority responsible for the granting of a marketing authorisation does not accept any subsequent application for a marketing authorisation that relies on the results of pre-clinical tests or clinical trials submitted in the application to that authority for the first marketing authorisation, without the explicit consent of the holder of the first marketing authorisation, unless international agreements to which the Parties are both party provide otherwise.

3. Each Party shall also ensure that, for a limited period of time to be determined by its domestic law and in accordance with any conditions set out in its domestic law, a medicinal product subsequently authorised by that authority on the basis of the results of the pre-clinical tests and clinical trials referred to in paragraph 2 is not placed on the market without the explicit consent of the holder of the first marketing authorisation, unless international agreements to which the Parties are both party provide otherwise.

4. This Article is without prejudice to additional periods of protection which each Party may provide in that Party's law.

ARTICLE 254

Protection of data submitted to obtain marketing authorisation for plant protection products or biocidal products

1. Each Party shall recognise a temporary right of the owner of a test or study report submitted for the first time to obtain a marketing authorisation concerning safety and efficacy of an active substance, plant protection product or biocidal product. During such period, the test or study report shall not be used for the benefit of any other person who seeks to obtain a marketing authorisation for an active substance, plant protection product or biocidal product, unless the explicit consent of the first owner has been proved. For the purposes of this Article, that right is referred to as data protection.

2. The test or study report submitted for marketing authorisation of an active substance or plant protection product should fulfil the following conditions:

(a) be necessary for the authorisation or for an amendment of an authorisation in order to allow the use on other crops; and

(b) be certified as compliant with the principles of good laboratory practice or of good experimental practice.

3. The period of data protection shall be at least 10 years from the grant of the first authorisation by a relevant authority in the territory of the Party.

4. Each Party shall ensure that the public bodies responsible for the granting of a marketing authorisation will not use the information referred to in paragraphs 1 and 2 for the benefit of a subsequent applicant for any successive marketing authorisation, regardless whether or not it has been made available to the public.

5. Each Party shall establish rules to avoid duplicative testing on vertebrate animals.

SECTION 6

PLANT VARIETIES

ARTICLE 255

Protection of plant varieties rights

Each Party shall protect plant varieties rights in accordance with the International Convention for the Protection of New Varieties of Plants (UPOV) as lastly revised in Geneva on 19 March 1991. The Parties shall cooperate to promote and enforce these rights.

CHAPTER 3

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SECTION 1

GENERAL PROVISIONS

ARTICLE 256

General obligations

1. Each Party shall provide under its respective law for the measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights.

For the purposes of Sections 1, 2 and 4 of this Chapter, the term "intellectual property rights" does not include rights covered by Section 5 of Chapter 2.

2. The measures, procedures and remedies referred to in paragraph 1 shall:

(a) be fair and equitable;

(b) not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays;

(c) be effective, proportionate and dissuasive;

(d) be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

ARTICLE 257

Persons entitled to apply for the application of the measures, procedures and remedies

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in Sections 2 and 4 of this Chapter:

(a) the holders of intellectual property rights in accordance with the law of a Party;

(b) all other persons authorised to use those rights, in particular licensees, in so far as permitted by and in accordance with the law of a Party; and

(c) federations and associations[1], in so far as permitted by and in accordance with the law of a Party.

[1] For greater certainty, and in so far as permitted by the law of a Party, the term "federations and associations" includes at least collective rights management bodies and professional defence bodies which are regularly recognised as having the right to represent holders of intellectual property rights.

SECTION 2

CIVIL AND ADMINISTRATIVE ENFORCEMENT

ARTICLE 258

Measures for preserving evidence

1. Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, on application by a party who has presented reasonably available evidence to support their claims that their intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to appropriate safeguards and the protection of confidential information.

2. Such measures may include the detailed description, with or without the taking of samples, or the physical seizure of the alleged infringing goods, and, in appropriate cases, the materials and implements used in the production and/or distribution of these goods and the documents relating thereto.

ARTICLE 259

Evidence

1. Each Party shall take the measures necessary to enable the competent judicial authorities to order, on application by a party which has presented reasonably available evidence sufficient to support its claims and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, that this evidence be produced by the opposing party, subject to the protection of confidential information.

2. Each Party shall also take the necessary measures to enable the competent judicial authorities to order, where appropriate, in cases of infringement of an intellectual property right committed on a commercial scale, under the same conditions as in paragraph 1, the communication of banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.

ARTICLE 260

Right of information

1. Each Party shall ensure that, in the context of civil proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order the infringer or any other person to provide information on the origin and distribution networks of the goods or services which infringe an intellectual property right.

2. For the purposes of paragraph 1 "any other person" means a person who:

(a) was found in possession of the infringing goods on a commercial scale;

(b) was found to be using the infringing services on a commercial scale;

(c) was found to be providing on a commercial scale services used in infringing activities; or

(d) was indicated by the person referred to in point (a), (b) or (c), as being involved in the production, manufacture or distribution of the goods or the provision of the services.

3. The information referred to in paragraph 1 shall, as appropriate, comprise:

(a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers;

(b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

4. Paragraphs 1 and 2 shall apply without prejudice to other laws of a Party which:

(a) grant the right holder rights to receive fuller information;

(b) govern the use in civil proceedings of the information communicated pursuant to this Article;

(c) govern responsibility for misuse of the right of information;

(d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 1 to admit their own participation or that of their close relatives in an infringement of an intellectual property right;

(e) govern the protection of confidentiality of information sources or the processing of personal data.

ARTICLE 261

Provisional and precautionary measures

1. Each Party shall ensure that its judicial authorities may, at the request of the applicant, issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment where provided for by the law of that Party, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. An interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right.

2. Each Party shall ensure that its judicial authorities may, at the request of the applicant, order the seizure or delivery up of goods suspected of infringing an intellectual property right, so as to prevent their entry into or movement within the channels of commerce.

3. In the case of an alleged infringement committed on a commercial scale, each Party shall ensure that, if the applicant demonstrates circumstances likely to endanger the recovery of damages, the judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of their bank accounts and other assets. To that end, the competent authorities may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

4. Each Party shall ensure that its judicial authorities shall, in respect of the measures referred to in paragraphs 1, 2 and 3, have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed, or that such infringement is imminent.

ARTICLE 262

Corrective measures

1. Each Party shall ensure that its judicial authorities may order, at the request of the applicant, without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the destruction of goods that they have found to be infringing an intellectual property right or at least the definitive removal of those goods from the channels of commerce. If appropriate, under the same conditions, the judicial authorities may also order destruction of materials and implements predominantly used in the creation or manufacture of those goods.

2. Each Party's judicial authorities shall have the authority to order that those measures shall be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

ARTICLE 263

Injunctions

Each Party shall ensure that, where a judicial decision is taken finding an infringement of an intellectual property right, the judicial authorities may issue against the infringer an injunction aimed at prohibiting the continuation of the infringement. Each Party shall also ensure that the judicial authorities may issue an injunction against intermediaries whose services are used by a third party to infringe an intellectual property right.

ARTICLE 264

Alternative measures

Each Party may provide that the judicial authorities, in appropriate cases and at the request of the person liable to be subject to the measures provided for in Article 262 or 263, may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in these two Articles if that person acted unintentionally and without negligence, if execution of the measures in question would cause the person disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

ARTICLE 265

Damages

1. Each Party shall ensure that its judicial authorities, on application of the injured party, order the infringer who knowingly engaged, or had reasonable grounds to know it was engaging, in an infringing activity, to pay to the right holder damages appropriate to the actual prejudice suffered by the right holder as a result of the infringement.

2. Each Party shall ensure that when its judicial authorities set the damages:

(a) they take into account all appropriate aspects, such as the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement; or

(b) as an alternative to point (a), they may, in appropriate cases, set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.

3. Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, each Party may lay down that the judicial authorities may order the recovery of profits or the payment of damages which may be pre-established.

ARTICLE 266

Legal costs

Each Party shall ensure that reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party, unless equity does not allow this.

ARTICLE 267

Publication of judicial decisions

Each Party shall ensure that, in legal proceedings instituted for infringement of an intellectual property right, the judicial authorities may order, at the request of the applicant and at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part.

ARTICLE 268

Presumption of authorship or ownership

For the purposes of applying the measures, procedures and remedies provided for in Chapter 3:

(a) for the author of a literary or artistic work, in the absence of proof to the contrary, to be regarded as such, and consequently to be entitled to institute infringement proceedings, it shall be sufficient for the author's name to appear on the work in the usual manner; and

(b) point (a) applies *mutatis mutandis* to the holders of rights related to copyright with regard to their protected subject matter.

ARTICLE 269

Administrative procedures

To the extent that any civil remedy can be ordered on the merits of a case as a result of administrative procedures, such procedures shall conform to principles equivalent in substance to those set forth in this Section.

SECTION 3

CIVIL JUDICIAL PROCEDURES AND REMEDIES OF TRADE SECRETS

ARTICLE 270

Civil judicial procedures and remedies of trade secrets

1. Each Party shall ensure that any person participating in the civil judicial proceedings referred to in Article 252(1), or who has access to documents which form part of those proceedings, is not permitted to use or disclose any trade secret or alleged trade secret which the competent judicial authorities have, in response to a duly reasoned application by an interested party, identified as confidential and of which they have become aware as a result of such participation or access.

2. Each Party shall ensure that the obligation referred to in paragraph 1 remains in force after the civil judicial proceedings have ended, for as long as appropriate.

3. In the civil judicial proceedings referred to Article 252(1), each Party shall provide that its judicial authorities have the authority at least to:

(a) order provisional measures, in accordance with their respective laws and regulations, to cease and prohibit the use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(b) order measures, in accordance with their respective laws and regulations, ordering the cessation of, or as the case may be, the prohibition of the use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(c) order, in accordance with their respective laws and regulations, any person who has acquired, used or disclosed a trade secret in a manner contrary to honest commercial practices and that knew or ought to have known that he or she or it was acquiring, using or disclosing a trade secret in a manner contrary to honest commercial practices to pay the trade secret holder damages appropriate to the actual prejudice suffered as a result of such acquisition, use or disclosure of the trade secret;

(d) take specific measures necessary to preserve the confidentiality of any trade secret or alleged trade secret used or referred to in proceedings as referred to in Article 252(1). Such specific measures may include, in accordance with each Party's respective laws and regulations, including the rights of defence, the possibility of restricting access to certain documents in whole or in part; of restricting access to hearings and their corresponding records or transcript; and of making available a non-confidential version of judicial decision in which the passages containing trade secrets have been removed or redacted.

(e) impose sanctions on any person participating in the legal proceedings who fail or refuse to comply with the court orders concerning the protection of the trade secret or alleged trade secret.

4. Each Party shall ensure that an application for the measure, procedures or remedies provided for in this Article is dismissed where the alleged acquisition, use or disclosure of a trade secret contrary to honest commercial practices was carried out, in accordance with its laws and regulations:

(a) to reveal misconduct, wrongdoing or illegal activity for the purpose of protecting the general public interest;

(b) as a disclosure by employees to their representatives as part of, and necessary for, the legitimate exercise by those representatives of their functions;

(c) to protect a legitimate interest recognised by the laws and regulations of that Party.

SECTION 4

BORDER ENFORCEMENT

ARTICLE 271

Border measures

1. With respect to goods under customs control, each Party shall adopt or maintain procedures under which a right holder may submit applications to a competent authority[1] to suspend the release of or detain suspected goods. For the purposes of this Section, "suspected goods" means goods suspected of infringing trade marks, copyrights and related rights, geographical indications, patents, utility models, industrial designs, topographies of integrated circuits and plant variety rights.

2. Each Party shall have in place electronic systems for the management by customs of the applications granted or recorded.

3. Each Party shall ensure that its competent authorities do not charge a fee to cover the administrative costs resulting from the processing of an application or a recordation.

4. Each Party shall ensure that its competent authorities decide about granting or recording applications within a reasonable period of time.

[1] For the Union the competent authority means the customs authorities.

5. Each Party shall provide for the applications referred to in paragraph 1 to apply to multiple shipments.

6. With respect to goods under customs control, each Party shall ensure that its customs authorities may act upon their own initiative to suspend the release of or detain suspected goods.

7. Each Party shall ensure that its customs authorities use risk analysis to identify suspected goods.

8. Each Party may authorise its customs authority to provide a right holder, upon request, with information about goods, including a description and the actual or estimated quantities thereof, and if known, the name and address of the consignor, importer, exporter or consignee, and the country of origin or provenance of the goods, whose release has been suspended, or which have been detained.

9. Each Party shall have in place procedures allowing for the destruction of suspected goods, without there being any need for prior administrative or judicial proceedings for the formal determination of the infringements, where the persons concerned agree or do not oppose the destruction. In case suspected goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the commercial channel in a manner which avoids any harm to the right holder.

10. Each Party shall have in place procedures allowing for the swift destruction of counterfeit trade mark and pirated goods sent in postal or express couriers' consignments.

11. Each Party shall provide that, where requested by the customs authorities, the holder of the granted or recorded application shall be obliged to reimburse the costs incurred by the customs authorities, or other parties acting on behalf of customs authorities, from the moment of detention or suspension of the release of the goods, including storage, handling, and any costs relating to the destruction or disposal of the goods.

12. Each Party may decide not to apply this Article to the import of goods put on the market in another country by or with the consent of the right holders. A Party may exclude from the application of this Article goods of a non-commercial nature contained in travellers' personal luggage.

13. Each Party shall allow its customs authorities to maintain a regular dialogue and promote cooperation with the relevant stakeholders and with other authorities involved in the enforcement of intellectual property rights.

14. The Parties shall cooperate in respect of international trade in suspected goods. In particular, the Parties shall, as far as possible, share relevant information on trade in suspected goods affecting the other Party.

15. Without prejudice to other forms of cooperation, the Protocol on mutual administrative assistance in customs matters applies with regard to breaches of legislation on intellectual property rights for the enforcement of which the customs authorities of a Party are competent in accordance with this Article.

ARTICLE 272

Consistency with GATT 1994 and the TRIPS Agreement

In implementing border measures for the enforcement of intellectual property rights by customs, whether or not covered by this Section, the Parties shall ensure consistency with their obligations under GATT 1994 and the TRIPS Agreement and, in particular, with Article V of GATT 1994 and Article 41 and Section 4 of Part III of the TRIPS Agreement.

CHAPTER 4

OTHER PROVISIONS

ARTICLE 273

Cooperation

1. The Parties shall cooperate with a view to supporting the implementation of the commitments and obligations undertaken under this Title.

2. The areas of cooperation include, but are not limited to, the following activities:

(a) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement;

(b) exchange of experience on legislative progress, on the enforcement of intellectual property rights and on enforcement at central and sub-central level by customs, police, administrative and judiciary bodies;

(c) coordination to prevent exports of counterfeit goods, including coordination with other countries;

(d) technical assistance, capacity building, exchange and training of personnel;

(e) protection and defence of intellectual property rights and the dissemination of information in this regard in, among others, to business circles and civil society;

(f) public awareness of consumers and right holders;

(g) the enhancement of institutional cooperation, particularly between the intellectual property offices of the Parties;

(h) educating and promoting awareness among the general public regarding policies concerning the protection and enforcement of intellectual property rights;

(i) the promotion of protection and enforcement of intellectual property rights with public-private collaboration involving small and medium-size enterprises;

(j) the formulation of effective strategies to identify audiences and communication programmes to increase consumer and media awareness of the impact of intellectual property rights' violations, including the risk to health and safety and the connection to organised crime.

3. The Parties shall, either directly or through the Trade Specialised Committee on Intellectual Property, maintain contact on all matters related to the implementation and functioning of this Title.

ARTICLE 274

Voluntary stakeholder initiatives

Each Party shall endeavour to facilitate voluntary stakeholder initiatives to reduce intellectual property rights infringement, including online and in other marketplaces focusing on concrete problems and seeking practical solutions that are realistic, balanced, proportionate and fair for all concerned including in the following ways:

(a) each Party shall endeavour to convene stakeholders consensually in its territory to facilitate voluntary initiatives to find solutions and resolve differences regarding the protection and enforcement of intellectual property rights and reducing infringement;

(b) the Parties shall endeavour to exchange information with each other regarding efforts to facilitate voluntary stakeholder initiatives in their respective territories; and

(c) the Parties shall endeavour to promote open dialogue and cooperation among the Parties' stakeholders, and to encourage the Parties' stakeholders to jointly find solutions and resolve differences regarding the protection and enforcement of intellectual property rights and reducing infringement.

ARTICLE 275

Review in relation to geographical indications

Noting the relevant provisions of any earlier bilateral agreement between the United Kingdom of the one part and the European Union and European Atomic Energy Community of the other part, the Parties may jointly use reasonable endeavours to agree rules for the protection and effective domestic enforcement of their geographical indications.

TITLE VI

PUBLIC PROCUREMENT

CHAPTER 1

SCOPE

ARTICLE 276

Objective

The objective of this Title is to guarantee each Party's suppliers access to increased opportunities to participate in public procurement procedures and to enhance the transparency of public procurement procedures.

ARTICLE 277

Incorporation of certain provisions of the GPA and covered procurement

1. The provisions of the GPA that are specified in Section A of Annex 25, including the Annexes of each Party to Appendix I to the GPA, are hereby incorporated into this Title.

2. For the purposes of this Title, "covered procurement" means procurement to which Article II of the GPA applies and, in addition, procurement listed in Section B of Annex 25.

3. With regard to covered procurement, each Party shall apply, *mutatis mutandis*, the provisions of the GPA specified in Section A of Annex 25 to suppliers, goods or services of the other Party.

CHAPTER 2

ADDITIONAL RULES FOR COVERED PROCUREMENT

ARTICLE 278

Use of electronic means in procurement

1. Each Party shall ensure that its procuring entities conduct covered procurement by electronic means to the widest extent practicable.

2. A procuring entity is considered as conducting covered procurement by electronic means, if the entity uses electronic means of information and communication for:

(a) the publication of notices and tender documentation in procurement procedures; and

(b) the submission of requests to participate and of tenders.

3. Except for specific situations, such electronic means of information and communication shall be non-discriminatory, generally available and interoperable with the information and communication technology products in general use and shall not restrict access to the procurement procedure.

4. Each Party shall ensure that its procuring entities receive and process electronic invoices in accordance with its legislation.

ARTICLE 279

Electronic publication

With regard to covered procurement, all procurement notices including notices of intended procurement, summary notices, notices of planned procurement and contract award notices shall be directly accessible by electronic means, free of charge, through a single point of access on the internet.

ARTICLE 280

Supporting evidence

Each Party shall ensure that at the time of submission of requests to participate or at the time of submission of tenders, procuring entities do not require suppliers to submit all or part of the supporting evidence that they are not in one of the situations in which a supplier may be excluded and that they fulfil the conditions for participation unless this is necessary to ensure the proper conduct of the procurement.

ARTICLE 281

Conditions for participation

Each Party shall ensure that where its procuring entities require a supplier, as a condition for participation in a covered procurement, to demonstrate prior experience they do not require that the supplier has such experience in the territory of that Party.

ARTICLE 282

Registration systems and qualification procedures

A Party that maintains a supplier registration system shall ensure that interested suppliers may request registration at any time. Any interested supplier having made a request shall be informed within a reasonable period of time of the decision to grant or reject this request.

ARTICLE 283

Selective tendering

Each Party shall ensure that where a procuring entity uses a selective tendering procedure, the procuring entity addresses invitations to submit a tender to a number of suppliers that is sufficient to ensure genuine competition without affecting the operational efficiency of the procurement system.

ARTICLE 284

Abnormally low prices

Further to paragraph 6 of Article XV of the GPA, if a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may also verify with the supplier whether the price takes into account the grant of subsidies.

ARTICLE 285

Environmental, social and labour considerations

Each Party shall ensure that its procuring entities may take into account environmental, labour and social considerations throughout the procurement procedure, provided that those considerations are compatible with the rules established by Chapters 1 and 2 and are indicated in the notice of intended procurement or in another notice used as a notice of intended procurement or tender documentation.

ARTICLE 286

Domestic review procedures

1. Where an impartial administrative authority is designated by a Party under paragraph 4 of Article XVIII of the GPA, that Party shall ensure that:

(a) the members of the designated authority are independent, impartial, and free from external influence during the term of appointment;

(b) the members of the designated authority are not dismissed against their will while they are in office, unless their dismissal is required by the provisions governing the designated authority; and

(c) the President or at least one other member of the designated authority, has legal and professional qualifications equivalent to those necessary for judges, lawyers or other legal experts qualified under the laws and regulations of the Party.

2. Each Party shall adopt or maintain procedures that provide for rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures, provided for in subparagraph 7(a) of Article XVIII of the GPA, may result in suspension of the procurement process or, if a contract has been concluded by the procuring entity and if a Party has so provided, in suspension of performance of the contract. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. Just cause for not acting shall be provided in writing.

3. In case an interested or participating supplier has submitted a challenge with the designated authority referred to in paragraph 1, each Party shall, in principle, ensure that a procuring entity shall not conclude the contract until that authority has made a decision or recommendation on the challenge with regard to interim measures, corrective action or compensation for the loss or damages suffered as referred to in paragraphs 2, 5 and 6 in accordance with its rules, regulations and procedures. Each Party may provide that in unavoidable and duly justified circumstances, the contract can be nevertheless concluded.

4. Each Party may provide for:

(a) a standstill period between the contract award decision and the conclusion of a contract in order to give sufficient time to unsuccessful suppliers to assess whether it is appropriate to initiate a review procedure; or

(b) a sufficient period for an interested supplier to submit a challenge, which may constitute grounds for the suspension of the execution of a contract.

5. Corrective action under subparagraph 7(b) of Article XVIII of the GPA may include one or more of the following:

(a) the removal of discriminatory technical, economic or financial specifications in the invitation to tender, the contract documents or any other document relating to the tendering procedure and conduct of new procurement procedures;

(b) the repetition of the procurement procedure without changing the conditions;

(c) the setting aside of the contract award decision and the adoption of a new contract award decision;

(d) the termination of a contract or the declaration of its ineffectiveness; or

(e) the adoption of other measures with the aim to remedy a breach of Chapters 1 and 2, for example an order to pay a particular sum until the breach has been effectively remedied.

6. In accordance with subparagraph 7(b) of Article XVIII of the GPA, each Party may provide for the award of compensation for the loss or damages suffered. In this regard, if the review body of the Party is not a court and a supplier believes that there has been a breach of the domestic laws and regulations implementing the obligations under Chapters 1 and 2 of this Title, the supplier may bring the matter before a court, including with a view to seeking compensation, in accordance with judicial procedures of the Party.

7. Each Party shall adopt or maintain the necessary procedures by which the decisions or recommendations made by review bodies are effectively implemented, or the decisions by judicial review bodies are effectively enforced.

CHAPTER 3

NATIONAL TREATMENT BEYOND COVERED PROCUREMENT

ARTICLE 287

Definitions

1. For the purposes of this Chapter, the treatment accorded by a Party under this Chapter means:

(a) with respect to the United Kingdom, treatment no less favourable than the most favourable treatment accorded, in like situations, to suppliers of the United Kingdom; and

(b) with respect to a Member State, treatment no less favourable than the most favourable treatment accorded, in like situations, within that Member State to suppliers of that Member State.

2. For the purposes of this Chapter, a supplier of a Party, which is a legal person means:

(a) for the Union, a legal person constituted or organised under the law of the Union or at least one of its Member States and engaged in substantive business operations, understood by the Union, in line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), as equivalent to the concept of "effective and continuous link" with the economy of a Member State enshrined in Article 54 of the TFEU, in the territory of the Union; and

(b) for the United Kingdom, a legal person constituted or organised under the law of the United Kingdom and engaged in substantive business operations in the territory of the United Kingdom.

ARTICLE 288

National treatment of locally established suppliers

1. With regard to any procurement, a measure of a Party shall not result for suppliers of the other Party established in its territory through the constitution, acquisition or maintenance of a legal person in treatment less favourable than that Party accords to its own like suppliers[1].

2. The application of the national treatment obligation provided for in this Article remains subject to security and general exceptions as defined in Article III of the GPA, even if the procurement is not covered procurement in accordance with this Title.

CHAPTER 4

OTHER PROVISIONS

ARTICLE 289

Modifications and rectifications of market access commitments

Each Party may modify or rectify its market access commitments in its respective Sub-section under Section B of Annex 25 in accordance with the procedures set out in Articles 290 to 293.

[1] For greater certainty, application of the national treatment obligation provided for in this Article is subject to the exceptions referred to in note 3 of the Notes of Sub-sections B1 and B2 of Section B of Annex 25.

ARTICLE 290

Modifications

1. A Party intending to modify a Sub-section of Section B of Annex 25, shall:

(a) notify the other Party in writing; and

(b) include in the notification a proposal for appropriate compensatory adjustments to the other Party to maintain a level of market access commitments comparable to that existing prior to the modification.

2. Notwithstanding point (b) of paragraph 1, a Party is not required to provide compensatory adjustments to the other Party if the proposed modification covers a procuring entity over which the Party has effectively eliminated its control or influence in respect of covered procurement.

A Party's control or influence over the covered procurement of procuring entities is presumed to be effectively eliminated if the procuring entity is exposed to competition in markets to which access is not restricted.

3. The other Party may object to the modification referred to in point (a) of paragraph 1 if it disputes that:

(a) a compensatory adjustment proposed under point (b) of paragraph 1 is adequate to maintain a comparable level of mutually agreed market access commitments; or

(b) the modification covers a procuring entity over which the Party has effectively eliminated its control or influence as provided for in paragraph 2.

The other Party shall object in writing within 45 days of receipt of the notification referred to in point (a) of paragraph 1 or be deemed to have accepted the compensatory adjustment or modification, including for the purposes of Title I of Part Six.

ARTICLE 291

Rectifications

1. A Party intending to rectify a Sub-section under Section B of Annex 25 shall notify the other Party in writing.

The following changes to a Sub-section under Section B of Annex 25 shall be considered a rectification, provided that they do not affect the mutually agreed market access commitments provided for in this Title:

(a) a change in the name of a procuring entity;

(b) a merger of two or more procuring entities listed within that Sub-section; and

(c) the separation of a procuring entity listed in that Sub-section into two or more procuring entities that are added to the procuring entities listed in the same Sub-section.

2. A Party may notify the other Party of an objection to a proposed rectification within 45 days from having received the notification. A Party submitting an objection shall set out the reasons for considering the proposed rectification not as a change provided for in paragraph 1, and describe the effect of the proposed rectification on the mutually agreed market access commitments provided for in this Title. If no such objection is submitted in writing within 45 days after having received the notification, the Party shall be deemed to have agreed to the proposed rectification.

ARTICLE 292

Consultations and dispute resolution

If a Party objects to the proposed modification or the proposed compensatory adjustments referred to in Article 290 or to the proposed rectification referred to in Article 291, the Parties shall seek to resolve the issue through consultations. If no agreement is found within 60 days of receipt of the objection, the Party seeking to modify or rectify its Sub-section under Section B of Annex 25 may refer the matter to dispute settlement in accordance with Title I of Part Six, to determine whether the objection is justified.

ARTICLE 293

Amendment of Section B of Annex 25

If a Party does not object to the modification pursuant to Article 290(3) or to a rectification pursuant to Article 291(2), or the modifications or rectifications are agreed between the Parties through the consultations referred to in Article 292, or there is a final settlement of the matter under Title I of Part Six, the Partnership Council shall amend the relevant Sub-section under Section B of Annex 25 to reflect the corresponding modifications or rectifications or the compensatory adjustments.

ARTICLE 294

Cooperation

1. The Parties recognise the benefits that may arise from cooperating in the international promotion of the mutual liberalisation of public procurement markets.

2. The Parties shall make available to each other annual statistics on covered procurement subject to technical availability.

TITLE VII

SMALL AND MEDIUM-SIZED ENTERPRISES

ARTICLE 295

Objective

The objective of this Title is to enhance the ability of small and medium-sized enterprises to benefit from this Heading.

ARTICLE 296

Information sharing

1. Each Party shall establish or maintain its own publicly accessible website for small and medium-sized enterprises with information regarding this Heading, including:

(a) a summary of this Heading;

(b) a description of the provisions in this Heading that each Party considers to be relevant to small and medium-sized enterprises of both Parties; and

(c) any additional information that each Party considers would be useful for small and medium-sized enterprises interested in benefitting from this Heading.

2. Each Party shall include an internet link in the website provided for in paragraph 1 to the:

(a) text of this Heading;

(b) equivalent website of the other Party; and

(c) websites of its own authorities that the Party considers would provide useful information to persons interested in trading and doing business in its territory.

3. Each Party shall include an internet link in the website referred to in paragraph 1 to websites of its own authorities with information related to the following:

(a) customs laws and regulations, procedures for importation, exportation and transit as well as relevant forms, documents and other information required;

(b) laws, regulations and procedures concerning intellectual property rights, including geographical indications;

(c) technical laws and regulations including, where necessary, obligatory conformity assessment procedures and links to lists of conformity assessment bodies, in cases where third party conformity assessment is obligatory, as provided for in Chapter 4 of Title I;

(d) laws and regulations on sanitary and phytosanitary measures relating to importation and exportation as provided for in Chapter 3 of Title I;

(e) laws and regulations on public procurement, single point of access on the internet to public procurement notices as provided for in Title VI and other relevant provisions contained in that Title;

(f) company registration procedures; and

(g) other information which the Party considers may be of assistance to small and medium-sized enterprises.

4. Each Party shall include an internet link in the website provided for in paragraph 1 to a database that is electronically searchable by tariff nomenclature code and that includes the following information with respect to access to its market:

(a) in respect of tariff measures and tariff-related information:

(i) rates of customs duties and quotas, including most-favoured nation, rates concerning non most-favoured nation countries and preferential rates and tariff rate quotas;

(ii) excise duties;

(iii) taxes (value added tax/ sales tax);

(iv) customs or other fees, including other product specific fees;

(v) rules of origin as provided for in Chapter 2 of Title I;

(vi) duty drawback, deferral, or other types of relief that reduce, refund, or waive customs duties;

(vii) criteria used to determine the customs value of the good; and

(viii) other tariff measures;

(b) in respect of tariff nomenclature related non-tariff measures:

(i) information needed for import procedures; and

(ii) information related to non-tariff measures.

5. Each Party shall regularly, or if requested by the other Party, update the information and links referred to in paragraphs 1 to 4 that it maintains on its website to ensure such information and links are up-to-date and accurate.

6. Each Party shall ensure that the information and links referred to in paragraphs 1 to 4 is presented in an adequate manner to use for small and medium-sized enterprises. Each Party shall endeavour to make the information available in English.

7. No fee shall apply for access to the information provided pursuant to paragraphs 1 to 4 for any person of either Party.

ARTICLE 297

Small and medium-sized enterprises contact points

1. Upon the entry into force of this Agreement, each Party shall designate a contact point to carry out the functions listed in this Article and notify the other Party of its contact details. The Parties shall promptly notify each other of any change of those contact details.

2. The small and medium-sized enterprises contact points of the Parties shall:

(a) seek to ensure that the needs of small and medium-sized enterprises are taken into account in the implementation of this Heading and that small and medium-sized enterprises of both Parties can take advantage of this Heading;

(b) consider ways for strengthening the cooperation on matters of relevance to small and medium-sized enterprises between the Parties in view of increasing trade and investment opportunities for small and medium-sized enterprises;

(c) ensure that the information referred to in Article 296 is up-to-date, accurate and relevant for small and medium-sized enterprises. Either Party may, through the small and medium-sized enterprises contact point, suggest additional information that the other Party may include in its websites to be maintained in accordance with Article 296;

(d) examine any matter relevant to small and medium-sized enterprises in connection with the implementation of this Heading, including:

(i) exchanging information to assist the Partnership Council in its task to monitor and implement the small and medium-sized enterprises-related aspects of this Heading;

(ii) assisting specialised committees, joint working groups and contact points established by this Agreement in considering matters of relevance to small and medium-sized enterprises;

(e) report periodically on their activities, jointly or individually, to the Partnership Council for its consideration; and

(f) consider any other matter arising under this Agreement pertaining to small and medium-sized enterprises as the Parties may agree.

3. The small and medium-sized enterprises contact points of the Parties shall carry out their work through the communication channels decided by the Parties, which may include electronic mail, videoconferencing or other means. They may also meet, as appropriate.

4. Small and medium-sized enterprises contact points may seek to cooperate with experts and external organisations, as appropriate, in carrying out their activities.

ARTICLE 298

Relation with Part Six

Title I of Part Six does not apply to this Title.

TITLE VIII

ENERGY

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 299

Objectives

The objectives of this Title are to facilitate trade and investment between the Parties in the areas of energy and raw materials, and to support security of supply and environmental sustainability, notably in contributing to the fight against climate change in those areas.

ARTICLE 300

Definitions

1. For the purposes of this Title, the following definitions apply:

(a) "Agency for the Cooperation of Energy Regulators" means the Agency established by Regulation (EU) 2019/942 of the European Parliament and of the Council[1];

(b) "authorisation" means the permission, licence, concession or similar administrative or contractual instrument by which the competent authority of a Party entitles an entity to exercise a certain economic activity in its territory;

(c) "balancing" means:

(i) for electricity systems, all actions and processes, in all timelines, through which electricity transmission system operators ensure, in an ongoing manner, maintenance of the system frequency within a predefined stability range and compliance with the amount of reserves needed with respect to the required quality;

[1] Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ EU L 158, 14.6.2019, p. 22).

(ii) for gas systems, actions undertaken by gas transmission system operators to change the gas flows onto or off the transmission network, excluding those actions related to gas unaccounted for as off-taken from the system and gas used by the transmission system operator for the operation of the system;

(d) "distribution" means:

(i) in relation to electricity, the transport of electricity on high-voltage, medium-voltage and low-voltage distribution systems with a view to its delivery to customers, but does not include supply;

(ii) in relation to gas, the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but does not include supply;

(e) "distribution system operator" means a natural or legal person who is responsible for operating, ensuring the maintenance of, and, if necessary, developing the electricity or gas distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity or gas;

(f) "electricity interconnector" means a transmission line:

(i) between the Parties, excluding any such line wholly within the single electricity market in Ireland and Northern Ireland;

(ii) between Great Britain and the single electricity market in Ireland and Northern Ireland that is outside the scope of point (i);

(g) "energy goods" means the goods from which energy is generated, listed by the corresponding Harmonised System (HS) code in Annex 26;

(h) "entity" means any natural person, legal person or enterprise or group thereof;

(i) "gas interconnector" means a transmission line which crosses or spans the border between the Parties;

(j) "generation" means the production of electricity;

(k) "hydrocarbons" means the goods listed by the corresponding HS code in Annex 26;

(l) "interconnection point" means, in relation to gas, a physical or virtual point connecting Union and United Kingdom entry-exit systems or connecting an entry-exit system with an interconnector, in so far as these points are subject to booking procedures by network users;

(m) "raw materials" means the goods listed by the corresponding HS chapter in Annex 26;

(n) "renewable energy" means a type of energy, including electrical energy, produced from renewable non-fossil sources;

(o) "standard capacity product" means, in relation to gas, a certain amount of transport capacity over a given period of time, at a specific interconnection point;

(p) "transmission" means:

(i) in relation to electricity, the transport of electricity on the extra high-voltage and high-voltage system with a view to its delivery to customers or to distributors, but does not include supply;

(ii) in relation to gas, the transport of natural gas through a network, which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;

(q) "transmission system operator" means a natural or legal person who carries out the function of transmission or is responsible for operating, ensuring the maintenance of, and, if necessary, developing the electricity or gas transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transport of gas or electricity, as the case may be;

(r) "upstream pipeline network" means any pipeline or network of pipelines operated or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal.

2. For the purposes of this Title, references to "non-discriminatory" and "non-discrimination" mean most-favoured-nation treatment as defined in Articles 130 and 138 and national treatment as defined in Articles 129 and 137, as well as treatment under terms and conditions no less favourable than that accorded to any other like entity in like situations.

ARTICLE 301

Relationship with other Titles

1. Chapter 2 and Chapter 3 of Title II of this Heading apply to energy and raw materials. In the event of any inconsistency between this Title and Title II of this Heading and Annexes 19 to 24, Title II of this Heading and Annexes 19 to 24 shall prevail.

2. For the purposes of Article 20 where a Party maintains or implements a system of virtual trading of natural gas or electricity using pipelines or electricity grids, meaning a system which does not require physical identification of the transited natural gas or electricity but is based on a system of netting inputs and outputs, the routes most convenient for international transit as referred to in that Article shall be deemed to include such virtual trading.

3. When applying Chapter 3 of Title XI of this Heading, Annex 27 also applies. Chapter 3 of Title XI of this Heading applies to Annex 27. Article 375 applies to disputes arising between the Parties concerning the interpretation and application of Annex 27.

ARTICLE 302

Principles

Each Party preserves the right to adopt, maintain and enforce measures necessary to pursue legitimate public policy objectives, such as securing the supply of energy goods and raw materials, protecting society, the environment, including fighting against climate change, public health and consumers and promoting security and safety, consistent with the provisions of this Agreement.

CHAPTER 2

ELECTRICITY AND GAS

SECTION 1

COMPETITION IN ELECTRICITY AND GAS MARKETS

ARTICLE 303

Competition in markets and non-discrimination

1. With the objective of ensuring fair competition, each Party shall ensure that its regulatory framework for the production, generation, transmission, distribution or supply of electricity or natural gas is non-discriminatory with regard to rules, fees and treatment.

2. Each Party shall ensure that customers are free to choose, or switch to, the electricity or natural gas supplier of their choice within their respective retail markets in accordance with the applicable laws and regulations.

3. Without prejudice to the right of each Party to define quality requirements, the provisions in this Chapter related to natural gas also apply to biogas and gas from biomass or other types of gas in so far as such gas can technically and safely be injected into, and transported through, the natural gas system.

4. This Article does not apply to cross-border trade and is without prejudice to each Party's right to regulate in order to achieve legitimate public policy goals based on objective and non-discriminatory criteria.

ARTICLE 304

Provisions relating to wholesale electricity and gas markets

1. Each Party shall ensure that wholesale electricity and natural gas prices reflect actual supply and demand. To that end, each Party shall ensure that wholesale electricity and natural gas market rules:

(a) encourage free price formation;

(b) do not set any technical limits on pricing that restrict trade;

(c) enable the efficient dispatch of electricity generation assets, energy storage and demand response and the efficient use of the electricity system;

(d) enable the efficient use of the natural gas system; and

(e) enable the integration of electricity from renewable energy sources, and ensure the efficient and secure operation and development of the electricity system.

2. Each Party shall ensure that balancing markets are organised in such a way as to ensure:

(a) non-discrimination between participants and non-discriminatory access to participants;

(b) that services are defined in a transparent manner;

(c) that services are procured in a transparent, market-based manner, taking account of the advent of new technologies; and

(d) that producers of renewable energy are accorded reasonable and non-discriminatory terms when procuring products and services.

A Party may decide not to apply point (c) if there is a lack of competition in the market for balancing services.

3. Each Party shall ensure that any capacity mechanism in electricity markets is clearly defined, transparent, proportionate and non-discriminatory. Neither Party is required to permit capacity situated in the territory of the other Party to participate in any capacity mechanism in its electricity markets.

4. Each Party shall assess the necessary actions to facilitate the integration of gas from renewable sources.

5. This Article is without prejudice to each Party's right to regulate in order to achieve legitimate public policy goals based on objective and non-discriminatory criteria.

ARTICLE 305

Prohibition of market abuse on wholesale electricity and gas markets

1. Each Party shall prohibit market manipulation and insider trading on wholesale electricity and natural gas markets, including over-the-counter markets, electricity and natural gas exchanges and markets for the trading of electricity and natural gas, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intraday markets.

2. Each Party shall monitor trading activity on these markets with a view to detecting and preventing trading based on inside information and market manipulation.

3. The Parties shall cooperate, including in accordance with Article 318, with a view to detecting and preventing trading based on inside information and market manipulation and, where appropriate, may exchange information including on market monitoring and enforcement activities.

ARTICLE 306

Third-party access to transmission and distribution networks

1. Each Party shall ensure the implementation of a system of third-party access to their transmission and distribution networks based on published tariffs that are applied objectively and in a non-discriminatory manner.

2. Without prejudice to Article 302, each Party shall ensure that transmission and distribution system operators in its territory grant access to their transmission or distribution systems to entities in that Party's market within a reasonable period of time from the date of the request for access.

Each Party shall ensure that transmission system operators treat producers of renewable energy on reasonable and non-discriminatory terms regarding connection to, and use of, the electricity network.

The transmission or distribution system operator may refuse access where it lacks the necessary capacity. Duly substantiated reasons shall be given for any such refusal.

3. Without prejudice to legitimate public policy objectives, each Party shall ensure that charges applied to entities in that Party's market by transmission and distribution system operators for access to, connection to or the use of networks, and, where applicable, charges for related network reinforcements, are appropriately cost-reflective and transparent. Each Party shall ensure publication of the terms, conditions, tariffs and all such information that may be necessary for the effective exercise of the right of access to and use of transmission and distribution systems.

4. Each Party shall ensure that the tariffs and charges referred to in paragraphs 1 and 3 are applied in a non-discriminatory manner with respect to entities in that Party's market.

ARTICLE 307

System operation and unbundling of transmission network operators

1. Each Party shall ensure that transmission system operators carry out their functions in a transparent, non-discriminatory way.

2. Each Party shall implement arrangements for transmission system operators which are effective in removing any conflicts of interest arising as a result of the same person exercising control over a transmission system operator and a producer or supplier.

ARTICLE 308

Public policy objectives for third-party access and ownership unbundling

1. Where necessary to fulfil a legitimate public policy objective and based on objective criteria, a Party may decide not to apply Articles 306 and 307 to the following:

(a) emergent or isolated markets or systems;

(b) infrastructure which meets the conditions set out in Annex 28.

2. Where necessary to fulfil a legitimate public policy objective and based on objective criteria, a Party may decide not to apply Articles 303 and 304 to:

(a) small or isolated electricity markets or systems;

(b) small, emergent or isolated natural gas markets or systems.

ARTICLE 309

Existing exemptions for interconnectors

Each Party shall ensure that exemptions granted to interconnections between the Union and the United Kingdom under Article 63 of Regulation (EU) 2019/943 of the European Parliament and of the Council[1] and under the law transposing Article 36 of Directive 2009/73/EC of the European Parliament and of the Council[2] in their respective jurisdictions, the terms of which extend beyond the transition period, continue to apply in accordance with the laws of their respective jurisdictions and the terms applicable.

ARTICLE 310

Independent regulatory authority

1. Each Party shall ensure the designation and maintenance of an operationally independent regulatory authority or authorities for electricity and gas with the following powers and duties:

(a) fixing or approving the tariffs, charges and conditions for access to networks referred to in Article 306, or the methodologies underlying them;

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1 Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ EU L 158, 14.6.2019, p. 54) or its predecessors: OJ EU L 176, 15.7.2003, p.1 and OJ EU L 211, 14.8.2009, p. 15.

2 Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas (OJ EU L 211, 14.8.2009, p. 94) or its predecessor: OJ EU L 176, 15.7.2003, p. 57.

(b) ensuring compliance with the arrangements referred to in Articles 307 and 308;

(c) issuing binding decisions at least in relation to points (a) and (b);

(d) imposing effective remedies.

2. In performing those duties and exercising those powers, the independent regulatory authority or authorities shall act impartially and transparently.

SECTION 2

TRADING OVER INTERCONNECTORS

ARTICLE 311

Efficient use of electricity interconnectors

1. With the aim of ensuring the efficient use of electricity interconnectors and reducing barriers to trade between the Union and the United Kingdom, each Party shall ensure that:

(a) capacity allocation and congestion management on electricity interconnectors is market based, transparent and non-discriminatory;

(b) the maximum level of capacity of electricity interconnectors is made available, respecting the:

(i) need to ensure secure system operation; and

(ii) most efficient use of systems;

(c) electricity interconnector capacity may only be curtailed in emergency situations and any such curtailment takes place in a non-discriminatory manner;

(d) information on capacity calculation is published to support the objectives of this Article;

(e) there are no network charges on individual transactions on, and no reserve prices for the use of, electricity interconnectors;

(f) capacity allocation and congestion management across electricity interconnectors is coordinated between concerned Union transmission system operators and United Kingdom transmission system operators; this coordination shall involve the development of arrangements to deliver robust and efficient outcomes for all relevant timeframes, being forward, day-ahead, intraday and balancing; and

(g) capacity allocation and congestion management arrangements contribute to supportive conditions for the development of, and investment in, economically efficient electricity interconnection.

2. The coordination and arrangements referred to in point (f) of paragraph 1 shall not involve or imply participation by United Kingdom transmission system operators in Union procedures for capacity allocation and congestion management.

3. Each Party shall take the necessary steps to ensure the conclusion as soon as possible of a multi-party agreement relating to the compensation for the costs of hosting cross-border flows of electricity between:

(a) transmission system operators participating in the inter-transmission system operator compensation mechanism established by Commission Regulation (EU) No 838/2010[1]; and

(b) United Kingdom transmission system operators.

4. The multi-party agreement referred to in paragraph 3 shall aim to ensure:

(a) that United Kingdom transmission system operators are treated on an equivalent basis to a transmission system operator in a country participating in the inter-transmission system operator compensation mechanism; and

(b) the treatment of United Kingdom transmission system operators is not more favourable in comparison to that which would apply to a transmission system operator participating in the inter-transmission system operator compensation mechanism.

[1] Commission Regulation (EU) No 838/2010 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging (OJ EU L 250, 24.9.2010, p. 5).

5. Notwithstanding point (e) of paragraph 1, until such time as the multi-party agreement referred to in paragraph 3 has been concluded, a transmission system use fee may be levied on scheduled imports and exports between the Union and the United Kingdom.

ARTICLE 312

Electricity trading arrangements at all timeframes

1. For capacity allocation and congestion management at the day ahead stage, the Specialised Committee on Energy, as a matter of priority, shall take the necessary steps in accordance with Article 317 to ensure that transmission system operators develop arrangements setting out technical procedures in accordance with Annex 29 within a specific timeline.

2. If the Specialised Committee on Energy does not recommend that the Parties implement such technical procedures in accordance with Article 317(4), it shall take decisions and make recommendations as necessary for electricity interconnector capacity to be allocated at the day-ahead market timeframe in accordance with Annex 29.

3. The Specialised Committee on Energy shall keep under review the arrangements for all timeframes, and for balancing and intraday timeframes in particular, and may recommend that each Party requests its transmission system operators to prepare technical procedures in accordance with Article 317 to improve arrangements for a particular timeframe.

4. The Specialised Committee on Energy shall keep under review whether the technical procedures developed in accordance with paragraph 1 continue to meet the requirements of Annex 29, and shall promptly address any issues that are identified.

ARTICLE 313

Efficient use of gas interconnectors

1. With the aim of ensuring the efficient use of gas interconnectors and reducing barriers to trade between the Union and the United Kingdom, each Party shall ensure that:

(a) the maximum level of capacity of gas interconnectors is made available, respecting the principle of non-discrimination and taking account of:

(i) the need to ensure secure system operation; and

(ii) the most efficient use of systems;

(b) capacity allocation mechanisms and congestion management procedures for gas interconnectors are market-based, transparent and non-discriminatory, and that auctions are generally used for the allocation of capacity at interconnection points.

2. Each Party shall take the necessary steps to ensure that:

(a) transmission system operators endeavour to offer jointly standard capacity products which consist of corresponding entry and exit capacity at both sides of an interconnection point;

(b) transmission system operators coordinate procedures relating to the use of gas interconnectors between Union transmission system operators and United Kingdom transmission system operators concerned.

3. The coordination referred to in point (b) of paragraph 2 shall not involve or imply participation by United Kingdom transmission system operators in Union procedures relating to the use of gas interconnectors.

SECTION 3

NETWORK DEVELOPMENT AND SECURITY OF SUPPLY

ARTICLE 314

Network development

1. The Parties shall cooperate to facilitate the timely development and interoperability of energy infrastructure connecting their territories.

2. Each Party shall ensure that network development plans for electricity and gas transmission systems are drawn up, published and regularly updated.

ARTICLE 315

Cooperation on security of supply

1. The Parties shall cooperate with respect to the security of supply of electricity and natural gas.

2. The Parties shall exchange information on any risks identified pursuant to Article 316 in a timely manner.

3. The Parties shall share the plans referred to in Article 316. For the Union, these plans may be at Member State or regional level.

4. The Parties shall inform each other without undue delay where there is reliable information that a disruption or other crisis relating to the supply of electricity or natural gas may occur and on measures planned or taken.

5. The Parties shall immediately inform each other in the event of an actual disruption or other crisis, in view of possible coordinated mitigation and restoration measures.

6. The Parties shall share best practices regarding short-term and seasonal adequacy assessments.

7. The Parties shall develop appropriate frameworks for cooperation with respect to the security of supply of electricity and natural gas.

ARTICLE 316

Risk preparedness and emergency plans

1. Each Party shall assess risks affecting the security of supply of electricity or natural gas, including the likelihood and impact of such risks, and including cross-border risks.

2. Each Party shall establish and regularly update plans to address identified risks affecting the security of supply of electricity or natural gas. Such plans shall contain the measures needed to remove or mitigate the likelihood and impact of any risk identified under paragraph 1 and the measures needed to prepare for, and mitigate the impact of, an electricity or natural gas crisis.

3. The measures contained in the plans referred to in paragraph 2 shall:

(a) be clearly defined, transparent, proportionate, non-discriminatory and verifiable;

(b) not significantly distort trade between the Parties; and

(c) not endanger the security of supply of electricity or natural gas of the other Party.

In the event of a crisis, the Parties shall only activate non-market based measures as a last resort.

SECTION 4

TECHNICAL COOPERATION

ARTICLE 317

Cooperation between transmission system operators

1. Each Party shall ensure that transmission system operators develop working arrangements that are efficient and inclusive in order to support the planning and operational tasks associated with meeting the objectives of this Title, including, when recommended by the Specialised Committee on Energy, the preparation of technical procedures to implement effectively the provisions of Articles 311 to 315.

The working arrangements referred to in the first subparagraph shall include frameworks for cooperation between the European Network of Transmission System Operators for Electricity established in accordance with Regulation (EU) 2019/943 ("ENTSO-E") and the European Network of Transmission System Operators for Gas established in accordance with Regulation (EC) No 715/2009 of the European Parliament and of the Council[1] ("ENTSOG"), on the one side, and the transmission system operators for electricity and gas in the United Kingdom, on the other. Those frameworks shall cover at least the following areas:

(a) electricity and gas markets;

(b) access to networks;

(c) the security of electricity and gas supply;

(d) offshore energy;

(e) infrastructure planning;

(f) the efficient use of electricity and gas interconnectors; and

(g) gas decarbonisation and gas quality.

[1] Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ EU L 211, 14.8.2009, p. 36).

The Specialised Committee on Energy shall agree on guidance on the working arrangements and frameworks for cooperation for dissemination to transmission system operators as soon as practicable.

The frameworks for cooperation mentioned in the second subparagraph shall not involve, or confer a status comparable to, membership in ENTSO-E or ENTSOG by United Kingdom transmission system operators.

2. The Specialised Committee on Energy may recommend that each Party requests its transmission system operators to prepare the technical procedures as referred to in the first subparagraph of paragraph 1.

3. Each Party shall ensure that its respective transmission system operators request the opinions of the Agency for the Cooperation of Energy Regulators and the regulatory authority in the United Kingdom designated in accordance with Article 310 on the technical procedures, respectively, in the event of a disagreement and in any event before the finalisation of those technical procedures. The Parties' respective transmission system operators shall submit those opinions together with the draft technical procedures to the Specialised Committee on Energy.

4. The Specialised Committee on Energy shall review the draft technical procedures, and may recommend that the Parties implement such procedures in their respective domestic arrangements, taking due account of the opinions of the Agency for the Cooperation of Energy Regulators and the regulatory authority in the United Kingdom designated in accordance with Article 310. The Specialised Committee on Energy shall monitor the effective operation of such technical procedures and may recommend that they be updated.

ARTICLE 318

Cooperation between regulatory authorities

1. The Parties shall ensure that the Agency for the Cooperation of Energy Regulators and the regulatory authority in the United Kingdom designated in accordance with Article 310 develop contacts and enter into administrative arrangements as soon as possible in order to facilitate meeting the objectives of this Agreement. The contacts and administrative arrangements shall cover at least the following areas:

(a) electricity and gas markets;

(b) access to networks;

(c) the prevention of market abuse on wholesale electricity and gas markets;

(d) the security of electricity and gas supply;

(e) infrastructure planning;

(f) offshore energy;

(g) the efficient use of electricity and gas interconnectors;

(h) cooperation between transmission system operators; and

(i) gas decarbonisation and gas quality.

The Specialised Committee on Energy shall agree on guidance on the administrative arrangements for such cooperation for dissemination to regulatory authorities as soon as practicable.

2. The administrative arrangements referred to in paragraph 1 shall not involve, or confer a status comparable to, participation in the Agency for the Cooperation of Energy Regulators by the regulatory authority in the United Kingdom designated in accordance with Article 310.

CHAPTER 3

SAFE AND SUSTAINABLE ENERGY

ARTICLE 319

Renewable energy and energy efficiency

1. Each Party shall promote energy efficiency and the use of energy from renewable sources.

Each Party shall ensure that its rules that apply to licencing or equivalent measures applicable to energy from renewable sources are necessary and proportionate.

2. The Union reaffirms the target for the share of gross final energy consumption from renewable energy sources in 2030 as set out in Directive (EU) 2018/2001 of the European Parliament and of the Council[1].

The Union reaffirms its energy efficiency targets for 2030 as set out in the Directive 2012/27/EU of the European Parliament and of the Council[2].

[1] Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ EU L 328, 21.12.2018, p. 82).

[2] Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency (OJ EU L 315, 14.11.2012, p.1).

3. The United Kingdom reaffirms:

(a) its ambition for the share of energy from renewable sources in gross final energy consumption in 2030 as set out in its National Energy and Climate Plan;

(b) its ambition for the absolute level of primary and final energy consumption in 2030 as set out in its National Energy and Climate Plan.

4. The Parties shall keep each other informed in relation to the matters referred to in paragraphs 2 and 3.

ARTICLE 320

Support for renewable energy

1. Each Party shall ensure that support for electricity from renewable sources facilitates the integration of electricity from renewable sources in the electricity market.

2. Biofuels, bioliquids and biomass shall only be supported as renewable energy if they meet robust criteria for sustainability and greenhouse gas emissions saving, which are subject to verification.

3. Each Party shall clearly define any technical specifications which are to be met by renewable energy equipment and systems in order to benefit from support schemes. Such technical specifications shall take into account cooperation developed under Articles 91, 92 and 323.

ARTICLE 321

Cooperation in the development of offshore renewable energy

1. The Parties shall cooperate in the development of offshore renewable energy by sharing best practices and, where appropriate, by facilitating the development of specific projects.

2. Building on the North Seas Energy Cooperation, the Parties shall enable the creation of a specific forum for technical discussions between the European Commission, ministries and public authorities of the Member States, United Kingdom ministries and public authorities, transmission system operators and the offshore energy industry and stakeholders more widely, in relation to offshore grid development and the large renewable energy potential of the North Seas region. That cooperation shall include at least the following areas:

(a) hybrid and joint projects;

(b) maritime spatial planning;

(c) support framework and finance;

(d) best practices on respective onshore and offshore grid planning;

(e) the sharing of information on new technologies; and

(f) the exchange of best practices in relation to the relevant rules, regulations and technical standards.

ARTICLE 322

Offshore risk and safety

1. The Parties shall cooperate and exchange information with the aim of maintaining high levels of safety and environmental protection for all offshore oil and gas operations.

2. The Parties shall take appropriate measures to prevent major accidents from offshore oil and gas operations and to limit the consequences of such accidents.

3. The Parties shall promote the exchange of best practices among their authorities that are competent for the safety and environmental protection of offshore oil and gas operations. The regulation of the safety and environmental protection of offshore oil and gas operations shall be independent from any functions relating to licensing of offshore oil and gas operations.

ARTICLE 323

Cooperation on standards

In accordance with Articles 92 and 98, the Parties shall promote cooperation between the regulators and standardisation bodies located within their respective territories to facilitate the development of international standards with respect to energy efficiency and renewable energy, with a view to contributing to sustainable energy and climate policy.

ARTICLE 324

Research, development and innovation

The Parties shall promote research, development and innovation in the areas of energy efficiency and renewable energy.

CHAPTER 4

ENERGY GOODS AND RAW MATERIALS

ARTICLE 325

Export pricing

A Party shall not impose a higher price for exports of energy goods or raw materials to the other Party than the price charged for those energy goods or raw materials when destined for the domestic market, by means of any measures such as licences or minimum price requirements.

ARTICLE 326

Regulated pricing

If a Party decides to regulate the price of the domestic supply to consumers of electricity or natural gas, it may do so only to achieve a public policy objective, and only by imposing a regulated price that is clearly defined, transparent, non-discriminatory and proportionate.

Article 327

Authorisation for exploration and production of hydrocarbons and generation of electricity

1. If a Party requires an authorisation for exploration or production of hydrocarbons or generation of electricity, that Party shall grant such authorisations on the basis of objective and non-discriminatory criteria which are drawn up and published before the start of the period for submission of applications in accordance with the general conditions and procedures set out in Section 1 of Chapter 5 of Title II of this Heading.

2. Notwithstanding paragraph 1 of this Article and Article 301, each Party may grant authorisations related to exploration for or the production of hydrocarbons without complying with the conditions and procedures related to publication set out in Article 153 on the basis of duly justified exemptions as provided for in applicable legislation.

3. Financial contributions or contributions in kind required from entities to which an authorisation is granted shall not interfere with the management and decision-making process of such entities.

4. Each Party shall provide that an applicant for authorisation has the right to appeal any decision concerning the authorisation to an authority higher than or independent from the authority that issued the decision or to request that such a higher or independent authority review that decision. Each Party shall ensure that the applicant is provided with the reasons for the administrative decision to enable the applicant to have recourse to the procedures for appeal or review if necessary. The applicable rules for appeal or review shall be published.

ARTICLE 328

Safety and integrity of energy equipment and infrastructure

This Title shall not be construed as preventing a Party from adopting temporary measures necessary to protect the safety and preserve the integrity of energy equipment or infrastructure, provided that those measures are not applied in a manner which would constitute a disguised restriction on trade or investment between the Parties.

CHAPTER 5

FINAL PROVISIONS

ARTICLE 329

Effective implementation and amendments

1. The Partnership Council may amend Annex 26 and Annex 28. The Partnership Council may update Annex 27 as necessary to ensure the operation of that Annex over time.

2. The Specialised Committee on Energy may amend Annex 29.

3. The Specialised Committee on Energy shall make recommendations as necessary to ensure the effective implementation of the Chapters of this Title for which it is responsible.

ARTICLE 330

Dialogue

The Parties shall establish a regular dialogue to facilitate meeting the objectives of this Title.

ARTICLE 331

Termination of this Title

1. This Title shall cease to apply on 30 June 2026.

2. Notwithstanding paragraph 1, between 1 July 2026 and 31 December 2026, the Partnership Council may decide that this Title will apply until 31 March 2027. Between 1 April 2027 and 31 December 2027, as well as at any point of time in any subsequent year, the Partnership Council may decide that this Title will apply until 31 March of the following year.

3. This Article applies without prejudice to Articles 509, 521 and 779.

TITLE IX

TRANSPARENCY

ARTICLE 332

Objective

1. Recognising the impact that their respective regulatory environments may have on trade and investment between them, the Parties aim to provide a predictable regulatory environment and efficient procedures for economic operators, especially for small and medium-sized enterprises.

2. The Parties affirm their commitments in relation to transparency under the WTO Agreement, and build on those commitments in the provisions laid down in this Title.

ARTICLE 333

Definition

For the purposes of this Title, "administrative decision" means a decision or action with legal effect that applies to a specific person, good or service in an individual case, and covers the failure to take a decision or take such action when that is so required by the law of a Party.

ARTICLE 334

Scope

This Title applies with respect to Titles I to VIII and Titles X to XII of this Heading and Heading Six.

ARTICLE 335

Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application are promptly published via an officially designated medium, and, where feasible, by electronic means, or are otherwise made available in such a manner as to enable any person to become acquainted with them.

2. To the extent appropriate, each Party shall provide an explanation of the objective of and rationale for measures referred to in paragraph 1.

3 Each Party shall provide a reasonable period of time between publication and entry into force of its laws and regulations, except when this is not possible for reasons of urgency.

ARTICLE 336

Enquiries

1. Each Party shall establish or maintain appropriate and proportionate mechanisms for responding to questions from any person regarding any laws or regulations.

2. Each Party shall promptly provide information and respond to questions by the other Party pertaining to any law or regulation whether in force or planned, unless a specific mechanism is established under another provision of this Agreement.

ARTICLE 337

Administration of measures of general application

1. Each Party shall administer its laws, regulations, procedures and administrative rulings of general application in an objective, impartial, and reasonable manner.

2. When administrative proceedings relating to persons, goods or services of the other Party are initiated in respect of the application of laws or regulations, each Party shall:

(a) endeavour to provide persons who are directly affected by the administrative proceedings with reasonable notice in accordance with its laws and regulations, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated and a general description of any issues in controversy; and

(b) afford such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision insofar as time, the nature of the proceedings and the public interest permit.

ARTICLE 338

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals and procedures for the purpose of the prompt review and, if warranted, correction of administrative decisions. Each Party shall ensure that its tribunals carry out procedures for appeal or review in a non-discriminatory and impartial manner. Those tribunals shall be impartial and independent of the authority entrusted with administrative enforcement.

2. Each Party shall ensure that the parties to the proceedings as referred to in paragraph 1 are provided with a reasonable opportunity to support or defend their respective positions.

3. In accordance with its law, each Party shall ensure that any decisions adopted in proceedings as referred to in paragraph 1 are based on the evidence and submissions of record or, where applicable, on the record compiled by the competent administrative authority.

4. Each Party shall ensure that decisions as referred to in paragraph 3 shall be implemented by the authority entrusted with administrative enforcement, subject to appeal or further review as provided for in its law.

ARTICLE 339

Relation to other Titles

The provisions set out in this Title supplement the specific transparency rules set out in those Titles of this Heading with respect to which this Title applies.

TITLE X

GOOD REGULATORY PRACTICES AND REGULATORY COOPERATION

ARTICLE 340

General principles

1. Each Party shall be free to determine its approach to good regulatory practices under this Agreement in a manner consistent with its own legal framework, practice, procedures and fundamental principles[1] underlying its regulatory system.

2. Nothing in this Title shall be construed as requiring a Party to:

(a) deviate from its domestic procedures for preparing and adopting regulatory measures;

(b) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(c) achieve any particular regulatory outcome.

[1] For the Union, such principles include the precautionary principle.

3. Nothing in this Title shall affect the right of a Party to define or regulate its own levels of protection in pursuit or furtherance of its public policy objectives in areas such as:

(a) public health;

(b) human, animal or plant life and health, and animal welfare;

(c) occupational health and safety;

(d) labour conditions;

(e) environment including climate change;

(f) consumer protection;

(g) social protection and social security;

(h) data protection and cybersecurity;

(i) cultural diversity;

(j) integrity and stability of the financial system, and protection of investors;

(k) energy security; and

(l) anti-money laundering.

For greater certainty, for the purposes of in particular point (c) and (d) of the first subparagraph, the different models of industrial relations, including the role and autonomy of social partners, as provided for in the law or national practices of a Party, shall continue to apply, including laws and practices concerning collective bargaining and the enforcement of collective agreements.

4. Regulatory measures shall not constitute a disguised barrier to trade.

ARTICLE 341

Definitions

For the purposes of this Title, the following definitions apply:

(a) "regulatory authority" means:

(i) for the Union, the European Commission; and

(ii) for the United Kingdom, Her Majesty's Government of the United Kingdom of Great Britain and Northern Ireland, and the devolved administrations of the United Kingdom.

(b) "regulatory measures" means:

(i) for the Union:

(A) regulations and directives, as provided for in Article 288 TFEU; and

(B) implementing and delegated acts, as provided for in Articles 290 and 291 TFEU, respectively; and

(ii) for the United Kingdom:

(A) primary legislation; and

(B) secondary legislation.

ARTICLE 342

Scope

1. This Title applies to regulatory measures proposed or issued, as relevant, by the regulatory authority of each Party in respect of any matter covered by Titles I to IX, Title XI and Title XII of this Heading and Heading Six.

2. Articles 351 and 352 also apply to other measures of general application issued or proposed by the regulatory authority of a Party in respect of any matter covered by the Titles referred to in paragraph 1 of this Article which are relevant to regulatory cooperation activities, such as guidelines, policy documents or recommendations.

3. This Title does not apply to regulatory authorities and regulatory measures, regulatory practices or approaches of the Member States.

4. Any specific provisions in the Titles referred to in paragraph 1 of this Article shall prevail over the provisions of this Title to the extent necessary for the application of the specific provisions.

ARTICLE 343

Internal coordination

Each Party shall have in place internal coordination or review processes or mechanisms with respect to regulatory measures that its regulatory authority is preparing. Such processes or mechanisms should seek, inter alia, to:

(a) foster good regulatory practices, including those set forth in this Title;

(b) identify and avoid unnecessary duplication and inconsistent requirements between the Party's own regulatory measures;

(c) ensure compliance with the Party's international trade and investment obligations; and

(d) promote the consideration of the impact of the regulatory measures under preparation, including the impact on small and medium-sized enterprises[1], in accordance with its respective rules and procedures.

ARTICLE 344

Description of processes and mechanisms

Each Party shall make publicly available descriptions of the processes or mechanisms used by its regulatory authority to prepare, evaluate or review regulatory measures. Those descriptions shall refer to relevant rules, guidelines or procedures, including those regarding opportunities for the public to provide comments.

[1] For the United Kingdom, "small and medium-sized enterprises" means small and micro-sized businesses.

ARTICLE 345

Early information on planned regulatory measures

1. Each Party shall make publicly available, in accordance with its respective rules and procedures on at least an annual basis, a list of planned major[1] regulatory measures that its regulatory authority reasonably expects to propose or adopt within a year. The regulatory authority of each Party may determine what constitutes a major regulatory measure for the purposes of its obligations under this Title.

2. With respect to each major regulatory measure included in the list referred to in paragraph 1, each Party should also make publicly available, as early as possible:

(a) a brief description of its scope and objectives; and

(b) if available, the estimated time for its adoption, including any opportunities for public consultation.

[1] In the case of the United Kingdom, major regulatory measures shall be understood as significant regulatory measures in accordance with the definition of such measures in the United Kingdom's rules and procedures.

ARTICLE 346

Public consultation

1. When preparing a major regulatory measure, each Party, in accordance with its respective rules and procedures, shall ensure that its regulatory authority:

(a) publishes either the draft regulatory measure or consultation documents providing sufficient details about the regulatory measure under preparation to allow any person to assess whether and how that person's interests might be significantly affected;

(b) offers, on a non-discriminatory basis, reasonable opportunities for any person to provide comments; and

(c) considers the comments received.

2. Each Party shall ensure that its regulatory authority makes use of electronic means of communication and shall seek to maintain online services that are available to the public free of charge for the purposes of publishing the relevant regulatory measures or documents of the kind referred to in point (a) of paragraph 1 and of receiving comments related to public consultations.

3. Each Party shall ensure that its regulatory authority makes publicly available, in accordance with its respective rules and procedures, a summary of the results of the public consultations referred to in this Article.

ARTICLE 347

Impact assessment

1. Each Party affirms its intention to ensure that its regulatory authority carries out, in accordance with its respective rules and procedures, impact assessments for any major regulatory measures it prepares. Such rules and procedures may provide for exceptions.

2. When carrying out an impact assessment, each Party shall ensure that its regulatory authority has processes and mechanisms in place that promote the consideration of the following factors:

(a) the need for the regulatory measure, including the nature and the significance of the problem that the regulatory measure intends to address;

(b) any feasible and appropriate regulatory or non-regulatory options that would achieve the Party's public policy objectives, including the option of not regulating;

(c) to the extent possible and relevant, the potential social, economic and environmental impact of those options, including the impact on international trade and investment and, in accordance with its respective rules and procedures, the impact on small and medium-sized enterprises; and

(d) where appropriate, how the options under consideration relate to relevant international standards, including the reasons for any divergence.

3. With respect to an impact assessment that a regulatory authority has conducted for a regulatory measure, each Party shall ensure that its regulatory authority prepares a final report detailing the factors it considered in its assessment and its relevant findings. To the extent possible, each Party shall make such reports publicly available no later than when the proposal for a regulatory measure as referred to in point (b)(i)(A) or (b)(ii)(A) of Article 341 or a regulatory measure as referred to in point (b)(i)(B) or (b)(ii)(B) of that Article has been made publicly available.

ARTICLE 348

Retrospective evaluation

1. Each Party shall ensure that its regulatory authority has in place processes or mechanisms for the purpose of carrying out periodic retrospective evaluations of regulatory measures in force, where appropriate.

2. When conducting a periodic retrospective evaluation, each Party shall endeavour to consider whether there are opportunities to more effectively achieve its public policy objectives and to reduce unnecessary regulatory burdens, including on small and medium-sized enterprises.

3. Each Party shall ensure that its regulatory authority makes publicly available any existing plans for and the results of such retrospective evaluations.

ARTICLE 349

Regulatory register

Each Party shall ensure that regulatory measures that are in effect are published in a designated register that identifies regulatory measures and that is publicly available online free of charge. The register should allow searches for regulatory measures by citations or by word. Each Party shall periodically update its register.

ARTICLE 350

Exchange of information on good regulatory practices

The Parties shall endeavour to exchange information on their good regulatory practices as set out in this Title, including in the Trade Specialised Committee on Regulatory Cooperation.

ARTICLE 351

Regulatory cooperation activities

1. The Parties may engage in regulatory cooperation activities on a voluntary basis, without prejudice to the autonomy of their own decision-making and their respective legal orders. A Party may refuse to engage in or it may withdraw from regulatory cooperation activities. A Party that refuses to engage in or that withdraws from regulatory cooperation activities should explain the reasons for its decision to the other Party.

2. Each Party may propose a regulatory cooperation activity to the other Party. It shall present its proposal via the contact point designated in accordance with Article 353. The other Party shall review that proposal within a reasonable period and shall inform the proposing Party whether it considers the proposed activity to be suitable for regulatory cooperation.

3. In order to identify activities that are suitable for regulatory cooperation, each Party shall consider:

(a) the list referred to in Article 345(1); and

(b) proposals for regulatory cooperation activities submitted by persons of a Party that are substantiated and accompanied by relevant information.

4. If the Parties decide to engage in a regulatory cooperation activity, the regulatory authority of each Party shall endeavour, where appropriate:

(a) to inform the regulatory authority of the other Party about the preparation of new or the revision of existing regulatory measures and other measures of general application referred to in Article 342(2) that are relevant to the regulatory cooperation activity;

(b) on request, to provide information and discuss regulatory measures and other measures of general application referred to in Article 342(2) that are relevant to the regulatory cooperation activity; and

(c) when preparing new or revising existing regulatory measures or other measures of general application referred to in Article 342(2), consider, to the extent feasible, any regulatory approach by the other Party on the same or a related matter.

ARTICLE 352

Trade Specialised Committee on Regulatory Cooperation

1. The Trade Specialised Committee on Regulatory Cooperation shall have the following functions:

(a) enhancing and promoting good regulatory practices and regulatory cooperation between the Parties;

(b) exchanging views with respect to the cooperation activities proposed or carried out under Article 351;

(c) encouraging regulatory cooperation and coordination in international fora, including, when appropriate, periodic bilateral exchanges of information on relevant ongoing or planned activities.

2. The Trade Specialised Committee on Regulatory Cooperation may invite interested persons to participate in its meetings.

ARTICLE 353

Contact points

Within a month after the entry into force of this Agreement, each Party shall designate a contact point to facilitate the exchange of information between the Parties.

ARTICLE 354

Non-application of dispute settlement

Title I of Part Six does not apply in respect of disputes regarding the interpretation and application of this Title.

TITLE XI

LEVEL PLAYING FIELD FOR OPEN AND FAIR COMPETITION AND SUSTAINABLE DEVELOPMENT

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 355

Principles and objectives

1. The Parties recognise that trade and investment between the Union and the United Kingdom under the terms set out in this Agreement, require conditions that ensure a level playing field for open and fair competition between the Parties and that ensure that trade and investment take place in a manner conducive to sustainable development.

2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing, and affirm their commitment to promoting the development of international trade and investment in a way that contributes to the objective of sustainable development.

3. Each Party reaffirms its ambition of achieving economy-wide climate neutrality by 2050.

4. The Parties affirm their common understanding that their economic relationship can only deliver benefits in a mutually satisfactory way if the commitments relating to a level playing field for open and fair competition stand the test of time, by preventing distortions of trade or investment, and by contributing to sustainable development. However the Parties recognise that the purpose of this Title is not to harmonise the standards of the Parties. The Parties are determined to maintain and improve their respective high standards in the areas covered by this Title.

ARTICLE 356

Right to regulate, precautionary approach[1] and scientific and technical information

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Title, to determine the levels of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including its commitments under this Title.

2. The Parties acknowledge that, in accordance with the precautionary approach, where there are reasonable grounds for concern that there are potential threats of serious or irreversible damage to the environment or human health, the lack of full scientific certainty shall not be used as a reason for preventing a Party from adopting appropriate measures to prevent such damage.

[1] For greater certainty, in relation to the implementation of this Agreement in the territory of the Union, the precautionary approach refers to the precautionary principle.

3. When preparing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall take into account relevant and available scientific and technical information, international standards, guidelines and recommendations.

ARTICLE 357

Dispute settlement

Title I of Part Six does not apply to this Chapter, except for Article 356(2). Articles 408 and 409 apply to Article 355(3).

CHAPTER 2

COMPETITION POLICY

ARTICLE 358

Principles and definitions

1. The Parties recognise the importance of free and undistorted competition in their trade and investment relations. The Parties acknowledge that anticompetitive business practices may distort the proper functioning of markets and undermine the benefits of trade liberalisation.

2. For the purposes of this Chapter, an "economic actor" means an entity or a group of entities constituting a single economic entity, regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market.

ARTICLE 359

Competition law

1. In recognition of the principles set out in Article 358, each Party shall maintain a competition law which effectively addresses the following anticompetitive business practices:

(a) agreements between economic actors, decisions by associations of economic actors and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuse by one or more economic actors of a dominant position; and

(c) for the United Kingdom, mergers or acquisitions and, for the Union, concentrations, between economic actors which may have significant anticompetitive effects.

2. The competition law referred to in paragraph 1 shall apply to all economic actors irrespective of their nationality or ownership status.

3. Each Party may provide for exemptions from its competition law in pursuit of legitimate public policy objectives, provided that those exemptions are transparent and are proportionate to those objectives.

ARTICLE 360

Enforcement

1. Each Party shall take appropriate measures to enforce its competition law in its territory.

2. Each Party shall maintain an operationally independent authority or authorities competent for the effective enforcement of its competition law.

3. Each Party shall apply its competition law in a transparent and non-discriminatory manner, respecting the principles of procedural fairness, including the rights of defence of the economic actors concerned, irrespective of their nationality or ownership status.

ARTICLE 361

Cooperation

1. To achieve the objectives of this Chapter and to enhance the effective enforcement of their respective competition law, the Parties recognise the importance of cooperation between their respective competition authorities with regard to developments in competition policy and enforcement activities.

2. For the purposes of paragraph 1, the European Commission or the competition authorities of the Member States, on the one side, and the United Kingdom's competition authority or authorities, on the other side, shall endeavour to cooperate and coordinate, with respect to their enforcement activities concerning the same or related conduct or transactions, where doing so is possible and appropriate.

3. To facilitate the cooperation and coordination referred to in paragraphs 1 and 2, the European Commission and the competition authorities of the Member States, on the one side, and the United Kingdom's competition authority or authorities, on the other side, may exchange information to the extent permitted by each Party's law.

4. To implement the objectives of this Article, the Parties may enter into a separate agreement on cooperation and coordination between the European Commission, the competition authorities of the Member States and the United Kingdom's competition authority or authorities, which may include conditions for the exchange and use of confidential information.

ARTICLE 362

Dispute settlement

This Chapter shall not be subject to dispute settlement under Title I of Part Six.

CHAPTER 3

SUBSIDY CONTROL

ARTICLE 363

Definitions

1. For the purposes of this Chapter, the following definitions apply:

(a) "economic actor" means an entity or a group of entities constituting a single economic entity, regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market;

(b) "subsidy" means financial assistance which:

(i) arises from the resources of the Parties, including:

(A) a direct or contingent transfer of funds such as direct grants, loans or loan guarantees;

(B) the forgoing of revenue that is otherwise due; or

(C) the provision of goods or services, or the purchase of goods or services;

(ii) confers an economic advantage on one or more economic actors;

(iii) is specific insofar as it benefits, as a matter of law or fact, certain economic actors over others in relation to the production of certain goods or services; and

(iv) has, or could have, an effect on trade or investment between the Parties.

2. For the purposes of point (b)(iii) of paragraph 1:

(a) a tax measure shall not be considered as specific unless:

(i) certain economic actors obtain a reduction in the tax liability that they otherwise would have borne under the normal taxation regime; and

(ii) those economic actors are treated more advantageously than others in a comparable position within the normal taxation regime; for the purposes of this point, a normal taxation regime is defined by its internal objective, by its features (such as the tax base, the taxable person, the taxable event or the tax rate) and by an authority which is autonomous institutionally, procedurally, economically and financially and has the competence to design the features of the taxation regime;

(b) notwithstanding point (a), a subsidy shall not be regarded as specific if it is justified by principles inherent to the design of the general system; in the case of tax measures, examples of such inherent principles are the need to fight fraud or tax evasion, administrative manageability, the avoidance of double taxation, the principle of tax neutrality, the progressive nature of income tax and its redistributive purpose, or the need to respect taxpayers' ability to pay;

(c) notwithstanding point (a), special purpose levies shall not be regarded as specific if their design is required by non-economic public policy objectives, such as the need to limit the negative impacts of certain activities or products on the environment or human health, insofar as the public policy objectives are not discriminatory[1].

[1] For this purpose, discrimination means that there is less favourable treatment of an economic actor compared with others in like situations and that that differential treatment is not justified by objective criteria.

ARTICLE 364

Scope and exceptions

1. Articles 366, 367 and 374 do not apply to subsidies granted to compensate the damage caused by natural disasters or other exceptional non-economic occurrences.

2. Nothing in this Chapter prevents the Parties from granting subsidies of a social character that are targeted at final consumers.

3. Subsidies that are granted on a temporary basis to respond to a national or global economic emergency shall be targeted, proportionate and effective in order to remedy that emergency. Articles 367 and 374 do not apply to such subsidies.

4. This Chapter does not apply to subsidies where the total amount granted to a single economic actor is below 325 000 Special Drawing Rights over any period of three fiscal years. The Partnership Council may amend this threshold.

5. This Chapter does not apply to subsidies that are subject to the provisions of Part IV or Annex 2 of the Agreement on Agriculture and subsidies related to trade in fish and fish products.

6. This Chapter does not apply to subsidies related to the audio-visual sector.

7. Article 371 does not apply to subsidies financed by resources of a Party at supranational level.

8. For the purposes of subsidies to air carriers, any reference to "effect on trade or investment between the Parties" in this Chapter shall be read as "effect on competition between air carriers of the Parties in the provision of air transport services", including those air transport services not covered under Title I of Heading Two.

ARTICLE 365

Services of public economic interest

1. Subsidies granted to economic actors assigned with particular tasks in the public interest, including public service obligations, are subject to Article 366 insofar as the application of the principles set out in that Article does not obstruct the performance in law or fact of the particular task assigned to the economic actor concerned. The task shall be assigned in advance in a transparent manner.

2. The Parties shall ensure that the amount of compensation granted to an economic actor that is assigned with a task in the public interest is limited to what is necessary to cover all or part of the costs incurred in the discharge of that task, taking into account the relevant receipts and a reasonable profit for discharging that task. The Parties shall ensure that the compensation granted is not used to cross-subsidise activities falling outside the scope of the assigned task. Compensation below 15 million Special Drawing Rights per task shall not be subject to the obligations under Article 369. The Partnership Council may amend this threshold.

3. This Chapter does not apply where the total compensation to an economic actor providing tasks in the public interest is below 750 000 Special Drawing Rights over any period of three fiscal years. The Partnership Council may amend this threshold.

ARTICLE 366

Principles

1. With a view to ensuring that subsidies are not granted where they have or could have a material effect on trade or investment between the Parties, each Party shall have in place and maintain an effective system of subsidy control that ensures that the granting of a subsidy respects the following principles:

(a) subsidies pursue a specific public policy objective to remedy an identified market failure or to address an equity rationale such as social difficulties or distributional concerns ("the objective");

(b) subsidies are proportionate and limited to what is necessary to achieve the objective;

(c) subsidies are designed to bring about a change of economic behaviour of the beneficiary that is conducive to achieving the objective and that would not be achieved in the absence of subsidies being provided;

(d) subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy;

(e) subsidies are an appropriate policy instrument to achieve a public policy objective and that objective cannot be achieved through other less distortive means;

(f) subsidies' positive contributions to achieving the objective outweigh any negative effects, in particular the negative effects on trade or investment between the Parties.

2. Without prejudice to paragraph 1 of this Article, each Party shall apply the conditions set out in Article 367, where relevant, if the subsidies concerned have or could have a material effect on trade or investment between the Parties.

3. It is for each Party to determine how its obligations under paragraphs 1 and 2 are implemented in the design of its subsidy control system in its own domestic law, provided that each Party shall ensure that the obligations under paragraphs 1 and 2 are implemented in its law in such a manner that the legality of an individual subsidy will be determined by the principles.

ARTICLE 367

Prohibited subsidies and subsidies subject to conditions

1. The categories of the subsidies referred to in Article 366(2) and the conditions to be applied to them are as follows. The Partnership Council may update these provisions as necessary to ensure the operation of this Article over time.

Subsidies in the form of unlimited guarantees

2. Subsidies in the form of a guarantee of debts or liabilities of an economic actor without any limitation as to the amount of those debts and liabilities or the duration of that guarantee shall be prohibited.

Rescue and restructuring

3. Subsidies for restructuring an ailing or insolvent economic actor without the economic actor having prepared a credible restructuring plan shall be prohibited. The restructuring plan shall be based on realistic assumptions with a view to ensuring the return to long-term viability of the ailing or insolvent economic actor within a reasonable time period. During the preparation of the restructuring plan, the economic actor may receive temporary liquidity support in the form of loans or loan guarantees. Except for small and medium-sized enterprises, an economic actor or its owners, creditors or new investors shall contribute significant funds or assets to the cost of restructuring. For the purposes of this paragraph, an ailing or insolvent economic actor is one that would almost certainly go out of business in the short to medium term without the subsidy.

4. Other than in exceptional circumstances, subsidies for the rescue and restructuring of insolvent or ailing economic actors should only be allowed if they contribute to an objective of public interest by avoiding social hardship or preventing a severe market failure, in particular with regard to job losses or disruption of an important service that is difficult to replicate. Except in the case of unforeseeable circumstances not caused by the beneficiary, they should not be granted more than once in any five year period.

5. Paragraphs 3 and 4 do not apply to subsidies to ailing or insolvent banks, credit institutions and insurance companies.

Banks, credit institutions and insurance companies

6. Without prejudice to Article 184, subsidies to restructure banks, credit institutions and insurance companies may only be granted on the basis of a credible restructuring plan that restores long-term viability. If a return to long-term viability cannot be credibly demonstrated, any subsidy to banks, credit institutions and insurance companies shall be limited to what is needed to ensure their orderly liquidation and exit from the market while minimising the amount of the subsidy and its negative effect on trade or investment between the Parties.

7. It shall be ensured that the granting authority is properly remunerated for the restructuring subsidy and that the beneficiary, its shareholders, its creditors or the business group to which the beneficiary belongs, contribute significantly to the restructuring or liquidation costs from their own resources. Subsidies to support liquidity provisions shall be temporary, shall not be used to absorb losses and shall not become capital support. Proper remuneration shall be paid to the granting authority for the subsidies granted to support liquidity provisions.

Export subsidies

8. Subsidies that are contingent in law or in fact[1], whether solely or as one of several other conditions, upon export performance relating to goods or services, shall be prohibited, except in relation to:

(a) short-term credit insurance for non-marketable risks; or

(b) export credits and export credit guarantee or insurance programmes that are permissible in accordance with the SCM Agreement, read with any adjustments necessary for context.

[1] For greater certainty, this standard is met when the facts demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings. The mere fact that a subsidy is granted to economic actors which export shall not for that reason alone be considered to be an export subsidy within the meaning of this provision.

9. For the purposes of point (a) of paragraph 8, "marketable risk" means commercial and political risks with a maximum risk period of less than two years on public and non-public buyers in marketable risk countries[1]. A country may be understood to be temporarily removed from the group of marketable risk countries if there is a lack of sufficient private market capacity because of:

(a) a significant contraction of private credit insurance capacity;

(b) a significant deterioration of sovereign sector rating; or

(c) a significant deterioration of corporate sector performance.

10. Such temporary removal of a marketable risk country shall take effect, as far as a Party is concerned, in accordance with a decision of that Party on the basis of the criteria in paragraph 9, and only if that Party adopts such a decision. The publication of that decision shall be deemed to constitute notice to the other Party of such temporary removal as far as the former Party is concerned.

11. If a subsidised insurer provides export credit insurance, any insurance for marketable risks shall be provided on a commercial basis. In such a case, the insurer shall not directly or indirectly benefit from subsidies for the provision of insurance for marketable risks.

[1] The marketable risk countries are the United Kingdom, the Member States of the Union, Australia, Canada, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States of America.

Subsidies contingent upon the use of domestic content

12. Without prejudice to Articles 132 and 133, subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods or services shall be prohibited.

Large cross-border or international cooperation projects

13. Subsidies may be granted in the context of large cross-border or international cooperation projects, such as those for transport, energy, the environment, research and development, and first deployment projects to incentivise the emergence and deployment of new technologies (excluding manufacturing). The benefits of such cross-border or international cooperation projects must not be limited to the economic actors or to the sector or the States participating, but must have wider benefit and relevance through spillover effects that do not exclusively accrue to the State that grants the subsidy, the relevant sector and beneficiary.

Energy and environment

14. The Parties recognise the importance of a secure, affordable and sustainable energy system and environmental sustainability, notably in relation to the fight against climate change which represents an existential threat to humanity. Therefore, without prejudice to Article 366, subsidies in relation to energy and environment shall be aimed at, and incentivise the beneficiary in, delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market or increasing the level of environmental protection compared to the level that would be achieved in absence of the subsidy. Such subsidies shall not relieve the beneficiary from liabilities arising from its responsibilities as a polluter under the law of the relevant Party.

Subsidies to air carriers for the operation of routes

15. Subsidies shall not be granted to an air carrier[1] for the operation of routes except:

(a) where there is a public service obligation, in accordance with Article 365;

(b) in special cases where this funding provides benefits for society at large; or

(c) as start-up subsidies for opening new routes to regional airports provided that such subsidies increase the mobility of citizens and stimulate regional development.

[1] For greater certainty, this is without prejudice to Article 364(1) and (2).

ARTICLE 368

Use of subsidies

Each Party shall ensure that economic actors use subsidies only for the specific purpose for which they are granted.

ARTICLE 369

Transparency

1. With respect to any subsidy granted or maintained within its territory, each Party shall within six months from the granting of the subsidy make publicly available, on an official website or a public database, the following information:

(a) the legal basis and policy objective or purpose of the subsidy;

(b) the name of the recipient of the subsidy when available;

(c) the date of the grant of the subsidy, the duration of the subsidy and any other time limits attached to the subsidy; and

(d) the amount of the subsidy or the amount budgeted for the subsidy.

2. For subsidies in the form of tax measures, information shall be made public within one year from the date the tax declaration is due. The transparency obligations for subsidies in the form of tax measures concern the same information as listed in paragraph 1, except for the information required under point (d) of that paragraph, which may be provided as a range.

3. In addition to the obligation set out in paragraph 1, the Parties shall make subsidy information available in accordance with paragraph 4 or 5.

4. For the Union, compliance with paragraph 3 of this Article means that with respect to any subsidy granted or maintained within its territory, within six months from the grant of the subsidy, information is made publicly available, on an official website or a public database, that allows interested parties to assess compliance with the principles set out in Article 366.

5. For the United Kingdom, compliance with paragraph 3 means that the United Kingdom shall ensure that:

(a) if an interested party communicates to the granting authority that it may apply for a review by a court or tribunal of:

(i) the grant of a subsidy by a granting authority; or

(ii) any relevant decision by the granting authority or the independent body or authority;

(b) then, within 28 days of the request being made in writing, the granting authority, independent body or authority shall provide that interested party with the information that allows the interested party to assess the application of the principles set out in Article 366, subject to any proportionate restrictions which pursue a legitimate objective, such as commercial sensitivity, confidentiality or legal privilege.

The information referred to in point (b) of the first subparagraph shall be provided to the interested party for the purposes of enabling it to make an informed decision as to whether to make a claim or to understand and properly identify the issues in dispute in the proposed claim.

6. For the purposes of this Article and Articles 372 and 373, "interested party" means any natural or legal person, economic actor or association of economic actors whose interest might be affected by the granting of a subsidy, in particular the beneficiary, economic actors competing with the beneficiary or relevant trade associations.

7. The obligations in this Article are without prejudice to the obligations of the Parties under their respective laws concerning the freedom of information or access to documents.

ARTICLE 370

Consultations on subsidy control

1. If a Party considers that a subsidy has been granted by the other Party or that there is clear evidence that the other Party intends to grant a subsidy and that the granting of the subsidy has or could have a negative effect on trade or investment between the Parties, it may request to the other Party to provide an explanation of how the principles set out in Article 366 have been respected with regard to that subsidy.

2. A Party may also request the information listed in Article 369(1) to the extent that the information has not already been made publicly available on an official website or a public database as referred to in Article 369(1), or to the extent that the information has not been made available in an easily and readily accessible manner.

3. The other Party shall provide the requested information in writing no later than 60 days of the receipt of the request. If any requested information cannot be provided, that Party shall explain the absence of such information in its written response.

4. If after receiving the information requested, the requesting Party still considers that the subsidy granted or intended to be granted by the other Party has or could have a negative effect on trade or investment between the Parties, the requesting Party may request consultations within the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development. The request shall be in writing and shall include an explanation of the requesting Party's reasons for requesting the consultation.

5. The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development shall make every attempt to arrive at a mutually satisfactory resolution of the matter. It shall hold its first meeting within 30 days of the request for consultation.

6. The timeframes for the consultations referred to in paragraphs 3 and 5 may be extended by agreement between the Parties.

ARTICLE 371

Independent authority or body and cooperation

1. Each Party shall establish or maintain an operationally independent authority or body with an appropriate role in its subsidy control regime. That independent authority or body shall have the necessary guarantees of independence in exercising its operational functions and shall act impartially.

2. The Parties shall encourage their respective independent authorities or bodies to cooperate with each other on issues of common interest within their respective functions, including the application of Articles 363 to 369 as applicable, within the limits established by their respective legal frameworks. The Parties, or their respective independent authorities or bodies, may agree upon a separate framework regarding cooperation between those independent authorities.

ARTICLE 372

Courts and tribunals

1. Each Party shall ensure, in accordance with its general and constitutional laws and procedures, that its courts or tribunals are competent to:

(a) review subsidy decisions taken by a granting authority or, where relevant, the independent authority or body for compliance with that Party's law implementing Article 366;

(b) review any other relevant decisions of the independent authority or body and any relevant failure to act;

(c) impose remedies that are effective in relation to point (a) or (b), including the suspension, prohibition or requirement of action by the granting authority, the award of damages, and the recovery of a subsidy from its beneficiary, if and to the extent that those remedies are available under the respective laws on the date of entry into force of this Agreement;

(d) hear claims from interested parties in respect of subsidies that are subject to this Chapter where an interested party has standing to bring a claim in respect of a subsidy under that Party's law.

2. Each Party shall have the right to intervene with the permission, where required, of the court or tribunal concerned, in accordance with the general laws and procedures of the other Party in cases referred to in paragraph 1.

3. Without prejudice to the obligations to maintain or, where necessary, to create the competencies, remedies and rights of intervention referred to in paragraphs 1 and 2 of this Article, and Article 373, nothing in this Article requires either Party to create rights of action, remedies, procedures, or widen the scope or grounds of review of decisions of their respective public authorities, beyond those existing under its law on the date of entry into force of this Agreement.

4. Nothing in this Article requires either Party to widen the scope or grounds of review by its courts and tribunals of Acts of the United Kingdom Parliament, of acts of the European Parliament and the Council of the European Union, or of acts of the Council of the European Union beyond those existing under its law on the date of entry into force of this Agreement.[1]

[1] For greater certainty, the law of the United Kingdom for the purposes of this Article does not include any law [i] having effect by virtue of section 2(1) of the European Communities Act 1972, as saved by section 1A of the European Union (Withdrawal) Act 2018, or [ii] passed or made under, or for a purpose specified in, section 2(2) of the European Communities Act 1972.

ARTICLE 373

Recovery

1. Each Party shall have in place an effective mechanism of recovery in respect of subsidies in accordance with the following provisions, without prejudice to other remedies that exist in that Party's law.[1]

2. Each Party shall ensure that, provided that the interested party as defined in Article 369 has challenged a decision to grant a subsidy before a court or a tribunal within the specified time period, as defined in paragraph 3 of this Article, recovery may be ordered if a court or tribunal of a Party makes a finding of a material error of law, in that:

(a) a measure constituting a subsidy was not treated by the grantor as a subsidy;

(b) the grantor of a subsidy has failed to apply the principles set out in Article 366, as implemented in that Party's law, or applied them in a manner which falls below the standard of review applicable in that Party's law; or

[1] For the United Kingdom, this Article requires a new remedy of recovery which would be available at the end of a successful judicial review, in accordance with the standard of review under national law, commenced within the specified time period; such review is not expanded in any other way, in accordance with Article 372(3). No beneficiary would be able to raise a legitimate expectation to resist such recovery.

(c) the grantor of a subsidy has, by deciding to grant that subsidy, acted outside the scope of its powers or misused those powers in relation to the principles set out in Article 366, as implemented in that Party's law.

3. For the purposes of this Article, the specified time period shall be determined as follows:

(a) for the Union, it shall commence on the date on which information specified in Article 369(1), (2) and (4) was made available on the official website or public database and be no shorter than one month.

(b) for the United Kingdom:

(i) it shall commence on the date on which information specified in Article 369(1) and (2) was made available on the official website or public database;

(ii) it shall terminate one month later, unless, prior to that date, the interested party has requested information under the process specified in Article 369(5);

(iii) once the interested party has received the information identified in point (b) of Article 369(5) sufficient for the purposes identified in Article 369(5), there shall be a further one month period at the end of which the specified time period shall terminate;

(iv) the date of receipt of the information in point (iii) will be the date on which the granting authority certifies that it has provided the information identified in point (b) of Article 369(5) sufficient for those purposes, irrespective of further or clarificatory correspondence after that date;

(v) the time periods identified in points (i), (ii) and (iii) may be increased by legislation.

4. For the purposes of point (b) of paragraph 3 in relation to schemes, the specified time period commences when the information under point (b) of this paragraph is published, not when subsequent payments are made, where:

(a) a subsidy is ostensibly granted in accordance with the terms of a scheme;

(b) the maker of the scheme has made publicly available the information required to be published by Article 369(1) and (2) in respect of the scheme; and

(c) the information provided about the scheme under point (b) of this paragraph contains information about the subsidy that would enable an interested party to determine whether it may be affected by the scheme, which at a minimum shall cover the purpose of the subsidy, the categories of beneficiary, the terms and conditions of eligibility for the subsidy and the basis for the calculation of the subsidy (including any relevant conditions relating to subsidy ratios or amounts).

5. For the purposes of this Article, recovery of a subsidy is not required where a subsidy is granted on the basis of an Act of the Parliament of the United Kingdom, of an act of the European Parliament and of the Council of the European Union or of an act of the Council of the European Union.

6. Nothing in this Article prevents a Party from choosing to provide additional situations where recovery is a remedy, beyond those specified in this Article, in accordance with its law.

7. The Parties recognise that recovery is an important remedial tool in any system of subsidy control. At the request of either Party, the Parties shall within the Partnership Council consider additional or alternative mechanisms for recovery, as well as corresponding amendments to this Article. Within the Partnership Council, either Party may propose amendments to allow for different arrangements for their respective mechanisms for recovery. A Party shall consider a proposal made by the other Party in good faith and agree to it, provided that that Party considers that it contains arrangements which represent at least as effective a means of securing recovery as the existing mechanisms of the other Party. The Partnership Council may then make corresponding amendments to this Article.[1]

[1] The Parties note that the United Kingdom will implement a new system of subsidy control subsequent to the entry into force of this Agreement.

ARTICLE 374

Remedial measures

1. A Party may deliver to the other Party a written request for information and consultations regarding a subsidy that it considers causes, or there is a serious risk that it will cause, a significant negative effect on trade or investment between the Parties. The requesting Party should provide in that request all relevant information to enable the Parties to find a mutually acceptable solution, including a description of the subsidy and the concerns of the requesting Party regarding its effect on trade or investment.

2. No later than 30 days from the date of delivery of the request, the requested Party shall deliver a written response providing the requested information to the requesting Party, and the Parties shall enter into consultations, which shall be deemed concluded 60 days from the date of delivery of that request, unless the Parties agree otherwise. Such consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential and shall be without prejudice to the rights of either Party in any further proceedings.

3. No earlier than 60 days from the date of delivery of the request referred to in paragraph 1, the requesting Party may unilaterally take appropriate remedial measures if there is evidence that a subsidy of the requested Party causes, or there is a serious risk that it will cause, a significant negative effect on trade or investment between the Parties.

4. No earlier than 45 days from the date of delivery of the request referred to in paragraph 1, the requesting Party shall notify the requested Party of the remedial measures that it intends to take in accordance with paragraph 3. The requesting Party shall provide all relevant information in relation to the measures that it intends to take to enable the Parties to find a mutually acceptable solution. The requesting Party may not take those remedial measures earlier than 15 days from the date of delivery of the notification of those measures to the requested Party.

5. A Party's assessment of the existence of a serious risk of a significant negative effect shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances that would create a situation in which the subsidy would cause such a significant negative effect must be clearly predictable.

6. A Party's assessment of the existence of a subsidy or of a significant negative effect on trade or investment between the Parties caused by the subsidy shall be based on reliable evidence and not merely on conjecture or remote possibility, and shall relate to identifiable goods, service suppliers or other economic actors, including, if relevant, in the case of subsidy schemes.

7. The Partnership Council may maintain an illustrative list of what would amount to a significant negative effect on trade or investment between the Parties within the meaning of this Article. This shall be without prejudice to the right of the Parties to take remedial measures.

8. The remedial measures taken pursuant to paragraph 3 shall be restricted to what is strictly necessary and proportionate in order to remedy the significant negative effect caused or to address the serious risk of such an effect. Priority shall be given to measures that will least disturb the functioning of this Agreement.

9. Within five days from the date on which the remedial measures referred to in paragraph 3 enter into effect and without having prior recourse to consultations in accordance with Article 738, the notified Party may request, in accordance with Article 739(2), the establishment of an arbitration tribunal by means of a written request delivered to the requesting Party in order for the arbitration tribunal to decide whether:

(a) a remedial measure taken by the requesting Party is inconsistent with paragraph 3 or 8;

(b) the requesting Party did not participate in the consultations after the requested Party delivered the requested information and agreed to the holding of such consultations; or

(c) there was a failure to take or notify a remedial measure in accordance with the time periods referred to in paragraph 3 or 4 respectively.

That request shall not have a suspensive effect on the remedial measures. Furthermore, the arbitration tribunal shall not assess the application by the Parties of Articles 366 and 367.

10. The arbitration tribunal established following the request referred to in paragraph 9 of this Article shall conduct its proceedings in accordance with Article 760 and deliver its final ruling within 30 days from its establishment.

11. In the case of a finding against the respondent Party, the respondent Party shall, at the latest 30 days from the date of delivery of the ruling of the arbitration tribunal, deliver a notification to the complaining Party of any measure that it has taken to comply with that ruling.

12. Following a finding against the respondent Party in the procedure referred to paragraph 10 of this Article, the complaining Party may request the arbitration tribunal, within 30 days from its ruling, to determine a level of suspension of obligations under this Agreement or a supplementing agreement not exceeding the level equivalent to the nullification or impairment caused by the application of the remedial measures, if it finds that the inconsistency of the remedial measures with paragraph 3 or 8 of this Article is significant. The request shall propose a level of suspension of obligations in accordance with the principles set out in Article 761. The complaining Party may suspend obligations under this Agreement or a supplementing agreement in accordance with the level of suspension of obligations determined by the arbitration tribunal. Such suspension shall not be applied sooner than 15 days following such ruling.

13. A Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from taking measures pursuant to this Article, including where those measures consist in the suspension of obligations under this Agreement or under a supplementing agreement.

14. For the purposes of assessing whether imposing or maintaining remedial measures on imports of the same product is restricted to what is strictly necessary or proportionate for the purposes of this Article, a Party:

(a) shall take into account countervailing measures applied or maintained pursuant to Article 32(3); and

(b) may take into account anti-dumping measures applied or maintained pursuant to Article 32(3).

15. A Party shall not apply simultaneously a remedial measure under this Article and a rebalancing measure under Article 411 to remedy the impact on trade or investment caused directly by the same subsidy.

16. If the Party against which remedial measures were taken does not submit a request pursuant to paragraph 9 of this Article within the time period laid down in that paragraph, that Party may initiate the arbitration procedure referred to in Article 739 to challenge a remedial measure on the grounds set out in paragraph 9 of this Article without having prior recourse to consultations in accordance with Article 738. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744.

17. For the purposes of the proceedings under paragraphs 9 and 16, in assessing whether a remedial measure is strictly necessary or proportionate, the arbitration tribunal shall pay due regard to the principles set out in paragraphs 5 and 6, as well as to paragraphs 13, 14 and 15.

ARTICLE 375

Dispute settlement

1. Subject to paragraphs 2 and 3 of this Article, Title I of Part Six applies to disputes between the Parties concerning the interpretation and application of this Chapter, except for Articles 371 and 372.

2. An arbitration tribunal shall have no jurisdiction regarding:

(a) an individual subsidy, including whether such a subsidy has respected the principles set out in Article 366(1), other than with regard to the conditions set out in Article 367(2), Article 367(3), (4) and (5), Article 367(8) to (11) and Article 367(12); and

(b) whether the recovery remedy within the meaning of Article 373 has been correctly applied in any individual case.

3. Title I of Part Six shall apply to Article 374 in accordance with that Article and Article 760.

CHAPTER 4

STATE-OWNED ENTERPRISES, ENTERPRISES GRANTED SPECIAL RIGHTS OR PRIVILEGES AND DESIGNATED MONOPOLIES

ARTICLE 376

Definitions

1. For the purposes of this Chapter, the following definitions apply:

(a) "Arrangement" means the Arrangement on Officially Supported Export Credits, developed within the framework of the OECD or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

(b) "commercial activities" means activities, the end result of which is the production of a good or the supply of a service to be sold in the relevant market in quantities and at prices determined by an enterprise on the basis of the conditions of supply and demand, and which are undertaken with an orientation towards profit-making; activities undertaken by an enterprise which operates on a non-profit basis or a cost-recovery basis are not activities undertaken with an orientation towards profit-making;

(c) "commercial considerations" means considerations of price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise operating according to market economy principles in the relevant business or industry;

(d) "covered entity" means:

(i) a designated monopoly;

(ii) an enterprise granted special rights or privileges; or

(iii) a State-owned enterprise;

(e) "designated monopoly" means an entity, including a consortium or a government agency, that, in a relevant market in the territory of a Party, is designated as the sole supplier or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant; in this context, designate means to establish or authorise a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

(f) "enterprise" means enterprise as defined in point (g) of Article 124;

(g) "enterprise granted special rights or privileges" means any enterprise, public or private, to which a Party has granted special rights or privileges, in law or in fact;

(h) "service supplied in the exercise of governmental authority" means a service supplied in the exercise of governmental authority as defined in GATS;

(i) "special rights or privileges" means rights or privileges by which a Party designates or limits to two or more the number of enterprises authorised to supply a good or service, other than according to objective, proportional and non-discriminatory criteria, substantially affecting the ability of any other enterprise to supply the same good or service in the same geographical area or product market under substantially equivalent conditions;

(j) "State-owned enterprise" means an enterprise in which a Party:

(i) directly owns more than 50 % of the share capital;

(ii) controls, directly or indirectly, the exercise of more than 50 % of the voting rights;

(iii) holds the power to appoint a majority of the members of the board of directors or any other equivalent management body; or

(iv) has the power to exercise control over the enterprise. For the establishment of control, all relevant legal and factual elements shall be taken into account on a case-by-case basis.

ARTICLE 377

Scope

1. This Chapter applies to covered entities, at all levels of government, engaged in commercial activities. If a covered entity engages in both commercial and non-commercial activities, only the commercial activities are covered by this Chapter.

2. This Chapter does not apply to:

(a) covered entities when acting as procuring entities, as defined in each Party's Annexes 1 to 3 to Appendix I to the GPA and paragraph 1 of each Party's respective subsections of Section B of Annex 25, conducting covered procurement as defined in Article 277(2);

(b) any service supplied in the exercise of governmental authority.

3. This Chapter does not apply to a covered entity, if in any one of the three previous consecutive fiscal years the annual revenue derived from the commercial activities of the enterprise or monopoly concerned was less than 100 million Special Drawing Rights.

4. Article 380 does not apply to the supply of financial services by a covered entity pursuant to a government mandate, if that supply of financial services:

(a) supports exports or imports, provided that those services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(b) supports private investment outside the territory of the Party, provided that those services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, if the supply of those services falls within the scope of the Arrangement.

5. Without prejudice to paragraph 3 of this Article, Article 380 does not apply to the following sectors: audio-visual services; national maritime cabotage[1]; and inland waterways transport, as set out in Article 123(5).

6. Article 380 does not apply to the extent that a covered entity of a Party makes purchases or sales of goods or services pursuant to:

(a) any existing non-conforming measure that the Party maintains, continues, renews or amends in accordance with Article 133(1) or 139(1) as set out in its Schedules to Annexes 19 and 20, as applicable; or

(b) any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors, or activities in accordance with Article 133(2) or 139(2) as set out in its Schedules to Annexes 19 and 20, as applicable.

[1] National maritime cabotage covers: for the Union, without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, transportation of passengers or goods between a port or point located in a Member State of the Union and another port or point located in that same Member State of the Union, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in a Member State of the Union; for the United Kingdom, transportation of passengers or goods between a port or point located in the United Kingdom and another port or point located in the United Kingdom, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in the United Kingdom.

ARTICLE 378|

Relationship with the WTO Agreement

The Parties affirm their rights and obligations under paragraphs 1 to 3 of Article XVII of GATT 1994, the Understanding on the Interpretation of Article XVII of the GATT 1994, as well as under paragraphs 1, 2 and 5 of Article VIII of GATS.

ARTICLE 379

General provisions

1. Without prejudice to the rights and obligations of each Party under this Chapter, nothing in this Chapter prevents a Party from establishing or maintaining a covered entity.

2. Neither Party shall require or encourage a covered entity to act in a manner inconsistent with this Chapter.

ARTICLE 380

Non-discriminatory treatment and commercial considerations

1. Each Party shall ensure that each of its covered entities, when engaging in commercial activities:

(a) acts in accordance with commercial considerations in its purchase or sale of a good or service, except to fulfil any terms of its public service mandate that are not inconsistent with point (b) or (c);

(b) in its purchase of a good or service:

(i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party; and

(ii) accords to a good or service supplied by a covered entity in the Party's territory treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party in the relevant market in the Party's territory; and

(c) in its sale of a good or service:

(i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party; and

(ii) accords to a covered entity in the Party's territory, treatment no less favourable than it accords to enterprises of the Party in the relevant market in the Party's territory.[1]

2. Points (b) and (c) of paragraph 1 do not preclude a covered entity from:

(a) purchasing or supplying goods or services on different terms or conditions, including terms or conditions relating to price, provided that those different terms or conditions are in accordance with commercial considerations; or

(b) refusing to purchase or supply goods or services, provided that such refusal is made in accordance with commercial considerations.

[1] For greater certainty, this paragraph shall not apply with respect to the purchase or sale of shares, stock or other forms of equity by a covered entity as a means of its equity participation in another enterprise.

ARTICLE 381

Regulatory framework

1. Each Party shall respect and make best use of relevant international standards including the OECD Guidelines on Corporate Governance of State-Owned Enterprises.

2. Each Party shall ensure that any regulatory body, and any other body exercising a regulatory function, that that Party establishes or maintains:

(a) is independent from, and not accountable to, any of the enterprises regulated by that body; and

(b) in like circumstances, acts impartially with respect to all enterprises regulated by that body, including covered entities; the impartiality with which the body exercises its regulatory functions is to be assessed by reference to a general pattern or practice of that body.

For those sectors in which the Parties have agreed to specific obligations relating to such a body in this Agreement, the relevant provisions of this Agreement shall prevail.

3. Each Party shall apply its laws and regulations to covered entities in a consistent and non-discriminatory manner.

ARTICLE 382

Information exchange

1. A Party which has reason to believe that its interests under this Chapter are being adversely affected by the commercial activities of an entity of the other Party may request the other Party in writing to provide information on the commercial activities of that entity related to the carrying out of the provisions of this Chapter in accordance with paragraph 2.

2. Provided that the request referred to in paragraph 1 includes an explanation of how the activities of the entity may be affecting the interests of the requesting Party under this Chapter and indicates which of the following categories of information is or are to be provided, the requested Party shall provide the information so requested:

(a) the ownership and the voting structure of the entity, indicating the cumulative percentage of shares and the percentage of voting rights that the requested Party and its covered entities cumulatively have in the entity;

(b) a description of any special shares or special voting or other rights that the requested Party or its covered entities hold, to the extent that such rights are different from those attached to the general common shares of the entity;

(c) a description of the organisational structure of the entity and the composition of its board of directors or of any equivalent body;

(d) a description of the government departments or public bodies which regulate or monitor the entity, a description of the reporting requirements imposed on it by those departments or public bodies, and the rights and practices of those departments or public bodies with respect to the appointment, dismissal or remuneration of senior executives and members of its board of directors or any equivalent body;

(e) the annual revenue and total assets of the entity over the most recent three-year period for which information is available;

(f) any exemptions, immunities and related measures from which the entity benefits under the laws and regulations of the requested Party;

(g) any additional information regarding the entity that is publicly available, including annual financial reports and third-party audits.

3. Paragraphs 1 and 2 do not require a Party to disclose confidential information the disclosure of which would be inconsistent with its laws and regulations, would impede law enforcement, or otherwise would be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises.

4. If the requested information is not available, the requested Party shall provide to the requesting Party, in writing, the reasons why that information is not available.

CHAPTER 5

TAXATION

ARTICLE 383

Good governance

The Parties recognise and commit to implementing the principles of good governance in the area of taxation, in particular the global standards on tax transparency and exchange of information and fair tax competition. The Parties reiterate their support for the OECD Base Erosion and Profit Shifting (BEPS) Action Plan and affirm their commitment to implementing the OECD minimum standards against BEPS. The Parties will promote good governance in tax matters, improve international cooperation in the area of taxation and facilitate the collection of tax revenues.

ARTICLE 384

Taxation standards

1. A Party shall not weaken or reduce the level of protection provided for in its legislation at the end of the transition period below the level provided for by the standards and rules which have been agreed in the OECD at the end of the transition period, in relation to:

(a) the exchange of information, whether upon request, spontaneously or automatically, concerning financial accounts, cross-border tax rulings, country-by-country reports between tax administrations, and potential cross-border tax planning arrangements;

(b) rules on interest limitation, controlled foreign companies and hybrid mismatches.

2. A Party shall not weaken or reduce the level of protection provided for in its legislation at the end of the transition period in respect of public country-by-country reporting by credit institutions and investment firms, other than small and non-interconnected investment firms.

ARTICLE 385

Dispute settlement

This Chapter shall not be subject to dispute settlement under Title I of Part Six.

CHAPTER 6

LABOUR AND SOCIAL STANDARDS

ARTICLE 386

Definition

1. For the purposes of this Chapter, "labour and social levels of protection" means the levels of protection provided overall in a Party's law and standards[1], in each of the following areas:

(a) fundamental rights at work;

(b) occupational health and safety standards;

(c) fair working conditions and employment standards;

(d) information and consultation rights at company level; or

(e) restructuring of undertakings.

2. For the Union, "labour and social levels of protection" means labour and social levels of protection that are applicable to and in, and are common to, all Member States.

[1] For greater certainty, this Chapter and Article 411 do not apply to the Parties' law and standards relating to social security and pensions.

ARTICLE 387

Non-regression from levels of protection

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Chapter, to determine the labour and social levels of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including those under this Chapter.

2. A Party shall not weaken or reduce, in a manner affecting trade or investment between the Parties, its labour and social levels of protection below the levels in place at the end of the transition period, including by failing to effectively enforce its law and standards.

3. The Parties recognise that each Party retains the right to exercise reasonable discretion and to make *bona fide* decisions regarding the allocation of labour enforcement resources with respect to other labour law determined to have higher priority, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

4. The Parties shall continue to strive to increase their respective labour and social levels of protection referred to in this Chapter.

ARTICLE 388

Enforcement

For the purposes of enforcement as referred to in Article 387 each Party shall have in place and maintain a system for effective domestic enforcement and, in particular, an effective system of labour inspections in accordance with its international commitments relating to working conditions and the protection of workers; ensure that administrative and judicial proceedings are available that allow public authorities and individuals with standing to bring timely actions against violations of the labour law and social standards; and provide for appropriate and effective remedies, including interim relief, as well as proportionate and dissuasive sanctions. In the domestic implementation and enforcement of Article 387, each Party shall respect the role and autonomy of the social partners at a national level, where relevant, in line with applicable law and practice.

ARTICLE 389

Dispute settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 408, 409 and 410.

CHAPTER 7

ENVIRONMENT AND CLIMATE

ARTICLE 390

Definitions

1. For the purposes of this Chapter, "environmental levels of protection" means the levels of protection provided overall in a Party's law which have the purpose of protecting the environment, including the prevention of a danger to human life or health from environmental impacts, including in each of the following areas:

(a) industrial emissions;

(b) air emissions and air quality;

(c) nature and biodiversity conservation;

(d) waste management;

(e) the protection and preservation of the aquatic environment;

(f) the protection and preservation of the marine environment;

(g) the prevention, reduction and elimination of risks to human health or the environment arising from the production, use, release or disposal of chemical substances; or

(h) the management of impacts on the environment from agricultural or food production, notably through the use of antibiotics and decontaminants.

2. For the Union, "environmental levels of protection" means environmental levels of protection that are applicable to and in, and are common to, all Member States.

3. For the purposes of this Chapter, "climate level of protection" means the level of protection with respect to emissions and removals of greenhouse gases and the phase-out of ozone depleting substances. With regard to greenhouse gases, this means:

(a) for the Union, the 40 % economy-wide 2030 target, including the Union's system of carbon pricing;

(b) for the United Kingdom, the United Kingdom's economy-wide share of this 2030 target, including the United Kingdom's system of carbon pricing.

ARTICLE 391

Non-regression from levels of protection

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Chapter, to determine the environmental levels of protection and climate level of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including those under this Chapter.

2. A Party shall not weaken or reduce, in a manner affecting trade or investment between the Parties, its environmental levels of protection or its climate level of protection below the levels that are in place at the end of the transition period, including by failing to effectively enforce its environmental law or climate level of protection.

3. The Parties recognise that each Party retains the right to exercise reasonable discretion and to make *bona fide* decisions regarding the allocation of environmental enforcement resources with respect to other environmental law and climate policies determined to have higher priorities, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

4. For the purposes of this Chapter, insofar as targets are provided for in a Party's environmental law in the areas listed in Article 390, they are included in a Party's environmental levels of protection at the end of the transition period. These targets include those whose attainment is envisaged for a date that is subsequent to the end of the transition period. This paragraph shall also apply to ozone depleting substances.

5. The Parties shall continue to strive to increase their respective environmental levels of protection or their respective climate level of protection referred to in this Chapter.

ARTICLE 392

Carbon pricing

1. Each Party shall have in place an effective system of carbon pricing as of 1 January 2021.

2. Each system shall cover greenhouse gas emissions from electricity generation, heat generation, industry and aviation.

3. The effectiveness of the Parties' respective carbon pricing systems shall uphold the level of protection provided for by Article 391.

4. By way of derogation from paragraph 2, aviation shall be included within two years at the latest, if not included already. The scope of the Union system of carbon pricing shall cover departing flights from the European Economic Area to the United Kingdom.

5. Each Party shall maintain its system of carbon pricing insofar as it is an effective tool for each Party in the fight against climate change and shall in any event uphold the level of protection provided for by Article 391.

6. The Parties shall cooperate on carbon pricing. They shall give serious consideration to linking their respective carbon pricing systems in a way that preserves the integrity of these systems and provides for the possibility to increase their effectiveness.

ARTICLE 393

Environmental and climate principles

1. Taking into account the fact that the Union and the United Kingdom share a common biosphere in respect of cross-border pollution, each Party commits to respecting the internationally recognised environmental principles to which it has committed, such as in the Rio Declaration on Environment and Development, adopted at Rio de Janeiro on 14 June 1992 (the "1992 Rio Declaration on Environment and Development") and in multilateral environmental agreements, including in the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992 ("UNFCCC") and the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 (the "Convention on Biological Diversity"), in particular:

(a) the principle that environmental protection should be integrated into the making of policies, including through impact assessments;

(b) the principle of preventative action to avert environmental damage;

(c) the precautionary approach referred to in Article 356(2);

(d) the principle that environmental damage should as a priority be rectified at source; and

(e) the polluter pays principle.

2. The Parties reaffirm their respective commitments to procedures for evaluating the likely impact of a proposed activity on the environment, and where specified projects, plans and programmes are likely to have significant environmental, including health, effects, this includes an environmental impact assessment or a strategic environmental assessment, as appropriate.

3. These procedures shall comprise, where appropriate and in accordance with a Party's laws, the determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultations and the taking into account of the environmental report and the results of the public participation and consultations in the consented project, or adopted plan or programme.

ARTICLE 394

Enforcement

1. For the purposes of enforcement as referred to in Article 391, each Party shall, in accordance with its law, ensure that:

(a) domestic authorities competent to enforce the relevant law with regard to environment and climate give due consideration to alleged violations of such law that come to their attention; those authorities shall have adequate and effective remedies available to them, including injunctive relief as well as proportionate and dissuasive sanctions, if appropriate; and

(b) national administrative or judicial proceedings are available to natural and legal persons with a sufficient interest to bring actions against violations of such law and to seek effective remedies, including injunctive relief, and that the proceedings are not prohibitively costly and are conducted in a fair, equitable and transparent way.

ARTICLE 395

Cooperation on monitoring and enforcement

The Parties shall ensure that the European Commission and the supervisory bodies of the United Kingdom regularly meet with each other and co-operate on the effective monitoring and enforcement of the law with regard to environment and climate as referred to in Article 391.

ARTICLE 396

Dispute settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 408, 409 and 410.

CHAPTER 8

OTHER INSTRUMENTS FOR TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 397

Context and objectives

1. The Parties recall the Agenda 21 and the 1992 Rio Declaration on Environment and Development, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the International Labour Organization (ILO) Declaration on Social Justice for a Fair Globalization, adopted at Geneva on 10 June 2008 by the International Labour Conference at its 97th Session (the "2008 ILO Declaration on Social Justice for a Fair Globalization"), the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want", endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012, and the UN 2030 Agenda for Sustainable Development, adopted by the UN General Assembly Resolution 70/1 on 25 September 2015 and its Sustainable Development Goals.

2. In light of paragraph 1 of this Article, the objective of this Chapter is to enhance the integration of sustainable development, notably its labour and environmental dimensions, in the Parties' trade and investment relationship and in this respect to complement the commitments of the Parties under Chapters 6 and 7.

ARTICLE 398

Transparency

1. The Parties stress the importance of ensuring transparency as a necessary element to promote public participation and of making information public within the context of this Chapter. In accordance with their laws and regulations, the provisions of this Chapter, of Title IX and of Title X, each Party shall:

(a) ensure that any measure of general application pursuing the objectives of this Chapter is administered in a transparent manner, including by providing the public with reasonable opportunities and sufficient time to comment, and by publishing such measures;

(b) ensure that the general public is given access to relevant environmental information held by or for public authorities, as well as ensuring the active dissemination of that information to the general public by electronic means;

(c) encourage public debate with and among non-state actors as regards the development and definition of policies that may lead to the adoption of law relevant to this Chapter by its public authorities; this includes, in relation to the environment, public participation in projects, plans and programmes; and

(d) promote public awareness of its laws and standards relevant to this Chapter, as well as enforcement and compliance procedures, by taking steps to further the knowledge and understanding of the public; in relation to labour laws and standards, this includes workers, employers and their representatives.

ARTICLE 399

Multilateral labour standards and agreements

1. The Parties affirm their commitment to promoting the development of international trade in a way that is conducive to decent work for all, as expressed in the 2008 ILO Declaration on Social Justice for a Fair Globalization.

2. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted at Geneva on 18 June 1998 by the International Labour Conference at its 86th Session, each Party commits to respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

3. Each Party shall make continued and sustained efforts to ratify the fundamental ILO Conventions if they have not yet done so.

4. The Parties shall exchange information, regularly and as appropriate, on the respective situations and progress of the Member States and of the United Kingdom with regard to the ratification of ILO Conventions or protocols classified as up-to-date by the ILO and of other relevant international instruments.

5. Each Party commits to implementing all the ILO Conventions that the United Kingdom and the Member States have respectively ratified and the different provisions of the European Social Charter that, as members of the Council of Europe, the Member States and the United Kingdom have respectively accepted[1].

[1] Each Party maintains its right to determine its priorities, policies and the allocation of resources in the effective implementation of the ILO Conventions and the relevant provisions of the European Social Charter in a manner consistent with its international commitments, including those under this Title. The Council of Europe, established in 1949, adopted the European Social Charter in 1961, which was revised in 1996. All Member States have ratified the European Social Charter in its original or revised version. For the United Kingdom, the reference to the European Social Charter in paragraph 5 refers to the original 1961 version.

6. Each Party shall continue to promote, through its laws and practices, the ILO Decent Work Agenda as set out in the 2008 ILO Declaration on Social Justice for a Fair Globalization (the "ILO Decent Work Agenda") and in accordance with relevant ILO Conventions, and other international commitments, in particular with regard to:

(a) decent working conditions for all, with regard to, inter alia, wages and earnings, working hours, maternity leave and other conditions of work;

(b) health and safety at work, including the prevention of occupational injury or illness and compensation in cases of such injury or illness; and

(c) non-discrimination in respect of working conditions, including for migrant workers.

7. Each Party shall protect and promote social dialogue on labour matters among workers and employers, and their respective organisations, and with relevant government authorities.

8. The Parties shall work together on trade-related aspects of labour policies and measures, including in multilateral fora, such as the ILO, as appropriate. Such cooperation may cover inter alia:

(a) trade-related aspects of implementation of fundamental, priority and other up-to-date ILO Conventions;

(b) trade-related aspects of the ILO Decent Work Agenda, including on the interlinkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;

(c) the impact of labour law and standards on trade and investment, or the impact of trade and investment law on labour;

(d) dialogue and information-sharing on the labour provisions in the context of their respective trade agreements, and the implementation thereof; and

(e) any other form of cooperation deemed appropriate.

9. The Parties shall consider any views provided by representatives of workers, employers, and civil society organisations when identifying areas of cooperation and when carrying out cooperative activities.

ARTICLE 400

Multilateral environmental agreements

1. The Parties recognise the importance of the UN Environment Assembly of the UN Environment Programme and of multilateral environmental governance and agreements as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies, rules and measures.

2. In light of paragraph 1, each Party commits to effectively implementing the multilateral environmental agreements, protocols and amendments that it has ratified in its law and practices.

3. The Parties shall regularly and as appropriate exchange information on:

(a) their respective situations as regards the ratification and implementation of multilateral environmental agreements, including their protocols and amendments;

(b) on-going negotiations of new multilateral environmental agreements; and

(c) each Party's respective views on becoming a party to additional multilateral environmental agreements.

4. The Parties reaffirm the right of each Party to adopt or maintain measures to further the objectives of multilateral environmental agreements to which it is party. The Parties recall that measures adopted or enforced to implement such multilateral environmental agreements may be justified under Article 412.

5. The Parties shall work together on trade-related aspects of environmental policies and measures, including in multilateral fora, such as the UN High-level Political Forum for Sustainable Development, the UN Environment Programme, the UN Environment Assembly, multilateral environmental agreements, the International Civil Aviation Organization (ICAO) or the WTO as appropriate. Such cooperation may cover inter alia:

(a) initiatives on sustainable production and consumption, including those aimed at promoting a circular economy and green growth and pollution abatement;

(b) initiatives to promote environmental goods and services, including by addressing related tariff and non-tariff barriers;

(c) the impact of environmental law and standards on trade and investment; or the impact of trade and investment law on the environment;

(d) the implementation of Annex 16 to the Convention on International Civil Aviation, done at Chicago on 7 December 1944, and other measures to reduce the environmental impact of aviation, including in the area of air traffic management; and

(e) other trade-related aspects of multilateral environmental agreements, including their protocols, amendments and implementation.

6. Cooperation pursuant to paragraph 5 may include technical exchanges, exchanges of information and best practices, research projects, studies, reports, conferences and workshops.

7. The Parties will consider views or input from the public and interested stakeholders for the definition and implementation of their cooperation activities, and they may involve such stakeholders further in those activities, as appropriate.

ARTICLE 401

Trade and climate change

1. The Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade and investment in pursuing that objective, in line with the UNFCCC, with the purpose and goals of the Paris Agreement adopted at Paris on 12 December 2015 by the Conference of the Parties to the United Nations Framework Convention on Climate Change at its 21st session (the "Paris Agreement"), and with other multilateral environmental agreements and multilateral instruments in the area of climate change.

2. In light of paragraph 1, each Party:

(a) commits to effectively implementing the UNFCCC, and the Paris Agreement of which one principal aim is strengthening the global response to climate change and holding the increase in the global average temperature to well below 2 ºC above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5 ºC above pre-industrial levels;

(b) shall promote the mutual supportiveness of trade and climate policies and measures thereby contributing to the transition to a low greenhouse gas emission, resource-efficient economy and to climate-resilient development; and

(c) shall facilitate the removal of obstacles to trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy, energy efficient products and services, for instance through addressing tariff and non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions.

3. The Parties shall work together to strengthen their cooperation on trade-related aspects of climate change policies and measures bilaterally, regionally and in international fora, as appropriate, including in the UNFCCC, the WTO, the Montreal Protocol on Substances that Deplete the Ozone Layer done at Montreal on 26 August 1987 (the "Montreal Protocol"), the International Maritime Organisation (IMO) and the ICAO. Such cooperation may cover inter alia:

(a) policy dialogue and cooperation regarding the implementation of the Paris Agreement, such as on means to promote climate resilience, renewable energy, low-carbon technologies, energy efficiency, sustainable transport, sustainable and climate-resilient infrastructure development, emissions monitoring, international carbon markets;

(b) supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures by the IMO to be implemented by ships engaged in international trade;

(c) supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures by the ICAO; and

(d) supporting an ambitious phase-out of ozone depleting substances and phase-down of hydrofluorocarbons under the Montreal Protocol through measures to control their production, consumption and trade; the introduction of environmentally friendly alternatives to them; the updating of safety and other relevant standards as well as through combating the illegal trade of substances regulated by the Montreal Protocol.

ARTICLE 402

Trade and biological diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, including by promoting sustainable trade or controlling or restricting trade in endangered species, in line with the relevant multilateral environmental agreements to which they are party, and the decisions adopted thereunder, notably the Convention on Biological Diversity and its protocols, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington D.C. on 3 March 1973 ("CITES").

2. In light of paragraph 1, each Party shall:

(a) implement effective measures to combat illegal wildlife trade, including with respect to third countries, as appropriate;

(b) promote the use of CITES as an instrument for conservation and sustainable management of biodiversity, including through the inclusion of animal and plant species in the Appendices to CITES where the conservation status of that species is considered at risk because of international trade;

(c) encourage trade in products derived from a sustainable use of biological resources and contributing to the conservation of biodiversity; and

(d) continue to take measures to conserve biological diversity when it is subject to pressures linked to trade and investment, in particular through measures to prevent the spread of invasive alien species.

3. The Parties shall work together on trade-related matters of relevance to this Article, including in multilateral fora, such as CITES and the Convention on Biological Diversity, as appropriate. Such cooperation may cover inter alia: trade in wildlife and natural resource-based products, the valuation and assessment of ecosystems and related services, and the access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation consistent with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, done at Nagoya on 29 October 2010.

ARTICLE 403

Trade and forests

1. The Parties recognise the importance of conservation and sustainable forest management for providing environmental functions and economic and social opportunities for present and future generations, and the role of trade in pursuing that objective.

2. In light of paragraph 1 and in a manner consistent with its international obligations, each Party shall:

(a) continue to implement measures to combat illegal logging and related trade, including with respect to third countries, as appropriate, and to promote trade in legally harvested forest products;

(b) promote the conservation and sustainable management of forests and trade and consumption of timber and timber products harvested in accordance with the law of the country of harvest and from sustainably managed forests; and

(c) exchange information with the other Party on trade-related initiatives on sustainable forest management, forest governance and on the conservation of forest cover and cooperate to maximise the impact and mutual supportiveness of their respective policies of mutual interest.

3. The Parties shall work together to strengthen their cooperation on trade-related aspects of sustainable forest management, the conservation of forest cover and illegal logging, including in multilateral fora, as appropriate.

ARTICLE 404

Trade and sustainable management of marine biological resources and aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing those objectives.

2. In light of paragraph 1, each Party:

(a) commits to acting consistently and complying, as appropriate, with the relevant UN and Food and Agriculture Organization ("FAO") agreements, the United Nations Convention on the Law of the Sea, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, done at New York on 4 August 1995, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, done at Rome on 24 November 1993, the FAO Code of Conduct for Responsible Fisheries and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated ("IUU") fishing, approved at Rome on 22 November 2009 at the 36th Session of the FAO Conference, and to participating in the FAO's initiative on the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels;

(b) shall promote sustainable fisheries and good fisheries governance by participating actively in the work of relevant international organisations or bodies to which they are members, observers, or cooperating non-contracting parties, including the Regional Fisheries Management Organizations (RFMOs) by means of, where applicable, effective monitoring, control or enforcement of the RFMOs' resolutions, recommendations or measures; the implementation of their catch documentation or certification schemes, and port state measures;

(c) shall adopt and maintain their respective effective tools to combat IUU fishing, including measures to exclude the products of IUU fishing from trade flows, and cooperate to that end; and

(d) shall promote the development of sustainable and responsible aquaculture, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries, as appropriate.

3. The Parties shall work together on conservation and trade-related aspects of fishery and aquaculture policies and measures, including in the WTO, the RFMOs and other multilateral fora, as appropriate, with the aim of promoting sustainable fishing and aquaculture practices and trade in fish products from sustainably managed fisheries and aquaculture operations.

4. This Article is without prejudice to the provisions of Heading Five.

ARTICLE 405

Trade and investment favouring sustainable development

1. The Parties confirm their commitment to enhancing the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions.

2. Pursuant to paragraph 1, the Parties shall continue to promote:

(a) trade and investment policies that support the four strategic objectives of the ILO Decent Work Agenda, consistent with the 2008 ILO Declaration on Social Justice for a Fair Globalization, including the minimum living wage, health and safety at work, and other aspects related to working conditions;

(b) trade and investment in environmental goods and services, such as renewable energy and energy efficient products and services, including through addressing related non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions;

(c) trade in goods and services that contribute to enhanced social conditions and environmentally sound practices, including those subject to voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels; and

(d) cooperation in multilateral fora on issues referred to in this Article.

3. The Parties recognise the importance of addressing specific sustainable development issues by reviewing, monitoring and assessing the potential economic, social and environmental impacts of possible actions, taking account of the views of stakeholders.

ARTICLE 406

Trade and responsible supply chain management

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices and the role of trade in pursuing this objective.

2. In light of paragraph 1, each Party shall:

(a) encourage corporate social responsibility and responsible business conduct, including by providing supportive policy frameworks that encourage the uptake of relevant practices by businesses; and

(b) support the adherence, implementation, follow-up and dissemination of relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, and the UN Guiding Principles on Business and Human Rights.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility and responsible business conduct and shall encourage joint work in this regard. In respect of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the Parties shall also implement measures to promote the uptake of that Guidance.

4. The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this Article, including in multilateral fora, as appropriate, inter alia through the exchange of information, best practices and outreach initiatives.

Article 407

Dispute settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 408 and 409.

CHAPTER 9

HORIZONTAL AND INSTITUTIONAL PROVISIONS

ARTICLE 408

Consultations

1. A Party may request consultations with the other Party regarding any matter arising under Article 355(3) and Chapters 6, 7, and 8 by delivering a written request to the other Party. The complaining Party shall specify in its written request the reasons and basis for the request, including identification of the measures at issue, specifying the provisions that it considers applicable. Consultations must commence promptly after a Party delivers a request for consultations and in any event not later than 30 days after the date of delivery of the request, unless the Parties agree to a longer period.

2. The Parties shall enter into consultations with the aim of reaching a mutually satisfactory resolution of the matter. During consultations, each Party shall provide the other Party with sufficient information in its possession to allow a full examination of the matters raised. Each Party shall endeavour to ensure the participation of personnel of their competent authorities who have expertise in the matter subject to the consultations.

3. In matters relating to Article 355(3) or to the multilateral agreements or instruments referred to in Chapters 6, 7 or 8 the Parties shall take into account available information from the ILO or relevant bodies or organisations established under multilateral environmental agreements. Where relevant, the Parties shall jointly seek advice from such organisations or their bodies, or any other expert or body they deem appropriate.

4. Each Party may seek, when appropriate, the views of the domestic advisory groups referred to in Article 13 or other expert advice.

5. Any resolution reached by the Parties shall be made available to the public.

ARTICLE 409

Panel of experts

1. For any matter that is not satisfactorily addressed through consultations under Article 408, a Party may, after 90 days from the receipt of a request for consultations under that Article, request that a panel of experts be convened to examine that matter, by delivering a written request to the other Party. The request shall identify the measure at issue, specify and explain how that measure does not conform with the provisions of the relevant Chapter or Chapters in a manner sufficient to present the complaint clearly.

2. The panel of experts shall be composed of three panellists.

3. The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development shall, at its first meeting after the entry into force of this Agreement, establish a list of at least 15 individuals who are willing and able to serve as panellists. Each Party shall name at least five individuals to the list to serve as panellists. The Parties shall also name at least five individuals who are not nationals of either Party and who are willing and able to serve as chairperson of a panel of experts. The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development shall ensure that the list is kept up to date and that the number of experts is maintained at a minimum of 15 individuals.

4. The experts proposed as panellists must have specialised knowledge or expertise in labour or environmental law, other issues addressed in the relevant Chapter or Chapters, or in the resolution of disputes arising under international agreements. They must serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute. They must not be affiliated with or take instructions from either Party. They shall not be persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom.

5. Unless the Parties agree otherwise within five days from the date of establishment of the panel of experts, the terms of reference shall be:

"to examine, in the light of the relevant provisions, the matter referred to in the request for the establishment of the panel of experts, and to deliver a report in accordance with this Article that makes findings on the conformity of the measure with the relevant provisions".

6. In respect of matters related to multilateral standards or agreements covered in this Title, the panel of experts should seek information from the ILO or relevant bodies established under those agreements, including any pertinent available interpretative guidance, findings or decisions adopted by the ILO and those bodies.

7. The panel of experts may request and receive written submissions or any other information from persons with relevant information or specialised knowledge.

8. The panel of experts shall make available such information to each Party, allowing them to submit their comments within 20 days of its receipt.

9. The panel of experts shall issue to the Parties an interim report and a final report setting out the findings of fact, its determinations on the matter including as to whether the respondent Party has conformed with its obligations under the relevant Chapter or Chapters and the rationale behind any findings and determinations that it makes. For greater certainty, the Parties share the understanding that if the Panel makes recommendations in its report, the respondent Party does not need to follow these recommendations in ensuring conformity with this Agreement.

10. The panel of experts shall deliver to the Parties the interim report within 100 days after the date of establishment of the panel of experts. When the panel of experts considers that this deadline cannot be met, the chairperson of the panel of experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its interim report. The panel of experts shall, under no circumstances, deliver its interim report later than 125 days after the date of establishment of the panel of experts.

11. Each Party may deliver to the panel of experts a reasoned request to review particular aspects of the interim report within 25 days of its delivery. A Party may comment on the other Party's request within 15 days of the delivery of the request.

12. After considering those comments, the panel of experts shall prepare the final report. If no request to review particular aspects of the interim report are delivered within the time period referred to in paragraph 11, the interim report shall become the final report of the panel of experts.

13. The panel of experts shall deliver its final report to the Parties within 175 days of the date of establishment of the panel of experts. When the panel of experts considers that this time limit cannot be met, its chairperson shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its final report. The panel of experts shall, under no circumstances, deliver its final report later than 195 days after the date of establishment of the panel of experts.

14. The final report shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.

15. The Parties shall make the final report available to the public within 15 days of its delivery by the panel of experts.

16. If the final report of the panel of experts determines that a Party has not conformed with its obligations under the relevant Chapter or Chapters, the Parties shall, within 90 days of the delivery of the final report, discuss appropriate measures to be implemented taking into account the report of the panel of experts. No later than 105 days after the report has been delivered to the Parties, the respondent Party shall inform its domestic advisory groups established under Article 13 and the complaining Party of its decision on any measures to be implemented.

17. The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development shall monitor the follow-up to the report of the panel of experts. The domestic advisory groups of the Parties established under Article 13 may submit observations to the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development in that regard.

18. When the Parties disagree on the existence of, or the consistency with, the relevant provisions of any measure taken to address the non-conformity, the complaining Party may deliver a request, which shall be in writing, to the original panel of experts to decide on the matter. The request shall identify any measure at issue and explain how that measure is not in conformity with the relevant provisions in a manner sufficient to present the complaint clearly. The panel of experts shall deliver its findings to the Parties within 45 days of the date of the delivery of the request.

19. Except as otherwise provided for in this Article, Article 739(1), Article 740 and Articles 753 to 758, as well as Annexes 48 and 49, shall apply *mutatis mutandis*.

ARTICLE 410

Panel of experts for non-regression areas

1. Article 409 shall apply to disputes between the Parties concerning the interpretation and application of Chapters 6 and 7.

2. For the purposes of such disputes, in addition to the Articles listed in Article 409(19), Articles 749 and 750 shall apply *mutatis mutandis*.

3. The Parties recognise that, where the respondent Party chooses not take any action to conform with the report of the panel of experts and with this Agreement, any remedies authorised under Article 749 continue to be available to the complaining Party.

ARTICLE 411

Rebalancing

1. The Parties recognise the right of each Party to determine its future policies and priorities with respect to labour and social, environmental or climate protection, or with respect to subsidy control, in a manner consistent with each Party's international commitments, including those under this Agreement. At the same time, the Parties acknowledge that significant divergences in these areas can be capable of impacting trade or investment between the Parties in a manner that changes the circumstances that have formed the basis for the conclusion of this Agreement.

2. If material impacts on trade or investment between the Parties are arising as a result of significant divergences between the Parties in the areas referred to in paragraph 1, either Party may take appropriate rebalancing measures to address the situation. Such measures shall be restricted with respect to their scope and duration to what is strictly necessary and proportionate in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Agreement. A Party's assessment of those impacts shall be based on reliable evidence and not merely on conjecture or remote possibility.

3. The following procedures shall apply to rebalancing measures taken under paragraph 2:

(a) the concerned Party shall, without delay, notify the other Party through the Partnership Council of the rebalancing measures it intends to take, providing all relevant information. The Parties shall immediately enter into consultations. Consultations shall be deemed concluded within 14 days from the date of delivery of the notification, unless they are jointly concluded before that time limit;

(b) if no mutually acceptable solution is found, the concerned Party may adopt rebalancing measures no sooner than five days from the conclusion of the consultations, unless the notified Party requests within the same five day period, in accordance with Article 739(2)[1], the establishment of an arbitration tribunal by means of a written request delivered to the other Party in order for the arbitration tribunal to decide whether the notified rebalancing measures are consistent with paragraph 2 of this Article;

(c) the arbitration tribunal shall conduct its proceeding in accordance with Article 760 and deliver its final ruling within 30 days from its establishment. If the arbitration tribunal does not deliver its final ruling within that time period, the concerned Party may adopt the rebalancing measures no sooner than three days after the expiry of that 30 day time period. In that case, the other Party may take countermeasures proportionate to the adopted rebalancing measures until the arbitration tribunal delivers its ruling. Priority shall be given to such countermeasures as will least disturb the functioning of this Agreement. Point (a) shall apply *mutatis mutandis* to such countermeasures, which may be adopted no sooner than three days after the conclusion of consultations;

[1] For greater certainty, in this case the Party shall not have prior recourse to consultations in accordance with Article 738.

(d) if the arbitration tribunal has found the rebalancing measures to be consistent with paragraph 2, the concerned Party may adopt the rebalancing measures as notified to the other Party;

(e) if the arbitration tribunal has found the rebalancing measures to be inconsistent with paragraph 2 of this Article, the concerned Party shall, within three days from the delivery of the ruling, notify the complaining Party of the measures[1] it intends to adopt to comply with the ruling of the arbitration tribunal. Article 748(2) and Articles 749[2] and 750 shall apply *mutatis mutandis*, if the complaining Party considers that the notified measures are not in compliance with the ruling of the arbitration tribunal. The procedures under Article 748(2) and Articles 749 and 750 shall have no suspensive effect on the application of the notified measures pursuant to this paragraph;

(f) if rebalancing measures were adopted prior to the arbitration ruling in accordance with point (c), any countermeasures adopted pursuant to that point shall be withdrawn immediately, and in no case later than five days, after delivery of the ruling of the arbitration tribunal;

(g) a Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from taking measures pursuant to paragraphs 2 and 3, including when those measures consist of suspension of obligations under this Agreement;

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[1] Such measures may include withdrawal or adjustment of the rebalancing measures, as appropriate.

[2] Suspension of obligations under Article 749 shall be available only if rebalancing measures have in fact been applied.

(h) if the notified Party does not submit a request pursuant to point (b) of this paragraph within the time period laid down therein, that Party may without having prior recourse to consultations in accordance with Article 738 initiate the arbitration procedure referred to in Article 739. An arbitration tribunal shall treat the issue as a case of urgency for the purposes of Article 744.

4. In order to ensure an appropriate balance between the commitments made by the Parties in this Agreement on a more durable basis, either Party may request, no sooner than four years after the entry into force of this Agreement, a review of the operation of this Heading. The Parties may agree that other Headings of this Agreement may be added to the review.

5. Such a review shall commence at a Party's request, if that Party considers that measures under paragraph 2 or 3 have been taken frequently by either or both Parties, or if a measure that has a material impact on trade or investment between the Parties has been applied for a period of 12 months. For the purposes of this paragraph, the measures in question are those which were not challenged or not found by an arbitration tribunal to be strictly unnecessary pursuant to point (d) or (h) of paragraph 3. This review may commence earlier than four years after the entry into force of this Agreement.

6. The review requested pursuant to paragraph 4 or 5 shall begin within three months of the request and be completed within six months.

7. A review on the basis of paragraph 4 or 5 may be repeated at subsequent intervals of no less than four years after the conclusion of the previous review. If a Party has requested a review under paragraph 4 or 5, it may not request a further review under either paragraph 4 or 5 for at least four years from the conclusion of the previous review or, if applicable, from the entry into force of any amending agreement.

8. The review shall address whether this Agreement delivers an appropriate balance of rights and obligations between the Parties, in particular with regard to the operation of this Heading, and whether, as a result, there is a need for any modification of the terms of this Agreement.

9. The Partnership Council may decide that no action is required as a result of the review. If a Party considers that following the review there is a need for an amendment of this Agreement, the Parties shall use their best endeavours to negotiate and conclude an agreement making the necessary amendments. Such negotiations shall be limited to matters identified in the review.

10. If an amending agreement referred to in paragraph 9 is not concluded within one year from the date the Parties started negotiations, either Party may give notice to terminate this Heading or any other Heading of this Agreement that was added to the review, or the Parties may decide to continue negotiations. If a Party terminates this Heading, Heading Three shall be terminated on the same date. The termination shall take effect three months after the date of such notice.

11. If this Heading is terminated pursuant to paragraph 10 of this Article, Heading Two shall be terminated on the same date, unless the Parties agree to integrate the relevant parts of Title XI of this Heading in Heading Two.

12. Title I of Part Six does not apply to paragraphs 4 to 9 of this Article.

TITLE XII

EXCEPTIONS

ARTICLE 412

General exceptions

1. Nothing in Chapter 1 and Chapter 5 of Title I, Chapter 2 of Title II, Title III, Title VIII and Chapter 4 of Title XI shall be construed as preventing a Party from adopting or maintaining measures compatible with Article XX of GATT 1994. To that end, Article XX of GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment liberalisation or trade in services, nothing in Title II, Title III, Title IV, Title VIII and Chapter 4 of Title XI shall be construed to prevent the adoption or enforcement by either Party of measures:

(a) necessary to protect public security or public morals or to maintain public order[1];

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and

(iii) safety.

[1] The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

3. For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with the provisions of the chapters or titles referred to in paragraphs 1 and 2 of this Article:

(a) the measures referred to in point (b) of Article XX of GATT 1994 and in point (b) of paragraph 2 of this Article include environmental measures, which are necessary to protect human, animal or plant life and health;

(b) point (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources; and

(c) measures taken to implement multilateral environmental agreements can fall under points (b) or (g) of Article XX of GATT 1994 or under point (b) of paragraph 2 of this Article.

4. Before a Party takes any measures provided for in points (i) and (j) of Article XX of GATT 1994, that Party shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If no agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith precautionary measures necessary to deal with the situation. That Party shall inform the other Party immediately thereof.

ARTICLE 413

Taxation

1. Nothing in Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of this Heading or Heading Six shall affect the rights and obligations of either the Union or its Member States and the United Kingdom, under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency. With regard to a tax convention between the Union or its Member States and the United Kingdom, the relevant competent authorities under this Agreement and that tax convention shall jointly determine whether an inconsistency exists between this Agreement and the tax convention.[1]

2. Articles 130 and 138 shall not apply to an advantage accorded pursuant to a tax convention.

[1] For greater certainty, such determination shall be without prejudice to Title I of Part Six.

3. Subject to the requirement that tax measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade and investment, nothing in Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of this Heading or Heading Six shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure that:

(a) aims at ensuring the equitable or effective[1] imposition or collection of direct taxes; or

[1] Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which:

(i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; or

(ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; or

(iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or

(iv) apply to consumers of services supplied in or from the territory of the other Party or of a third country in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; or

(v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

(vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base.

(b) distinguishes between taxpayers, who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.

4. For the purposes of this Article, the following definitions apply:

(a) "residence" means residence for tax purposes;

(b) "tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation; and

(c) "direct taxes" comprise all taxes on income or capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, taxes on wages or salaries paid by enterprises and taxes on capital appreciation.

ARTICLE 414

WTO Waivers

If an obligation in Titles I to XII of this Heading or Heading Six of this Part is substantially equivalent to an obligation contained in the WTO Agreement, any measure taken in conformity with a waiver adopted pursuant to Article IX of the WTO Agreement is deemed to be in conformity with the substantially equivalent provision in this Agreement.

ARTICLE 415

Security exceptions

Nothing in Titles I to XII of this Heading or Heading Six shall be construed:

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

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

(i) connected to the production of or traffic in arms, ammunition and implements of war and to such production, traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military establishment;

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

(iii) in time of war or other emergency in international relations; or

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

ARTICLE 416

Confidential information

1. With the exception of Article 384, nothing in Titles I to XII of this Heading or Heading Six of this Part shall be construed as requiring a Party to make available confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private, except where an arbitration tribunal requires such confidential information in dispute settlement proceedings under Title I of Part Six, or where a panel of experts requires such confidential information in proceedings under Article 409 or 410. In such cases, the arbitration tribunal, or, as the case may be, the panel of experts shall ensure that confidentiality is fully protected in accordance with Annex 48.

2. When a Party submits information to the Partnership Council or to Committees that is considered as confidential under its laws and regulations, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.

HEADING TWO

AVIATION

TITLE I

AIR TRANSPORT

ARTICLE 417

Definitions

For the purposes of this Title, the following definitions apply:

(a) "air carrier" means an air transport undertaking holding a valid operating licence or equivalent;

(b) "air carrier of the Union" means an air carrier that fulfils the conditions laid down in point (b) of Article 422(1);

(c) "air carrier of the United Kingdom" means an air carrier that fulfils the conditions laid down in point (a) of Article 422(1) or Article 422(2);

(d) "air navigation services" means air traffic services, communication, navigation and surveillance services, meteorological services for air navigation, and aeronautical information services;

(e) "air operator certificate" means a document issued to an air carrier which affirms that the air carrier in question has the professional ability and organisation to secure the safe operation of aircraft for the aviation activities specified in the certificate;

(f) "air traffic management" means the aggregation of the airborne and ground-based functions (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all phases of operations;

(g) "air transport" means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire;

(h) "citizenship determination" means a finding that an air carrier proposing to operate air services under this Title satisfies the requirements of Article 422 regarding its ownership, effective control and principal place of business;

(i) "competent authorities" means, for the United Kingdom, the authorities of the United Kingdom responsible for the regulatory and administrative functions incumbent on the United Kingdom under this Title; and for the Union, the authorities of the Union and of the Member States responsible for the regulatory and administrative functions incumbent on the Union under this Title;

(j) "the Convention" means the Convention on International Civil Aviation, done at Chicago on 7 December 1944, and includes:

(i) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by the United Kingdom and the Member State or Member States concerned, as is relevant to the issue in question; and

(ii) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for the United Kingdom and the Member State or Member States concerned, as is relevant to the issue in question;

(k) "discrimination" means differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of air transport services, or in respect of their treatment by public authorities relevant to such services;

(l) "effective control" means a relationship constituted by rights, contracts or any other means which, either separately or jointly, and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:

(i) the right to use all or part of the assets of an undertaking;

(ii) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking;

(m) "fitness determination" means a finding that an air carrier proposing to operate air services under this Title has satisfactory financial capability and adequate managerial expertise to operate such services and is disposed to comply with the laws, regulations and requirements that govern the operation of such services;

(n) "full cost" means the cost of the service provided, which may include appropriate amounts for cost of capital and depreciation of assets, as well as the costs of maintenance, operation, management and administration;

(o) "ICAO" means the United Nations International Civil Aviation Organization;

(p) "principal place of business" means the head office or registered office of an air carrier within which the principal financial functions and operational control, including continued airworthiness management, of that air carrier are exercised;

(q) "ramp inspection" means an examination by the competent authority of a Party or its designated representatives, on board and around an aircraft of the other Party, to check both the validity of the relevant aircraft documents and those of its crew members and the apparent condition of the aircraft and its equipment;

(r) "self-handling" means the performance of ground handling operations by an air carrier directly for itself or for another air carrier where:

(i) one holds the majority in the other; or

(ii) a single body has a majority holding in each;

(s) "scheduled air transport services" means air services which are scheduled and performed for remuneration according to a published timetable, or which are so regular or frequent as to constitute a recognisably systematic series, and which are open to direct booking by members of the public; and extra section flights occasioned by overflow traffic from scheduled flights;

(t) "stop for non-traffic purposes" means a landing for any purpose other than taking on board or discharging passengers, baggage, cargo and/or mail in air transport;

(u) "tariff" means any fare, rate or charge for the carriage of passengers, baggage or cargo (excluding mail) in air transport (including any other mode of transport in connection therewith) charged by air carriers, including their agents, and the conditions governing the availability of such fare, rate or charge;

(v) "user charge" means a charge imposed on air carriers for the provision of airport, air navigation (including overflights), aviation security facilities or services including related services and facilities, or environment-related charges including noise-related charges and charges to address local air quality problems at or around airports.

ARTICLE 418

Route schedule

1. Subject to Article 419, the Union shall grant the United Kingdom the right for the air carriers of the United Kingdom to operate, while carrying out air transport, on the following routes:

Points in the territory of the United Kingdom – Intermediate Points – Points in the territory of the Union – Points Beyond.

2. Subject to Article 419, the United Kingdom shall grant the Union the right for the air carriers of the Union to operate, while carrying out air transport, on the following routes:

Points in the territory of the Union – Intermediate Points – Points in the territory of the United Kingdom – Points Beyond.

ARTICLE 419

Traffic rights

1. Each Party shall grant to the other Party the right for its respective air carriers, for the purpose of carrying out air transport on the routes laid down in Article 418, to:

(a) fly across its territory without landing;

(b) make stops in its territory for non-traffic purposes.

2. The United Kingdom shall enjoy the right for its air carriers to make stops in the territory of the Union to provide scheduled and non-scheduled air transport services between any points situated in the territory of the United Kingdom and any points situated in the territory of the Union (third and fourth freedom traffic rights).

3. The Union shall enjoy the right for its air carriers to make stops in the territory of the United Kingdom to provide scheduled and non-scheduled air transport services between any points situated in the territory of the Union and any points situated in the territory of the United Kingdom (third and fourth freedom traffic rights).

4. Notwithstanding paragraphs 1, 2 and 3 and without prejudice to paragraph 9, the Member States and the United Kingdom may, subject to the respective internal rules and procedures of the Parties, enter into bilateral arrangements by which, as a matter of this Agreement, they grant each other the following rights:

(a) for the United Kingdom, the right for its air carriers to make stops in the territory of the Member State concerned to provide scheduled and non-scheduled all-cargo air transport services, between points situated in the territory of that Member State and points situated in a third country as part of a service with origin or destination in the territory of the United Kingdom (fifth freedom traffic rights);

(b) for the Member State concerned, the right for Union air carriers to make stops in the territory of the United Kingdom to provide scheduled and non-scheduled all-cargo air transport services between points situated in the territory of the United Kingdom and points situated in a third country, as part of a service with origin or destination in the territory of that Member State (fifth freedom traffic rights).

5. The rights mutually granted in accordance with paragraph 4 shall be governed by the provisions of this Title.

6. Neither Party shall unilaterally limit the volume of traffic, capacity, frequency, regularity, routing, origin or destination of the air transport services operated in accordance with paragraphs 2, 3 and 4, or the aircraft type or types operated for that purpose by the air carriers of the other Party, except as may be required for customs, technical, operational, air traffic management, safety, environmental or health protection reasons, in a non-discriminatory manner, or unless otherwise provided for in this Title.

7. Nothing in this Title shall be deemed to confer on the United Kingdom the right for its air carriers to take on board in the territory of a Member State passengers, baggage, cargo or mail carried for compensation and destined for another point in the territory of that Member State or any other Member State.

8. Nothing in this Title shall be deemed to confer on the Union the right for its air carriers to take on board in the territory of the United Kingdom passengers, baggage, cargo or mail carried for compensation and destined for another point in the territory of the United Kingdom.

9. Subject to the internal rules and procedures of the Parties, the competent authorities of the United Kingdom and of the Member States may authorise non-scheduled air transport services beyond the rights provided for in this Article provided that they do not constitute a disguised form of scheduled services, and may establish bilateral arrangements regarding the procedures to be followed for the handling of, and decisions on, air carriers' applications.

ARTICLE 420

Code-share and blocked space arrangements

1. Air transport services in accordance with Article 419 may be provided by means of blocked-space or code-share arrangements, as follows:

(a) an air carrier of the United Kingdom may act as the marketing carrier with any operating carrier that is an air carrier of the Union or an air carrier of the United Kingdom, or with any operating carrier of a third country which, under Union law or, as applicable, under the law of the Member State or Member States concerned, enjoys the necessary traffic rights as well as the right for its air carriers to exercise those rights by means of the arrangement in question;

(b) an air carrier of the Union may act as the marketing carrier with any operating carrier that is an air carrier of the Union or an air carrier of the United Kingdom, or with any operating carrier of a third country which, under United Kingdom law enjoys the necessary traffic rights as well as the right for its air carriers to exercise those rights by means of the arrangement in question;

(c) an air carrier of the United Kingdom may act as the operating carrier with any marketing carrier that is an air carrier of the Union or an air carrier of the United Kingdom, or with any marketing carrier of a third country which, under Union law or, as applicable, under the law of the Member State or Member States concerned, enjoys the necessary rights to enter into the arrangement in question;

(d) an air carrier of the Union may act as the operating carrier with any marketing carrier that is an air carrier of the Union or an air carrier of the United Kingdom, or with any marketing carrier of a third country which, under United Kingdom law, enjoys the necessary rights to enter into the arrangement in question;

(e) in the context of the arrangements provided under points (a) to (d), an air carrier of one Party may act as the marketing carrier in a blocked-space or code-share arrangement, in services between any pair of points of which both origin and destination are situated in the territory of the other Party provided that the following conditions are fulfilled:

(i) the conditions laid down in point (a) or (b), as the case may be, as regards the operating carrier; and

(ii) the transport service in question forms part of a carriage by the marketing carrier between a point in the territory of its Party and that destination point in the territory of the other Party.

2. An air carrier of one Party may act as the marketing carrier in a blocked-space or code-share arrangement, in services between any pair of points of which one is situated in the territory of the other Party and the other is situated in a third country, provided that the following conditions are fulfilled:

(a) the conditions laid down in point (a) or (b) of paragraph 1, as the case may be, as regards the operating carrier; and

(b) the transport service in question forms part of a carriage by the marketing carrier between a point in the territory of its Party and that point in a third country.

3. In respect of each ticket sold involving the arrangements referred to in this Article, the purchaser shall be informed upon reservation of which air carrier will operate each sector of the service. Where that is not possible, or in case of change after reservation, the identity of the operating carrier shall be communicated to the passenger as soon as it is established. In all cases, the identity of the operating carrier or carriers shall be communicated to the passenger at check-in, or before boarding where no check-in is required for a connecting flight.

4. The Parties may require the arrangements referred to in this Article to be approved by their competent authorities for the purpose of verifying compliance with the conditions set out therein and with other requirements provided for in this Agreement, in particular as regards competition, safety and security.

5. In no case shall recourse to code-share or blocked-space arrangements result in the air carriers of the Parties exercising traffic rights on the basis of this Agreement other than those provided for in Article 419.

ARTICLE 421

Operational flexibility

The rights mutually granted by the Parties in accordance with Article 419(2), (3) and (4) shall include, within the limits laid down therein, all of the following prerogatives:

(a) to operate flights in either or both directions;

(b) to combine different flight numbers within one aircraft operation;

(c) to serve points in the route schedule in any combination and in any order;

(d) to transfer traffic between aircraft of the same air carrier at any point (change of gauge);

(e) to carry stopover traffic through any points whether within or outside the territory of either Party;

(f) to carry transit traffic through the territory of the other Party;

(g) to combine traffic on the same aircraft regardless of where such traffic originates;

(h) to serve more than one point on the same service (co-terminalisation).

ARTICLE 422

Operating authorisations and technical permissions

1. On receipt of an application for an operating authorisation from an air carrier of a Party, in the form and manner prescribed, to operate air transport services under this Title, the other Party shall grant the appropriate authorisations and technical permissions with minimum procedural delay, provided that all the following conditions are met:

(a) in the case of an air carrier of the United Kingdom:

(i) the air carrier is owned, directly or through majority ownership, and is effectively controlled by the United Kingdom, its nationals, or both;

(ii) the air carrier has its principal place of business in the territory of the United Kingdom, and is licenced in accordance with the law of the United Kingdom; and

(iii) the air carrier holds an air operator certificate issued by the competent authority of the United Kingdom, which shall be clearly identified, and that authority exercises and maintains effective regulatory control of the air carrier;

(b) in the case of an air carrier of the Union:

(i) the air carrier is owned, directly or through majority ownership, and is effectively controlled by one or more Member States, by other member states of the European Economic Area, by Switzerland, by nationals of such states, or by a combination thereof;

(ii) the air carrier has its principal place of business in the territory of the Union and holds a valid operating licence in accordance with Union law; and

(iii) the air carrier holds an air operator certificate issued by the competent authority of a Member State, or by a Union authority on its behalf, the certifying authority is clearly identified, and that Member State exercises and maintains effective regulatory control of the air carrier.

(c) Articles 434 and 435 are being complied with, and

(d) the air carrier meets the conditions prescribed under the laws and regulations normally applied to the operation of international air transport by the Party considering the application or applications.

2. Notwithstanding point (a)(i) of paragraph 1, the appropriate operating authorisations and permissions shall be granted to air carriers of the United Kingdom provided that all the following conditions are met:

(a) the conditions laid down in points (a)(ii), (a)(iii), (c) and (d) of paragraph 1 are complied with;

(b) the air carrier is owned, directly or through majority ownership, and is effectively controlled by one or more Member States, by other member states of the European Economic Area, by Switzerland, by nationals of such states, or by a combination thereof, whether alone or together with the United Kingdom and/or nationals of the United Kingdom;

(c) on the day the transition period ended the air carrier held a valid operating licence in accordance with Union Law.

3. For the purposes of paragraphs 1 and 2, evidence of effective regulatory control includes but is not limited to:

(a) the air carrier concerned holding a valid operating licence or permit issued by the competent authority and meeting the criteria of the Party issuing the operating licence or permit for the operation of international air services; and

(b) that Party having and maintaining safety and security oversight programmes for that air carrier in compliance with ICAO standards.

4. When granting operating authorisations and technical permissions, each Party shall treat all air carriers of the other Party in a non-discriminatory manner.

5. On receipt of an application for an operating authorisation from an air carrier of a Party, the other Party shall recognise any fitness determination or citizenship determination or both made by the first Party with respect to that air carrier as if such determination had been made by its own competent authorities, and shall not enquire further into such matters, except as provided for in Article 424(3).

ARTICLE 423

Operating plans, programmes and schedules

Notification of operating plans, programmes or schedules for air services operated under this Title may be required by a Party for information purposes only. Where a Party requires such notification, it shall minimise the administrative burden associated with its notification requirements and procedures that is borne by air transport intermediaries and the air carriers of the other Party.

ARTICLE 424

Refusal, revocation, suspension or limitation of operating authorisation

1. The Union may take action against an air carrier of the United Kingdom, in accordance with paragraphs 3, 4 and 5 of this Article, in any of the following cases:

(a) in the case of authorisations and permissions granted in accordance with point (a) of Article 422(1), any of the conditions laid down therein is not met;

(b) in the case of authorisations and permissions granted in accordance with Article 422(2), any of the conditions laid down therein is not met;

(c) the air carrier has failed to comply with the laws and regulations referred to in Article 426; or

(d) such action is necessary in order to prevent, protect against or control the spread of disease, or otherwise protect public health.

2. The United Kingdom may take action against an air carrier of the Union in accordance with paragraphs 3, 4 and 5 of this Article in any of the following cases:

(a) any of the conditions laid down in point (b) of Article 422(1) is not met;

(b) the air carrier has failed to comply with the laws and regulations referred to in Article 426; or

(c) such action is necessary in order to prevent, protect against or control the spread of disease, or otherwise protect public health.

3. Where a Party has reasonable grounds to believe that an air carrier of the other Party is in any of the situations referred to in paragraph 1 or 2, as the case may be, and that action must be taken in that respect, that Party shall notify the other Party in writing as soon as possible of the reasons for the intended refusal, suspension or limitation of the operating authorisation or technical permission and request consultations.

4. Such consultations shall start as soon as possible, and not later than 30 days from receipt of the request for consultations. Failure to reach a satisfactory agreement within 30 days or an agreed time period from the starting date of such consultations, or failure to take the agreed corrective action, shall constitute grounds for the Party that requested the consultations to take action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation or technical permissions of the air carrier or air carriers concerned to ensure compliance with Articles 422 and 426. Where measures have been taken to refuse, revoke, suspend or limit the operating authorisation or technical permission of an air carrier, a Party may have recourse to arbitration in accordance with Article 739, without having prior recourse to consultations in accordance with Article 738. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744. At the request of a Party, the tribunal may, pending its final ruling, order the adoption of interim relief measures, including the modification or suspension of measures taken by either Party under this Article.

5. Notwithstanding paragraphs 3 and 4, in the cases referred to in points (c) and (d) of paragraph 1, and in points (b) and (c) of paragraph 2, a Party may take immediate or urgent action where required by an emergency or to prevent further non-compliance. For the purposes of this paragraph, further non-compliance means that the question of non-compliance has already been raised between the competent authorities of the Parties.

6. This Article is without prejudice to the provisions of Title XI of Heading One, Article 427(4), Article 434(4), (6) and (8) and Article 435(12) and to the dispute settlement procedure laid down in Title I of Part Six or to the measures resulting therefrom.

ARTICLE 425

Ownership and control of air carriers

The Parties recognise the potential benefits of the continued liberalisation of ownership and control of their respective air carriers. The Parties agree to examine in the Specialised Committee on Air Transport options for the reciprocal liberalisation of the ownership and control of their air carriers within 12 months from the entry into force of this Agreement, and thereafter within 12 months of receipt of a request to do so from one of the Parties. As a result of this examination, the Parties may decide to amend this Title.

ARTICLE 426

Compliance with laws and regulations

1. The laws and regulations of a Party relating to the admission to, operation within, and departure from its territory of aircraft engaged in international air transport shall be complied with by the air carriers of the other Party while entering, operating within, or leaving the territory of that Party, respectively.

2. The laws and regulations of a Party relating to the admission to, operation within, or departure from its territory of passengers, crew, baggage, cargo, or mail on aircraft (including regulations relating to entry, clearance, immigration, passports, customs and quarantine, or in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew, baggage, cargo, and mail carried by the air carriers of the other Party while entering, operating within, or leaving the territory of that Party, respectively.

3. The Parties shall permit, in their respective territory, the air carriers of the other Party to take appropriate measures to ensure that only persons with the travel documents required for entry into or transit through the territory of the other Party are carried.

ARTICLE 427

Non-Discrimination

1. Without prejudice to Title XI of Heading One, the Parties shall eliminate, within their respective jurisdictions, all forms of discrimination which would adversely affect the fair and equal opportunity of the air carriers of the other Party to compete in the exercise of the rights provided for in this Title.

2. A Party (the "initiating Party") may proceed in accordance with paragraphs 3 to 6 where it considers that its air carriers' fair and equal opportunities to compete in the exercise of the rights provided for in this Title are adversely affected by discrimination prohibited by paragraph 1.

3. The initiating Party shall submit a written request for consultations to the other Party (the "responding Party"). Consultations shall start within a period of 30 days from the receipt of the request, unless otherwise agreed by the Parties.

4. Where the initiating Party and the responding Party fail to reach agreement on the matter within 60 days from the receipt of the request for consultations referred to in paragraph 3, the initiating Party may take measures against all or part of the air carriers which have benefitted from discrimination prohibited by paragraph 1, including action to refuse, revoke, suspend, impose conditions on or limit the operating authorisations or technical permissions of the air carriers concerned.

5. The measures taken pursuant to paragraph 4 shall be appropriate, proportionate and restricted in their scope and duration to what is strictly necessary to mitigate the injury to the air carriers of the initiating Party and remove the undue advantage gained by the air carriers against which they are directed.

6. Where consultations have not resolved the matter or where measures have been taken pursuant to paragraph 4 of this Article, a Party may have recourse to arbitration in accordance with Article 739, without having prior recourse to consultations in accordance with Article 738. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744. At the request of a Party, the tribunal may, pending its final ruling, order the adoption of interim relief measures, including the modification or suspension of measures taken by either Party under this Article.

7. Notwithstanding paragraph 2, the Parties shall not proceed under paragraphs 3 to 6 in relation to conduct falling under the scope of Title XI of Heading One.

ARTICLE 428

Doing business

1. The Parties agree that obstacles to doing business encountered by air carriers would hamper the benefits under this Title. The Parties agree to cooperate in removing obstacles to doing business for air carriers of both Parties where such obstacles may hamper commercial operations, create distortions to competition or affect equal opportunities to compete.

2. The Specialised Committee on Air Transport shall monitor progress in effectively addressing matters relating to obstacles to doing business for air carriers.

ARTICLE 429

Commercial operations

1. The Parties shall grant each other the rights laid down in paragraphs 2 to 7. For the purposes of the exercise of those rights, the air carriers of each Party shall not be required to retain a local sponsor.

2. As regards air carrier representatives:

(a) the establishment of offices and facilities by the air carriers of one Party in the territory of the other Party as necessary to provide services under this Title shall be allowed without restriction or discrimination;

(b) without prejudice to safety and security regulations, where such offices and facilities are located in an airport they may be subject to limitations on grounds of availability of space;

(c) each Party shall, in accordance with its laws and regulations relating to entry, residence and employment, authorise the air carriers of the other Party to bring in and maintain in the territory of the authorising Party those of their own managerial, sales, technical, operational, and other specialist staff which the air carrier reasonably considers necessary for the provision of air transport services under this Title. Where employment authorisations are required for the personnel referred to in this paragraph, including those performing certain temporary duties, the Parties shall process applications for such authorisations expeditiously, subject to the relevant laws and regulations.

3. As regards ground handling:

(a) each Party shall permit the air carriers of the other Party to perform self-handling in its territory without restrictions other than those based on considerations of safety or security, or otherwise resulting from physical or operational constraints;

(b) each Party shall not impose on the air carriers of the other Party the choice of one or more providers of ground handling services among those which are present in the market in accordance with the laws and regulations of the Party where the services are provided;

(c) without prejudice to point (a), where the laws and regulations of a Party limit or restrict in any way free competition between providers of ground handling services, that Party shall ensure that all necessary ground handling services are available to the air carriers of the other Party and that they are provided under no less favourable terms than those under which they are provided to any other air carrier.

4. As regards the allocation of slots at airports, each Party shall ensure that its regulations, guidelines and procedures for allocation of slots at the airports in its territory are applied in a transparent, effective, non-discriminatory and timely manner.

5. As regards local expenses and transfer of funds and earnings:

(a) the provisions of Title IV of Heading One apply to the matters governed by this Title, without prejudice to Article 422;

(b) the Parties shall grant each other the benefits laid down in points (c) to (e);

(c) it shall be possible for the sale and purchase of transport and related services by the air carriers of the Parties, at the discretion of the air carrier, to be denominated in pounds sterling if the sale or purchase takes place in the territory of the United Kingdom, or, if the sale or purchase take place in the territory of a Member State, to be denominated in the currency of that Member State;

(d) the air carriers of each Party shall be permitted to pay for local expenses in local currency, at their discretion;

(e) the air carriers of each Party shall be permitted, on demand, to remit revenues obtained in the territory of the other Party from the sale of air transport services and associated activities directly linked to air transport in excess of sums locally disbursed, at any time, in any way, to the country of their choice. Prompt conversion and remittance shall be permitted without restrictions or taxation in respect thereof at the market rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance and shall not be subject to any charges except those normally made by banks for carrying out such conversion and remittance.

6. As regards intermodal transport:

(a) in relation to the transport of passengers, the Parties shall not subject surface transport providers to laws and regulations governing air transport on the sole basis that such surface transport is held out by an air carrier under its own name;

(b) subject to any conditions and qualifications set out in Title II of Heading One and its Annexes and in Title I of Heading Three and its Annex, air carriers of each Party shall be permitted, without restriction, to employ in connection with international air transport any surface transport for cargo to or from any points in the territories of the Parties, or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Air carriers may elect to perform their own surface transport or to provide it through arrangements, including code share, with other surface transport providers, including surface transport operated by other air carriers and indirect providers of cargo air transport. Such inter-modal cargo services may be offered as a through service and at a single price for the air and surface transport combined, provided that shippers are informed as to the providers of the transport involved.

7. As regards leasing:

(a) the Parties shall grant each other the right for their air carriers to provide air transport services in accordance with Article 419 in all the following ways:

(i) using aircraft leased without crew from any lessor;

(ii) in the case of air carriers of the United Kingdom, using aircraft leased with crew from other air carriers of the Parties;

(iii) in the case of air carriers of the Union, using aircraft leased with crew from other air carriers of the Union;

(iv) using aircraft leased with crew from air carriers other than those referred to in points (ii) and (iii), respectively, provided that the leasing is justified on the basis of exceptional needs, seasonal capacity needs or operational difficulties of the lessee, and the leasing does not exceed the duration which is strictly necessary to fulfil those needs or overcome those difficulties;

(b) the Parties may require leasing arrangements to be approved by their competent authorities for the purpose of verifying compliance with the conditions set out in this paragraph and with the applicable safety and security requirements;

(c) however, where a Party requires such approval, it shall endeavour to expedite the approval procedures and minimise the administrative burden on the air carriers concerned;

(d) the provisions of this paragraph are without prejudice to the laws and regulations of a Party as regards the leasing of aircraft by air carriers of that Party.

ARTICLE 430

Fiscal provisions

1. On arriving in the territory of one Party, aircraft operated in international air transport by the air carriers of the other Party, their regular equipment, fuel, lubricants, consumable technical supplies, ground equipment, spare parts (including engines), aircraft stores (including but not limited to such items as food, beverages and liquor, tobacco and other products destined for sale to, or use by, passengers in limited quantities during flight) and other items intended for or used solely in connection with the operation or servicing of aircraft engaged in international air transport shall, on the basis of reciprocity, and provided that such equipment and supplies remain on board the aircraft, be exempt from all import restrictions, property taxes and capital levies, customs duties, excise taxes, inspection fees, value added tax or other similar indirect taxes, and similar fees and charges imposed by the national or local authorities or the Union.

2. The following goods shall also be exempt, on the basis of reciprocity, from the taxes, levies, duties, fees and charges referred to in paragraph 1:

(a) aircraft stores introduced into or supplied in the territory of a Party and taken on board, within reasonable limits, for use on outbound aircraft of an air carrier of the other Party used in international air transport, even when these stores are to be used on a part of the journey performed over the said territory;

(b) ground equipment and spare parts (including engines) introduced into the territory of a Party for the servicing, maintenance, or repair of aircraft of an air carrier of the other Party used in international air transport;

(c) lubricants and consumable technical supplies other than fuel introduced into or supplied in the territory of a Party for use in an aircraft of an air carrier of the other Party used in international air transport, even when those supplies are to be used on a part of the journey performed over the said territory; and

(d) printed matter, as provided for by the customs legislation of each Party, introduced into or supplied in the territory of one Party and taken on board for use on outbound aircraft of an air carrier of the other Party engaged in international air transport, even when those stores are to be used on a part of the journey performed over the said territory.

3. The regular airborne equipment, as well as the material, supplies and spare parts referred to in paragraph 1 normally retained on board aircraft operated by an air carrier of one Party may be unloaded in the territory of the other Party only with the approval of the customs authorities of that Party and may be required to be kept under the supervision or control of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with applicable regulations.

4. The relief from customs duties, national excise duties and similar national fees provided for in this Article shall also be available in situations where the air carrier or air carriers of one Party have entered into arrangements with another air carrier or air carriers for the loan or transfer in the territory of the other Party of the items specified in paragraphs 1 and 2, provided that such other air carrier or air carriers similarly enjoy such relief from that other Party.

5. Nothing in this Title shall prevent either Party from imposing taxes, levies, duties, fees or charges on goods sold other than for consumption on board to passengers during a sector of an air service between two points within its territory at which embarkation or disembarkation is permitted.

6. Baggage and cargo in direct transit across the territory of a Party shall be exempt from taxes, customs duties, fees and other similar charges.

7. Equipment and supplies referred to in paragraph 2 may be required to be kept under the supervision or control of the competent authorities.

8. The provisions of the respective conventions in force between the United Kingdom and Member States for the avoidance of double taxation on income and on capital remain unaffected by this Title.

9. The relief from customs duties, national excise duties and similar national fees shall not extend to charges based on the cost of services provided to an air carrier of a Party in the territory of the other Party.

ARTICLE 431

User charges

1. User charges that may be imposed by one Party on the air carriers of the other Party for the use of air navigation and air traffic control shall be cost-related and non-discriminatory. In any event, any such user charges shall be assessed on the air carriers of the other Party on terms not less favourable than the most favourable terms available to any other air carrier in like circumstances at the time the charges are applied.

2. Without prejudice to Article 429(5), each Party shall ensure that user charges other than those mentioned in paragraph 1 that may be imposed on the air carriers of the other Party are just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. User charges imposed on the air carriers of the other Party may reflect, but not exceed, the full cost of providing appropriate airport, airport environmental and aviation security facilities and services at the airport or within the airport system. Such charges may include a reasonable return on assets after depreciation. Facilities and services for which user charges are imposed shall be provided on an efficient and economic basis. In any event, any such user charges shall be assessed on the air carrier of the other Party on terms no less favourable than the most favourable terms available to any other air carrier in like circumstances at the time the charges are applied.

3. In order to ensure the correct application of the principles set out in paragraphs 1 and 2, each Party shall ensure that consultations take place between the competent charging authorities or bodies in its territory and the air carriers using the services and facilities concerned and that the competent charging authorities or bodies and the air carriers exchange such information as may be necessary. Each Party shall ensure that the competent charging authorities provide users with reasonable notice of any proposal for changes in user charges to enable users to express their views before any changes are made.

ARTICLE 432

Tariffs

1. The Parties shall allow tariffs to be freely established by the air carriers of the Parties on the basis of fair competition in accordance with this Title.

2. The Parties shall not subject the tariffs of each other's air carriers to approval.

ARTICLE 433

Statistics

1. The Parties shall cooperate within the framework of the Specialised Committee on Air Transport to facilitate the exchange of statistical information related to air transport under this Title.

2. Upon request, each Party shall provide the other Party with non-confidential and non-commercially sensitive available statistics related to air transport under this Title, as required by the respective laws and regulations of the Parties, on a non-discriminatory basis, and as may reasonably be required.

ARTICLE 434

Aviation safety

1. The Parties reaffirm the importance of close cooperation in the field of aviation safety.

2. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Party and still in force shall be recognised as valid by the other Party and its competent authorities, for the purpose of operating air services under this Title, provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, as a minimum, the relevant international standards established under the Convention.

3. Each Party may request consultations at any time concerning the safety standards maintained and administered by the other Party in areas relating to aeronautical facilities, flight crew, aircraft and the operation of aircraft. Such consultations shall take place within 30 days of the request.

4. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards in the areas referred to in paragraph 2 that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Party shall notify the other Party of those findings and the steps considered necessary to conform with those minimum standards, and the other Party shall take appropriate corrective action. Failure by the other Party to take appropriate action within 15 days or such other period as may be agreed shall be grounds for the requesting Party to refuse, revoke, suspend, impose conditions on or limit the operating authorisations or technical permissions, or to otherwise refuse, revoke, suspend, impose conditions on or limit the operations of the air carriers under the safety oversight of the other Party.

5. Any aircraft operated by, or, under a lease arrangement, on behalf of, an air carrier or air carriers of one Party may, while within the territory of the other Party, be made the subject of a ramp inspection, provided that this does not lead to unreasonable delay in the operation of the aircraft.

6. The ramp inspection or series of ramp inspections can give rise to:

(a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention; or

(b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention.

In the event that the Party that conducted the ramp inspection or inspections establishes serious concerns as referred to in point (a) or (b), it shall notify the competent authorities of the other Party that are responsible for the safety oversight of the air carrier operating the aircraft of such findings and inform them of the steps considered necessary to conform with those minimum standards. Failure to take appropriate corrective action within 15 days or such other period as may be agreed shall constitute grounds for the first Party to refuse, revoke, suspend, impose conditions on or limit the operating authorisations or technical permissions or to otherwise refuse, revoke, suspend, impose conditions on or limit the operations of the air carrier operating the aircraft.

7. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the air carrier or air carriers of one Party in accordance with paragraph 5 is denied, the other Party shall be free to infer that serious concerns as referred to in paragraph 6 arise and proceed in accordance with paragraph 6.

8. Each Party reserves the right to immediately revoke, suspend or limit the operating authorisations or technical permissions or to otherwise suspend or limit the operations of an air carrier or air carriers of the other Party, if the first Party concludes as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an air carrier operation. The Party taking such measures shall promptly inform the other Party, providing reasons for its action.

9. Any action by one Party in accordance with paragraph 4, 6 or 8 shall be discontinued once the basis for the taking of that action ceases to exist.

10. Where measures have been taken by a Party pursuant to paragraph 4, 6 or 8, in the event of a dispute a Party may have recourse to arbitration in accordance with Article 739, without having prior recourse to consultations in accordance with Article 738. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744. At the request of the complaining Party, the tribunal may, pending its final ruling, order the adoption of interim relief measures, including the modification or suspension of measures taken by either Party under this Article.

ARTICLE 435

Aviation security

1. The Parties shall provide upon request all necessary assistance to each other to address any threat to the security of civil aviation, including the prevention of acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

2. The Parties shall, in their mutual relations, act in conformity with the aviation security standards established by ICAO. They shall require that operators of the aircraft in their registries and the operators of airports in their territory, act, at least, in conformity with such aviation security standards. Each Party shall, on request, provide the other Party notification of any difference between its laws, regulations and practices and the aviation security standards referred to in this paragraph. Each Party may at any time request consultations, to be held without delay, with the other Party to discuss those differences.

3. Each Party shall ensure that effective measures are taken within its territory to protect civil aviation against acts of unlawful interference, including, but not limited to, screening of passengers and their cabin baggage, screening of hold baggage, screening and security controls for persons other than passengers, including crew, and their items carried, screening and security controls for cargo, mail, in-flight and airport supplies, and access control to airside and security restricted areas. Each Party agrees that the security provisions of the other Party relating to the admission to, operating within, or departure from its territory of aircraft shall be observed.

4. The Parties shall endeavour to cooperate on aviation security matters to the highest extent, to exchange information on threat, vulnerability and risk, subject to the mutual agreement of appropriate arrangements for the secure transfer, use, storage and disposal of classified information, to discuss and share best practices, performance and detection standards of security equipment, compliance monitoring best practices and results, and in any other area that the Parties may identify. In particular, the Parties shall endeavour to develop and maintain cooperation arrangements between technical experts on the development and recognition of aviation security standards with the aim of facilitating such cooperation, reducing administrative duplication and fostering early notice and prior discussion of new security initiatives and requirements.

5. Each Party shall make available to the other Party on request the results of audits carried out by ICAO and the corrective actions taken by the audited state, subject to the mutual agreement of appropriate arrangements for the secure transfer, use, storage and disposal of such information.

6. The Parties agree to cooperate on security inspections undertaken by them in the territory of either Party through the establishment of mechanisms, including administrative arrangements, for the reciprocal exchange of information on results of such security inspections. The Parties agree to consider positively requests to participate, as observers, in security inspections undertaken by the other Party.

7. Subject to paragraph 9, and with full regard and mutual respect for the other Party's sovereignty, a Party may adopt security measures for entry into its territory. Where possible, that Party shall take into account the security measures already applied by the other Party and any views that the other Party may offer. Each Party recognises that nothing in this Article limits the right of a Party to refuse entry into its territory of any flight or flights that it deems to present a threat to its security.

8. A Party may take emergency measures to meet a specific security threat. Such measures shall be notified immediately to the other Party. Without prejudice to the need to take immediate action in order to protect aviation security, when considering security measures, a Party shall evaluate possible adverse effects on international air transport and, unless constrained by law, shall take such effects into account when it determines what measures are necessary and appropriate to address the security concerns.

9. With regard to air services bound for its territory, a Party may not require security measures to be implemented in the territory of the other Party. Where a Party considers that a specific threat urgently requires the implementation of temporary measures in addition to the measures already in place in the territory of the other Party, it shall, inform the other Party of the particulars of that threat to the extent consistent with the need to protect security information, and of the proposed measures. The other Party shall give positive consideration to such a proposal, and may decide to implement additional measures as it deems necessary. Such measures shall be proportionate and limited in time.

10. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of aircraft, passengers, crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to rapidly and safely terminate such incident or threat.

11. Each Party shall take all measures it finds practicable to ensure that an aircraft subjected to an act of unlawful seizure or other acts of unlawful interference which is on the ground in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Where practicable, such measures shall be taken on the basis of consultations between the Parties.

12. When a Party has reasonable grounds to believe that the other Party does not comply with this Article, that Party may request immediate consultations with the other Party. Such consultations shall start within 30 days of the receipt of such a request. Failure to reach a satisfactory agreement within 15 days or such other period as may be agreed from the date of such request shall constitute grounds for the Party that requested the consultations to take action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation and technical permissions of an air carrier or air carriers of the other Party to ensure compliance with this Article. When required by an emergency, or to prevent further non-compliance with this Article, a Party may take interim action prior to the expiry of the 15 day-period referred to in this paragraph.

13. Any action taken in accordance with paragraph 8 shall be discontinued when the Party in question considers that the action is no longer required or has been superseded by other measures to mitigate the threat. Any action taken in accordance with paragraph 12 shall be discontinued upon compliance by the other Party with this Article. In the case of action taken in accordance with paragraph 8 or 12, this may be discontinued as mutually agreed by the Parties.

14. Where measures or actions have been taken in accordance with paragraph 7, 8, 9 or 12 of this Article, a Party may have recourse to the dispute settlement provisions of Title I of Part Six. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744.

ARTICLE 436

Air traffic management

1. The Parties and their respective competent authorities and air navigation service providers shall cooperate with each other in such a way as to enhance the safe and efficient functioning of air traffic in the European region. The Parties shall seek interoperability between each other's service providers.

2. The Parties agree to cooperate on matters concerning the performance and charging of air navigation services and network functions, with a view to optimising overall flight efficiency, reducing costs, minimising environmental impact and enhancing the safety and capacity of air traffic flows between the existing air traffic management systems of the Parties.

3. The Parties agree to promote cooperation between their air navigation service providers in order to exchange flight data and coordinate traffic flows to optimise flight efficiency, with a view to achieving improved predictability, punctuality and service continuity for air traffic.

4. The Parties agree to cooperate on their air traffic management modernisation programmes, including research, development and deployment activities, and to encourage cross-participation in validation and demonstration activities with the goal of ensuring global interoperability.

ARTICLE 437

Air carrier liability

The Parties reaffirm their obligations under the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999 (the "Montreal Convention").

ARTICLE 438

Consumer protection

1. The Parties share the objective of achieving a high level of consumer protection and shall cooperate to that effect.

2. The Parties shall ensure that effective and non-discriminatory measures are taken to protect the interests of consumers in air transport. Such measures shall include the appropriate access to information, assistance including for persons with disabilities and reduced mobility, reimbursement and, if applicable, compensation in case of denied boarding, cancellation or delays, and efficient complaint handling procedures.

3. The Parties shall consult each other on any matter related to consumer protection, including their planned measures in that regard.

ARTICLE 439

Relationship to other agreements

1. Subject to paragraphs 4 and 5, earlier agreements and arrangements relating to the subject matter of this Title between the United Kingdom and the Member States, to the extent that they may not have been superseded by the law of the Union, shall be superseded by this Agreement.

2. The United Kingdom and a Member State may not grant each other any rights in connection with air transport to, from or within their respective territories other than those expressly laid down in this Title, save as provided for in Article 419(4) and (9).

3. If the Parties become party to a multilateral agreement, or endorse a decision adopted by ICAO or another international organisation that addresses matters covered by this Title, they shall consult in the Specialised Committee on Air Transport to determine whether this Title should be revised to take into account such developments.

4. Nothing in this Title shall affect the validity and application of existing and future air transport agreements between the Member States and the United Kingdom as regards territories under their respective sovereignty which are not covered by Article 774.

5. Nothing in this Title shall affect any rights available to the United Kingdom and Member States under the Multilateral Agreement on Commercial Rights of Non-Scheduled Air Services in Europe, signed at Paris on 30 April 1956, to the extent that such rights go beyond those laid down in this Title.

ARTICLE 440

Suspension and Termination

1. A suspension of this Title, in whole or in part, pursuant to Article 749, may be implemented no earlier than the first day of the International Air Transport Association (IATA) traffic season following the season during which the suspension has been notified.

2. Upon termination of this Agreement pursuant to Article 779 or upon termination of this Title pursuant to Article 441 or Article 521 or Article 509, the provisions governing the matters falling within the scope of this Title shall continue to apply beyond the date of cessation referred to in Article 779 or Article 441 or Article 521 or Article 509, until the end of the IATA traffic season in progress on that date.

3. The Party suspending this Title, in whole or in part, or terminating this Agreement or this Title shall inform ICAO thereof.

ARTICLE 441

Termination of this Title

Without prejudice to Article 779, Article 521, and Article 509 each Party may at any moment terminate this Title, by written notification through diplomatic channels. In that event, this Title shall cease to be in force on the first day of the ninth month following the date of notification.

ARTICLE 442

Registration of this Agreement

This Agreement and any amendments thereto shall, insofar as relevant, be registered with ICAO in accordance with Article 83 of the Convention.

TITLE II

AVIATION SAFETY

ARTICLE 443

Objectives

The objectives of this Title are to:

(a) enable the reciprocal acceptance, as provided for in the Annexes to this Title, of findings of compliance made and certificates issued by either Party's competent authorities or approved organisations;

(b) promote cooperation toward a high level of civil aviation safety and environmental compatibility;

(c) facilitate the multinational dimension of the civil aviation industry;

(d) facilitate and promote the free flow of civil aeronautical products and services.

ARTICLE 444

Definitions

For the purposes of this Title, the following definitions apply:

(a) "approved organisation" means any legal person certified by the competent authority of either Party to exercise privileges related to the scope of this Title;

(b) "certificate" means any approval, licence or other document issued as a form of recognition of compliance that a civil aeronautical product, an organisation or a legal or natural person complies with the applicable requirements set out in laws and regulations of a Party;

(c) "civil aeronautical product" means any civil aircraft, aircraft engine, or aircraft propeller, or subassembly, appliance, part or component, installed or to be installed thereon;

(d) "competent authority" means a Union or government agency or a government entity responsible for civil aviation safety that is designated by a Party for the purposes of this Title to perform the following functions:

(i) to assess the compliance of civil aeronautical products, organisations, facilities, operations and services subject to its oversight with applicable requirements set out in laws, regulations and administrative provisions of that Party;

(ii) to conduct monitoring of their continued compliance with these requirements; and

(iii) to take enforcement actions to ensure their compliance with these requirements;

(e) "findings of compliance" means a determination of compliance with the applicable requirements set out in laws and regulations of a Party as the result of actions such as testing, inspections, qualifications, approvals and monitoring;

(f) "monitoring" means the regular surveillance by a competent authority of a Party to determine continuing compliance with the applicable requirements set out in laws and regulations of that Party;

(g) "technical agent" means, for the Union, the European Union Aviation Safety Agency ("EASA"), or its successor, and for the United Kingdom, the United Kingdom Civil Aviation Authority ("CAA"), or its successor; and

(h) "the Convention" means the Convention on International Civil Aviation, done at Chicago on 7 December 1944, and includes:

(i) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by the United Kingdom and the Member State or Member States concerned, as is relevant to the issue in question; and

(ii) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for the United Kingdom and the Member State or Member States concerned, as is relevant to the issue in question.

ARTICLE 445

Scope and implementation

1. The Parties may cooperate in the following areas:

(a) airworthiness certificates and monitoring of civil aeronautical products;

(b) environmental certificates and testing of civil aeronautical products;

(c) design and production certificates and monitoring of design and production organisations;

(d) maintenance organisation certificates and monitoring of maintenance organisations;

(e) personnel licensing and training;

(f) flight simulator qualification evaluation;

(g) operation of aircraft;

(h) air traffic management and air navigation services; and

(i) other areas related to aviation safety subject to Annexes to the Convention.

2. The scope of this Title shall be established by way of Annexes covering each area of cooperation set out in paragraph 1.

3. The Specialised Committee on Aviation Safety may only adopt Annexes as referred to in paragraph 2 where each Party has established that the civil aviation standards, rules, practices, procedures and systems of the other Party ensure a sufficiently equivalent level of safety to permit acceptance of findings of compliance made and certificates issued by its competent authorities or by organisations approved by those competent authorities.

4. Each Annex referred to in paragraph 2 shall describe the terms, conditions and methods for the reciprocal acceptance of findings of compliance and certificates, and, if necessary, transitional arrangements.

5. The technical agents may develop implementation procedures for each individual Annex. Technical differences between the Parties' civil aviation standards, rules, practices, procedures and systems shall be addressed in the Annexes referred to in paragraph 2 and implementation procedures.

ARTICLE 446

General obligations

1. Each Party shall accept findings of compliance made and certificates issued by the other Party's competent authorities or approved organisations, in accordance with the terms and conditions set out in the Annexes referred to in Article 445(2).

2. Nothing in this Title shall entail reciprocal acceptance of the standards or technical regulations of the Parties.

3. Each Party shall ensure that its respective competent authorities remain capable and fulfil their responsibilities under this Title.

ARTICLE 447

Preservation of regulatory authority

Nothing in this Title shall be construed as limiting the authority of a Party to determine, through its legislative, regulatory and administrative measures, the level of protection it considers appropriate for safety and the environment.

ARTICLE 448

Safeguard measures

1. Either Party may take all appropriate and immediate measures whenever it considers that there is a reasonable risk that a civil aeronautical product, a service or any activity that falls within the scope of this Title may compromise safety or the environment, may not meet its applicable legislative, regulatory or administrative measures, or may otherwise fail to satisfy a requirement within the scope of the applicable Annex to this Title.

2. Where either Party takes measures pursuant to paragraph 1, it shall inform the other Party in writing within 15 working days of taking such measures, providing reasons therefor.

ARTICLE 449

Communication

1. The Parties shall designate and notify each other of a contact point for the communication related to the implementation of this Title. All such communications shall be in the English language.

2. The Parties shall notify to each other a list of the competent authorities, and thereafter an updated list each time that becomes necessary.

ARTICLE 450

Transparency, regulatory cooperation and mutual assistance

1. Each Party shall ensure that the other Party is kept informed of its laws and regulations related to this Title and any significant changes to such laws and regulations.

2. The Parties shall to the extent possible inform each other of their proposed significant revisions of their relevant laws, regulations, standards, and requirements, and of their systems for issuing certificates insofar as these revisions may have an impact on this Title. To the extent possible, they shall offer each other an opportunity to comment on such revisions and give due consideration to such comments.

3. For the purpose of investigating and resolving specific safety issues, each Party's competent authorities may allow the other Party's competent authorities to participate as observers in each other's oversight activities as specified in the applicable Annex to this Title.

4. For the purpose of monitoring and inspections, each Party's competent authorities shall assist, if necessary, the other Party's competent authorities with the objective of providing unimpeded access to regulated entities subject to its oversight.

5. To ensure the continued confidence by each Party in the reliability of the other Party's processes for findings of compliance, each technical agent may participate as an observer in the other's oversight activities, in accordance with procedures set out in the Annexes to this Title. That participation shall not amount to a systematic participation in oversight activity of the other Party.

ARTICLE 451

Exchange of safety information

The Parties shall, without prejudice to Article 453 and subject to their applicable legislation:

(a) provide each other, on request and in a timely manner, with information available to their technical agents related to accidents, serious incidents or occurrences in relation to civil aeronautical products, services or activities covered by the Annexes to this Title; and

(b) exchange other safety information as the technical agents may agree.

ARTICLE 452

Cooperation in enforcement activities

The Parties shall, through their technical agents or competent authorities, provide when requested, subject to applicable laws and regulations, as well as to the availability of required resources, mutual cooperation and assistance in investigations or enforcement activities regarding any alleged or suspected violation of laws or regulations falling within the scope of this Title. In addition, each Party shall promptly notify the other Party of any investigation when mutual interests are involved.

ARTICLE 453

Confidentiality and protection of data and information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of data and information received from the other Party under this Title. Such data and information may only be used by the Party receiving the data and information for the purposes of this Title.

2. In particular, subject to their respective laws and regulations, the Parties shall neither disclose to a third party, including the public, nor permit their competent authorities to disclose to a third party, including the public, any data and information received from the other Party under this Title that constitutes trade secrets, intellectual property, confidential commercial or financial information, proprietary data, or information that relates to an ongoing investigation. To that end, such data and information shall be considered to be confidential.

3. A Party or a competent authority of a Party may, upon providing data or information to the other Party or a competent authority of the other Party, designate data or information that it considers to be confidential and not to be subject to disclosure. In that case, the Party or its competent authority shall clearly mark such data or information as confidential.

4. If a Party disagrees with the designation made by the other Party or a competent authority of that Party in accordance with paragraph 3, the former Party may request consultations with the other Party to address the issue.

5. Each Party shall take all reasonable precautions necessary to protect data and information, received under this Title, from unauthorised disclosure.

6. The Party receiving data and information from the other Party under this Title shall not acquire any proprietary rights on such data and information by reason of its receipt from the other Party.

ARTICLE 454

Adoption and amendments of Annexes to this Title

The Specialised Committee on Aviation Safety may amend Annex 30, adopt or amend Annexes as provided for in Article 445(2) and delete any Annex.

ARTICLE 455

Cost recovery

Each Party shall endeavour to ensure that any fees or charges imposed by a Party or its technical agent on a legal or natural person whose activities are covered by this Title shall be just, reasonable and commensurate with the services provided, and shall not create a barrier to trade.

ARTICLE 456

Other agreements and prior arrangements

1. Upon entry into force of this Agreement, this Title shall supersede any bilateral aviation safety agreements or arrangements between the United Kingdom and the Member States with respect to any matter covered by this Title that has been implemented in accordance with Article 445.

2. The technical agents shall take necessary measures to revise or terminate, as appropriate, prior arrangements between them.

3. Subject to paragraphs 1 and 2, nothing in this Title shall affect the rights and obligations of the Parties under any other international agreements.

ARTICLE 457

Suspension of reciprocal acceptance obligations

1. A Party shall have the right to suspend, in whole or in part, its acceptance obligations under Article 446(1), when the other Party materially violates its obligations under this Title.

2. Before exercising its right to suspend its acceptance obligations, a Party shall request consultations for the purpose of seeking corrective measures of the other Party. During the consultations, the Parties shall, where appropriate, consider the effects of the suspension.

3. Rights under this Article shall be exercised only if the other Party fails to take corrective measures within an appropriate period of time following the consultations. If a Party exercises a right under this Article, it shall notify the other Party of its intention to suspend the acceptance obligations in writing and detail the reasons for suspension.

4. Such suspension shall take effect 30 days after the date of the notification, unless, prior to the end of that period, the Party which initiated the suspension notifies the other Party in writing that it is withdrawing its notification.

5. Such suspension shall not affect the validity of findings of compliance made and certificates issued by the competent authorities or approved organisations of the other Party prior to the date the suspension took effect. Any such suspension that has become effective may be rescinded immediately upon an exchange of diplomatic notes to that effect by the Parties.

ARTICLE 458

Termination of this Title

Without prejudice to Article 779, Article 521 and Article 509, each Party may at any moment terminate this Title, by written notification through diplomatic channels. In that event, this Title shall cease to be in force on the first day of the ninth month following the date of notification.

HEADING THREE

ROAD TRANSPORT

TITLE I

TRANSPORT OF GOODS BY ROAD

ARTICLE 459

Objective

1. The objective of this Title is to ensure, as regards the transport of goods by road, continued connectivity between, through and within the territories of the Parties and to lay down the rules which are applicable to such transport.

2. The Parties agree not to take discriminatory measures when applying this Title.

3. Nothing in this Title shall affect the transport of goods by road within the territory of one of the Parties by a road haulage operator established in that territory.

ARTICLE 460

Scope

1. This Title applies to the transport of goods by road with a commercial purpose between, through and within the territories of the Parties and is without prejudice to the application of the rules established by the European Conference of Ministers of Transport.

2. Any transport of goods by road for which no direct or indirect remuneration is received and which does not directly or indirectly generate any income for the driver of the vehicle or for others, and which is not linked to professional activity shall be considered as the transport of goods for a non-commercial purpose.

ARTICLE 461

Definitions

For the purposes of this Title and in addition to the definitions set out in Article 124, the following definitions apply:

(a) "vehicle" means a motor vehicle registered in the territory of a Party, or a coupled combination of vehicles of which the motor vehicle is registered in the territory of a Party, and which is used exclusively for the transport of goods;

(b) "road haulage operator" means any natural or legal person engaged in the transport of goods with a commercial purpose, by means of a vehicle;

(c) "road haulage operator of a Party" means a road haulage operator which is a legal person established in the territory of a Party or a natural person of a Party;

(d) "party of establishment" means the Party in which a road haulage operator is established;

(e) "driver" means any person who drives a vehicle even for a short period, or who is carried in a vehicle as part of his duties to be available for driving if necessary;

(f) "transit" means the movement of vehicles across the territory of a Party without loading or unloading of goods;

(g) "regulatory measures" means:

(i) for the Union:

(A) regulations and directives, as provided for in Article 288 TFEU; and

(B) delegated and implementing acts, as provided for in Articles 290 and 291 TFEU, respectively; and

(ii) for the United Kingdom:

(A) primary legislation; and

(B) secondary legislation.

ARTICLE 462

Transport of goods between, through and within the territories of the Parties

1. Provided that the conditions in paragraph 2 are fulfilled, road haulage operators of a Party may undertake:

(a) laden journeys with a vehicle, from the territory of the Party of establishment to the territory of the other Party, and vice versa, with or without transit through the territory of a third country;

(b) laden journeys with a vehicle from the territory of the Party of establishment to the territory of the same Party with transit through the territory of the other Party;

(c) laden journeys with a vehicle to or from the territory of the Party of establishment with transit through the territory of the other Party;

(d) unladen journeys with a vehicle in conjunction with the journeys referred to in points (a), (b) and (c).

2. Road haulage operators of a Party may only undertake a journey referred to in paragraph 1 if:

(a) they hold a valid licence issued in accordance with Article 463, except in the cases referred to in Article 464; and

(b) the journey is carried out by drivers who hold a Certificate of Professional Competence in accordance with Article 465(1).

3. Subject to paragraph 6, and provided that the conditions in paragraph 2 are fulfilled, road haulage operators of the United Kingdom may undertake up to two laden journeys from one Member State to another Member State, without returning to the territory of the United Kingdom, provided that such journeys follow a journey from the territory of the United Kingdom permitted under point (a) of paragraph 1.

4. Without prejudice to paragraph 5, subject to paragraph 6 and provided that the conditions in paragraph 2 are fulfilled, road haulage operators of the United Kingdom may undertake one laden journey within the territory of a Member State provided that operation:

(a) follows a journey from the territory of the United Kingdom permitted under point (a) of paragraph 1; and

(b) is performed within seven days of the unloading in the territory of that Member State of goods carried on the journey referred to in point (a).

5. Subject to paragraph 6 and provided that the conditions in paragraph 2 are fulfilled, road haulage operators of the United Kingdom established in Northern Ireland may undertake up to two laden journeys within the territory of Ireland provided that such operations:

(a) follow a journey from the territory of Northern Ireland permitted under point (a) of paragraph 1; and

(b) are performed within seven days of the unloading in the territory of Ireland of goods carried on the journey referred to in point (a).

6. Road haulage operators of the United Kingdom shall be limited to a maximum of two journeys within the territory of the Union under paragraphs 3, 4 and 5 before returning to the territory of the United Kingdom.

7. Provided that the conditions in paragraph 2 are fulfilled, road haulage operators of the Union may undertake up to two laden journeys within the territory of the United Kingdom provided that such operations:

(a) follow a journey from the territory of the Union permitted under point (a) of paragraph 1; and

(b) are performed within seven days of the unloading in the territory of the United Kingdom of the goods carried on the journey referred to in point (a).

ARTICLE 463

Requirements for operators

1. Road haulage operators of a Party undertaking a journey referred to in Article 462 shall hold a valid licence issued in accordance with paragraph 2 of this Article.

2. Licences shall only be issued, in accordance with the law of the Parties, to road haulage operators who comply with the requirements set out in Section 1 of Part A of Annex 31 governing the admission to, and the pursuit of, the occupation of road haulage operator.

3. A certified true copy of the licence shall be kept on board the vehicle and shall be presented at the request of any inspecting officers authorised by each Party. The licence and the certified true copies shall correspond to one of the models set out in Appendix 31-A-1-3 of Part A to Annex 31, which also lays down the conditions governing its use. The licence shall contain at least two of the security features listed in Appendix 31-A-1-4 to Part A of Annex 31.

4. Road haulage operators shall comply with the requirements set out in Section 2 of Part A of Annex 31 laying down requirements for the posting of drivers when undertaking a journey referred to in Article 462(3) to (7).

ARTICLE 464

Exemptions from licencing requirement

The following types of transport of goods and unladen journeys made in conjunction with such transport may be conducted without a valid licence as referred to in Article 463:

(a) transport of mail as a universal service;

(b) transport of vehicles which have suffered damage or breakdown;

(c) until 20 May 2022, transport of goods in motor vehicles the permissible laden mass of which, including that of trailers, does not exceed 3,5 tonnes;

(d) from 21 May 2022, transport of goods in motor vehicles the permissible laden mass of which, including that of trailers, does not exceed 2,5 tonnes;

(e) transport of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters and humanitarian assistance;

(f) transport of goods in vehicles provided that the following conditions are fulfilled:

(i) the goods carried are the property of the road haulage operator or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the operator;

(ii) the purpose of the journey is to carry the goods to or from the road haulage operator's premises or to move them, either inside or outside the operator for its own requirements;

(iii) the vehicles used for such transport are driven by personnel employed by, or put at the disposal of, the road haulage operator under a contractual obligation;

(iv) the vehicles carrying the goods are owned by the road haulage operator, have been bought by it on deferred terms or have been hired; and

(v) such transport is no more than ancillary to the overall activities of the road haulage operator;

(g) transport of goods by means of motor vehicles with a maximum authorised speed not exceeding 40 km/h.

ARTICLE 465

Requirements for drivers

1 Drivers of the vehicles undertaking journeys as referred to in Article 462 shall:

(a) hold a Certificate of Professional Competence issued in accordance with Section 1 of Part B of Annex 31; and

(b) comply with the rules on driving and working time, rest periods, breaks and the use of tachographs in accordance with Sections 2 to 4 of Part B of Annex 31.

2. The European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR), done in Geneva on 1 July 1970, shall apply, instead of point (b) of paragraph 1, to international road transport operations undertaken in part outside the territory of the Parties, for the whole journey.

ARTICLE 466

Requirements for vehicles

1. A Party shall not reject or prohibit the use in its territory of a vehicle undertaking a journey referred to in Article 462 if the vehicle complies with the requirements set out in Section 1 of Part C of Annex 31.

2. Vehicles undertaking the journeys referred to in Article 462 shall be equipped with a tachograph constructed, installed, used, tested and controlled in accordance with Section 2 of Part C of Annex 31.

ARTICLE 467

Road traffic rules

Drivers of vehicles undertaking the transport of goods under this Title shall, when in the territory of the other Party, comply with the national laws and regulations in force in that territory concerning road traffic.

ARTICLE 468

Development of laws and Specialised Committee on Road Transport

1. When a Party proposes a new regulatory measure in an area covered by Annex 31, it shall:

(a) notify the other Party of the proposed regulatory measure as soon as possible; and

(b) keep the other Party informed of progress of the regulatory measure.

2. At the request of one of the Parties, an exchange of views shall take place within the Specialised Committee on Road Transport no later than two months after the submission of the request, as to whether the proposed new regulatory measure would apply to journeys referred to in Article 462, or not.

3. When a Party adopts a new regulatory measure referred to in paragraph 1, it shall notify the other Party, and supply the text of the new regulatory measure within one week of its publication.

4. The Specialised Committee on Road Transport shall meet to discuss any new regulatory measure adopted, on request by either Party within two months of the submission of the request, whether or not a notification has taken place in accordance with paragraph 1 or 3, or a discussion has taken place in accordance with paragraph 2.

5. The Specialised Committee on Road Transport may:

(a) amend Annex 31 to take account of regulatory and/or technological developments, or to ensure the satisfactory implementation of this Title;

(b) confirm that the amendments made by the new regulatory measure conform to Annex 31; or

(c) decide on any other measure aimed at safeguarding the proper functioning of this Title.

ARTICLE 469

Remedial measures

1 If a Party considers that the other Party has adopted a new regulatory measure that does not comply with the requirements of Annex 31, in particular in cases where the Specialised Committee on Road Transport has not reached a decision under Article 468, and the other Party nevertheless applies the provisions of the new regulatory measure to the Party's road transport operators, drivers or vehicles, the Party may, after notifying the other Party, adopt appropriate remedial measures, including the suspension of obligations under this Agreement or any supplementing Agreement, provided that such measures:

(a) do not exceed the level equivalent to the nullification or impairment caused by the new regulatory measure adopted by the other Party that does not comply with the requirements of Annex 31; and

(b) take effect at the earliest 7 days after the Party which intends to take such measures has given the other Party notice under this paragraph.

2. The appropriate remedial measures shall cease to apply:

(a) when the Party having taken such measures is satisfied that the other Party is complying with its obligations under this Title; or

(b) in compliance with a ruling of the arbitration tribunal.

3. A Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from suspending obligations under this Article.

ARTICLE 470

Taxation

1. Vehicles used for the carriage of goods in accordance with this Title shall be exempt from the taxes and charges levied on the possession or circulation of vehicles in the territory of the other Party.

2. The exemption referred to in paragraph 1 shall not apply to:

(a) a tax or charge on fuel consumption;

(b) a charge for using a road or network of roads; or

(c) a charge for using particular bridges, tunnels or ferries.

3. The fuel contained in the standard tanks of the vehicles and of special containers, admitted temporarily, which is used directly for the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems, as well as lubricants present in the motor vehicles and required for their normal operation during the journey, shall be free of custom duties and any other taxes and levies, such as VAT and excise duties, and shall not be subject to any import restrictions.

4. The spare parts imported for repairing a vehicle on the territory of one Party that has been registered or put into circulation in the other Party, shall be admitted under cover of a temporary duty-free admission and without prohibition or restriction of importation. The replaced parts are subject to customs duties and other taxes (VAT) and shall be re-exported or destroyed under the control of the customs authorities of the other Party.

ARTICLE 471

Obligations in other Titles

Articles 135 and 137 are incorporated into and made part of this Title and apply to the treatment of road haulage operators undertaking journeys in accordance with Article 462.

ARTICLE 472

Termination of this Title

Without prejudice to Article 779, Article 521 and Article 509, each Party may at any moment terminate this Title, by written notification through diplomatic channels. In that event, this Title shall cease to be in force on the first day of the ninth month following the date of notification.

TITLE II

TRANSPORT OF PASSENGERS BY ROAD

ARTICLE 473

Scope

1. The objective of this Title is to ensure, as regards the transport of passengers by road, continued connectivity between, through and within the territories of the Parties and to lay down the rules which are applicable to such transport. It applies to the occasional, regular and special regular transport of passengers by coach and bus between, through and within the territories of the Parties.

2. The Parties agree not to take discriminatory measures when applying this Title.

3. Nothing in this Title shall affect the transport of passengers within the territory of one of the Parties by a road passenger transport operator established in that territory.

ARTICLE 474

Definitions

For the purposes of this Title and in addition to the definitions set out in Article 124, the following definitions apply:

(a) "coaches and buses" are vehicles which, by virtue of their construction and their equipment, are suitable for carrying more than nine persons, including the driver, and are intended for that purpose;

(b) "passenger transport services" means transport services by road for the public or for specific categories of users, supplied in return for payment by the person transported or by the transport organiser, by means of coaches and buses;

(c) "road passenger transport operator" means any natural person or any legal person, whether having its own legal personality or being dependent upon an authority having such a personality, which supplies passenger transport services;

(d) "road passenger transport operator of a Party" means a road passenger transport operator which is established in the territory of a Party;

(e) "regular services" means passenger transport services supplied at specified frequency along specified routes, whereby passengers may be picked up and set down at predetermined stopping points;

(f) "special regular services" means services by whomsoever organised, which provide for the transport of specified categories of passengers to the exclusion of other passengers, in so far as such services are operated under the conditions specified for regular services. Special regular services shall include:

(i) the transport of workers between home and work, and

(ii) the transport of school pupils and students to and from the educational institution.

The fact that a special regular service may be varied according to the needs of users shall not affect its classification as a regular service;

(g) "group" means any of the following:

(i) one or more associated natural or legal persons and their parent natural or legal person or persons,

(ii) one or more associated natural person or legal persons which have the same parent natural or legal person or persons;

(h) "Interbus Agreement" means the Agreement on the international occasional carriage of passengers by coach and bus, as subsequently amended, which entered into force on 1 January 2003;

(i) "transit" means the movement of coaches and buses across the territory of a Party without picking up or setting down of passengers;

(j) "occasional services" means services which are not regular services or special regular services, and which are characterised above all by the fact that they carry groups of passengers assembled at the initiative of the customer or the road passenger transport operator.

ARTICLE 475

Passenger transport by coach and bus between, through and within the territories of the Parties

1. Road passenger transport operators of a Party may, when operating regular and special regular services, undertake laden journeys from the territory of a Party to the territory of the other Party, with or without transit through the territory of a third country, and unladen journeys related to such journeys.

2. Road passenger transport operators of a Party may, when operating regular and special regular services, undertake laden journeys from the territory of the Party, in which the road passenger transport operator is established, to the territory of the same Party with transit through the territory of the other Party, and unladen journeys related to such journeys.

3. A road passenger transport operator of a Party may not operate regular or special regular services with both origin and destination in the territory of the other Party.

4. Where the passenger transport service referred to in paragraph 1 is part of a service to or from the territory of the Party where the road passenger transport operator is established, passengers may be picked up or set down in the territory of the other Party *en route*, provided the stop is authorised in accordance with the rules applicable in that territory.

5. Where the passenger transport service referred to in this Article is part of an international regular or special regular service between Ireland and the United Kingdom in respect of Northern Ireland, passengers may be picked up and set down in one Party by a road passenger transport operator established in the other Party.

6. Road passenger transport operators established in the territory of one Party may, on a temporary basis, operate occasional services on the island of Ireland which pick up and set down passengers on the territory of the other Party.

7. Road passenger transport operators may, when operating occasional services, undertake a laden journey from the territory of a Party through the territory of the other Party to the territory of a non-Contracting Party to the Interbus Agreement, including a related unladen journey.

8. The passenger transport services referred to in this Article shall be performed using coaches and buses registered in the Party where the road passenger transport operator is established or resides. Those coaches and buses shall comply with the technical standards laid down in Annex 2 to the Interbus Agreement.

ARTICLE 476

Conditions for the provision of services referred to in Article 475

1. Regular services shall be open to all road passenger transport operators of a Party, subject to compulsory reservation, where appropriate.

2. Regular and special regular services shall be subject to authorisation in accordance with Article 477, and paragraph 6 of this Article.

3. The regular nature of the service shall not be affected by any adjustment to the service operating conditions.

4. The organisation of parallel or temporary services, serving the same public as existing regular services, the non-serving of certain stops and the serving of additional stops on existing regular services shall be governed by the same rules as those applicable to existing regular services.

5. Sections V (Social provisions) and VI (Custom and fiscal provisions) of the Interbus Agreement as well as Annexes 1 (Conditions applying to road passenger transport operators) and 2 (Technical standards applying to buses and coaches) thereto shall apply.

6. For a period of six months from the date of entry into force of this Agreement, special regular services shall not be subject to authorisation where they are covered by a contract concluded between the organiser and the road passenger transport operator.

7. Occasional services covered by this Title in accordance with Article 475 shall not require authorisation. However, the organisation of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorisation in accordance with Section VIII of the Interbus Agreement.

ARTICLE 477

Authorisation

1. Authorisations for services referred to in Article 475 shall be issued by the competent authority of the Party in whose territory the road passenger transport operator is established (the "authorising authority").

2. If a road passenger transport operator is established in the Union, the authorising authority shall be the competent authority of the Member State of origin or destination.

3. In the case of a group of road passenger transport operators intending to operate a service referred to in Article 475, the authorising authority shall be the competent authority to which the application is addressed in accordance with the second subparagraph of Article 478(1).

4. Authorisations shall be issued in the name of the road passenger transport operator and shall be non-transferable. However, a road passenger transport operator of a Party who has received an authorisation may, with the consent of the authorising authority, operate the service through a subcontractor, if such a possibility is in line with the law of the Party. In this case, the name of the subcontractor and its role shall be indicated in the authorisation. The subcontractor shall be a road passenger transport operator of a Party and shall comply with all the provisions of this Title.

In the case of a group of road passenger transport operators that intend to operate services referred to in Article 475, the authorisation shall be issued in the names of all the road passenger transport operators of the group and shall state the names of all those operators. It shall be given to the road passenger transport operators entrusted by the other road passenger transport operators of a Party for these purposes and which has requested it, and certified true copies shall be given to the other road passenger transport operators.

5. Without prejudice to Article 479(3), the period of validity of an authorisation shall not exceed five years. It may be set for a shorter period either at the request of the applicant or by mutual consent of the competent authorities of the Parties on whose territories passengers are picked up or set down.

6. Authorisations shall specify the following:

(a) the type of service;

(b) the route of the service, giving in particular the point of departure and the point of arrival;

(c) the period of validity of the authorisation; and

(d) the stops and the timetable.

7. Authorisations shall conform to the model set out in Annex 32.

8. The road passenger transport operator of a Party carrying out a service referred to in Article 475 may use additional vehicles to deal with temporary and exceptional situations. Such additional vehicles may be used only under the same conditions as set out in the authorisation referred to in paragraph 6 of this Article.

In this case, in addition to the documents referred to in Article 483(1) and (2), the road passenger transport operator shall ensure that a copy of the contract between the road passenger transport operator carrying out the regular or special regular service and the undertaking providing the additional vehicles or an equivalent document is carried in the vehicle and presented at the request of any authorised inspecting officer.

ARTICLE 478

Submission of application for authorisation

1. Applications for authorisation shall be submitted by the road passenger transport operator of a Party to the authorising authority referred to in Article 477(1).

For each service, only one application shall be submitted. In the cases referred to in Article 477(3), it shall be submitted by the operator entrusted by the other operators for these purposes. The application shall be addressed to the authorising authority of the Party in which the road passenger transport operator submitting it is established.

2. Applications for authorisation shall be submitted on the basis of the model set out in Annex 33.

3. The road passenger transport operator applying for authorisation shall provide any further information which it considers relevant or which is requested by the authorising authority, in particular, the documents listed in Annex 33.

ARTICLE 479

Authorisation procedure

1. Authorisations shall be issued in agreement with the competent authorities in the Parties in whose territory passengers are picked up or set down. The authorising authority shall forward to such competent authorities, as well as to the competent authorities whose territories are crossed without passengers being picked up or set down, a copy of the application, together with copies of any other relevant documentation, and its assessment.

In respect of the Union, the competent authorities referred to in the first subparagraph shall be those of the Member States in whose territories passengers are picked up or set down and whose territories are crossed without passengers being picked up or set down.

2. The competent authorities whose agreement has been requested shall notify the authorising authority of their decision regarding the application within four months. This time limit shall be calculated from the date of receipt of the request for agreement which is shown in the acknowledgement of receipt. If the decision received from the competent authorities whose agreement has been requested is negative, it shall contain a proper statement of reasons. If the authorising authority does not receive a reply within four months, the competent authorities consulted shall be deemed to have given their agreement and the authorising authority may grant the authorisation.

The competent authorities whose territory is crossed without passengers being picked up or set down may notify the authorising authority of their comments within four months.

3. In respect of services that had been authorised under Regulation (EC) No 1073/2009 of the European Parliament and the Council[1] before the end of the transition period and in respect of which the authorisation lapses at the end of the transition period, the following shall apply:

(a) where, subject to the changes necessary to comply with Article 475, the operating conditions are the same as those having been set in the authorisation granted under Regulation (EC) No 1073/2009, the relevant authorising authority under this Title may, on application or otherwise, issue the road transport operator with a corresponding authorisation granted under this Title. Where such an authorisation is issued, the agreement of the competent authorities in whose territories passengers are picked up or set down, as referred to in paragraph 2, shall be deemed to be provided. Those competent authorities and the competent authorities whose territory is crossed without passengers being picked up or set down may, at any time, notify the authorising authority of any comments they may have;

(b) where point (a) is applied, the validity period of the corresponding authorisation granted under this Title shall not extend beyond the last day of the validity period specified in the authorisation previously granted under Regulation (EC) No 1073/2009.

4. The authorising authority shall take a decision on the application no later than six months from the date of submission of the application by the road passenger transport operator.

[1] Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (recast) (OJ EU L 300, 14.11.2009, p. 88).

5. Authorisation shall be granted unless:

(a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to the applicant;

(b) the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed serious infringements of a Party's road transport legislation in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;

(c) in the case of an application for renewal of authorisation, the conditions of authorisation have not been complied with;

(d) a Party decides on the basis of a detailed analysis that the service concerned would seriously affect the viability of a comparable service covered by one or more public service contracts conforming to the Party's law on the direct sections concerned. In such a case, the Party shall set up criteria, on a non-discriminatory basis, for determining whether the service applied for would seriously affect the viability of the abovementioned comparable service and shall communicate them to the other Party referred to in paragraph 1; or

(e) a Party decides on the basis of a detailed analysis that the principal purpose of the service is not to carry passengers between stops located in the territories of the Parties.

In the event that an existing service seriously affects the viability of a comparable service covered by one or more public service contracts which conform to a Party's law on the direct sections concerned, due to exceptional reasons which could not have been foreseen at the time of granting the authorisation, a Party may, with the agreement of the other Party, suspend or withdraw the authorisation to run the international coach and bus service after having given six months' notice to the road passenger transport operator.

The fact that a road passenger transport operator of a Party offers lower prices than those offered by other road passenger transport operators or the fact that the link in question is already operated by other road passenger transport operators shall not in itself constitute justification for rejecting the application.

6. Having completed the procedure laid down in paragraphs 1 to 5, the authorising authority shall grant the authorisation or formally refuse the application.

Decisions rejecting an application shall state the reasons on which they are based. The Parties shall ensure that transport undertakings are given the opportunity to make representations in the event of their application being rejected.

The authorising authority shall inform the competent authorities of the other Party of its decision and shall send them a copy of any authorisation.

ARTICLE 480

Renewal and alteration of authorisation

1. Article 479 shall apply, *mutatis mutandis*, to applications for the renewal of authorisations or for alteration of the conditions under which the services subject to authorisation must be carried out.

2. Where the existing authorisation expires within six months from the date of entry into force of this Agreement, the period of time in which the competent authorities referred to in Article 479(2) shall notify the authorising authority of their agreement to, or comments on, the application in accordance with that Article, is two months.

3. In the event of a minor alteration to the operating conditions, in particular the adjustment of intervals, fares and timetables, the authorising authority needs only supply the competent authorities of the other Party with information relating to the alteration. Changing the timetables or intervals in a manner that affects the timing of controls at the borders between the Parties or at third country borders shall not be considered a minor alteration.

ARTICLE 481

Lapse of an authorisation

1. Without prejudice to Article 479(3), an authorisation for a service referred to in Article 475 shall lapse at the end of its period of validity or three months after the authorising authority has received notice from its holder of his or her intention to withdraw the service. Such notice shall contain a proper statement of reasons.

2. Where demand for a service has ceased to exist, the period of notice provided for in paragraph 1 shall be one month.

3. The authorising authority shall inform the competent authorities of the other Party concerned that the authorisation has lapsed.

4. The holder of the authorisation shall notify users of the service concerned of its withdrawal one month in advance by means of appropriate publicity.

ARTICLE 482

Obligations of transport operators

1. Save in the event of force majeure, the road passenger transport operator of a Party carrying out a service referred to in Article 475 shall launch the service without delay and, until the authorisation expires, take all measures to guarantee a transport service that fulfils the standards of continuity, regularity and capacity and complies with the conditions specified in accordance with Article 477(6) and Annex 32.

2. The road passenger transport operator of a Party shall display the route of the service, the bus stops, the timetable, the fares and the conditions of carriage in such a way as to ensure that such information is readily available to all users.

3. It shall be possible for the Parties to make changes to the operating conditions governing a service referred to in Article 475 by common agreement and in agreement with the holder of the authorisation.

ARTICLE 483

Documents to be kept on the coach or bus

1. Without prejudice to Article 477(8), the authorisation or a certified true copy thereof to carry out services referred to in Article 475 and the operator's licence of the road passenger transport operator or a certified true copy thereof for the international carriage of passengers by road provided for according to national or Union law shall be kept on the coach or bus and shall be presented at the request of any authorised inspecting officer.

2. Without prejudice to paragraph 1 of this Article as well as to Article 477(8), in the case of a special regular service, the contract between the organiser and the road passenger transport operator or a copy thereof as well as a document evidencing that the passengers constitute a specific category to the exclusion of other passengers for the purposes of a special regular service shall also serve as control documents, shall be kept in the vehicle and shall be presented at the request of any authorised inspecting officer.

3. Road passenger transport operators carrying out occasional services under Article 475(6) and (7) shall carry a completed journey form, using the model set out in Annex 34. Books of journey forms shall be supplied by the competent authority of the territory in which the operator is registered, or by bodies appointed by the competent authority.

ARTICLE 484

Road traffic rules

Drivers of coaches and buses undertaking the transport of passengers under this Title shall, when in the territory of the other Party, comply with the national laws and regulations in force in that territory concerning road traffic.

ARTICLE 485

Application

The provisions of this Title shall cease to apply as of the date the Protocol to the Interbus Agreement regarding the international regular and special regular carriage of passengers by coach and bus enters into force for the United Kingdom, or six months following the entry into force of that Protocol for the Union, whichever is the earliest, except for the purpose of the operations under Article 475(2), (5), (6) and (7).

ARTICLE 486

Obligations in other Titles

Articles 135 and 137 are incorporated into and made part of this Title and apply to the treatment of transport operators undertaking journeys in accordance with Article 475.

ARTICLE 487

Specialised Committee

The Specialised Committee on Road Transport may amend Annexes 32, 33 and 34 to take into account regulatory developments. It may adopt measures regarding the implementation of this Title.

HEADING FOUR

SOCIAL SECURITY COORDINATION AND VISAS FOR SHORT-TERM VISITS

TITLE I

SOCIAL SECURITY COORDINATION

ARTICLE 488

Overview

Member States and the United Kingdom shall coordinate their social security systems in accordance with the Protocol on Social Security Coordination, in order to secure the social security entitlements of the persons covered therein.

ARTICLE 489

Legally residing

1. The Protocol on Social Security Coordination applies to persons legally residing in a Member State or the United Kingdom.

2. Paragraph 1 of this Article shall not affect entitlements to cash benefits which relate to previous periods of legal residence of persons covered by Article SSC.2 of the Protocol on Social Security Coordination.

ARTICLE 490

Cross-border situations

1. The Protocol on Social Security Coordination only applies to situations arising between one or more Member States and the United Kingdom.

2. The Protocol on Social Security Coordination shall not apply to persons whose situations are confined in all respects either to the United Kingdom, or to the Member States.

ARTICLE 491

Immigration applications

The Protocol on Social Security Coordination applies without prejudice to the right of a Member State or the United Kingdom to charge a health fee under national legislation in connection with an application for a permit to enter, to stay, to work, or to reside in that State.

TITLE II

VISAS FOR SHORT-TERM VISITS

ARTICLE 492

Visas for short-term visits

1. The Parties note that on the date of entry into force of this Agreement both Parties provide for visa-free travel for short-term visits in respect of their nationals in accordance with their domestic law. Each Party shall notify the other of any intention to impose a visa requirement for short-term visits by nationals of the other Party in good time and, if possible, at least three months before such a requirement takes effect.

2. Subject to paragraph 3 of this Article and to Article 781, in the event that the United Kingdom decides to impose a visa requirement for short-term visits on nationals of a Member State, that requirement shall apply to the nationals of all Member States.

3. This Article is without prejudice to any arrangements made between the United Kingdom and Ireland concerning the Common Travel Area.

HEADING FIVE

FISHERIES

CHAPTER 1

INITIAL PROVISIONS

ARTICLE 493

Sovereign rights of coastal States exercised by the Parties

The Parties affirm that sovereign rights of coastal States exercised by the Parties for the purpose of exploring, exploiting, conserving and managing the living resources in their waters should be conducted pursuant to and in accordance with the principles of international law, including the United Nations Convention on the Law of the Sea.

ARTICLE 494

Objectives and principles

1. The Parties shall cooperate with a view to ensuring that fishing activities for shared stocks in their waters are environmentally sustainable in the long term and contribute to achieving economic and social benefits, while fully respecting the rights and obligations of independent coastal States as exercised by the Parties.

2. The Parties share the objective of exploiting shared stocks at rates intended to maintain and progressively restore populations of harvested species above biomass levels that can produce the maximum sustainable yield.

3. The Parties shall have regard to the following principles:

(a) applying the precautionary approach to fisheries management;

(b) promoting the long-term sustainability (environmental, social and economic) and optimum utilisation of shared stocks;

(c) basing conservation and management decisions for fisheries on the best available scientific advice, principally that provided by the International Council for the Exploration of the Sea (ICES);

(d) ensuring selectivity in fisheries to protect juvenile fish and spawning aggregations of fish, and to avoid and reduce unwanted bycatch;

(e) taking due account of and minimising harmful impacts of fishing on the marine ecosystem and taking due account of the need to preserve marine biological diversity;

(f) applying proportionate and non-discriminatory measures for the conservation of marine living resources and the management of fisheries resources, while preserving the regulatory autonomy of the Parties;

(g) ensuring the collection and timely sharing of complete and accurate data relevant for the conservation of shared stocks and for the management of fisheries;

(h) ensuring compliance with fisheries conservation and management measures, and combating illegal, unreported and unregulated fishing; and

(i) ensuring the timely implementation of any agreed measures into the Parties' regulatory frameworks.

ARTICLE 495

Definitions

1. For the purposes of this Heading, the following definitions apply:

(a) "EEZ" (of a Party) means, in accordance with the United Nations Convention on the Law of the Sea:

(i) in the case of the Union, the exclusive economic zones established by its Member States adjacent to their European territories;

(ii) the exclusive economic zone established by the United Kingdom;

(b) "precautionary approach to fisheries management" means an approach according to which the absence of adequate scientific information does not justify postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;

(c) "shared stocks" means fish, including shellfish, of any kind that are found in the waters of the Parties, which includes molluscs and crustaceans;

(d) "TAC" means the total allowable catch, which is the maximum quantity of a stock (or stocks) of a particular description that may be caught over a given period;

(e) "non-quota stocks" means stocks which are not managed through TACs;

(f) "territorial sea" (of a Party) means, in accordance with the United Nations Convention on the Law of the Sea:

(i) in the case of the Union, by way of derogation from Article 774(1), the territorial sea established by its Member States adjacent to their European territories;

(ii) the territorial sea established by the United Kingdom;

(g) "waters" (of a Party) means:

(i) in respect of the Union, by way of derogation from Article 774(1), the EEZs of the Member States and their territorial seas;

(ii) in respect of the United Kingdom, its EEZ and its territorial sea, excluding for the purposes of Articles 500 and 501 and Annex 38 the territorial sea adjacent to the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man;

(h) "vessel" (of a Party) means:

(i) in the case of the United Kingdom, a fishing vessel flying the flag of the United Kingdom, registered in the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man, and licensed by a United Kingdom fisheries administration;

(ii) in the case of the Union, a fishing vessel flying the flag of a Member State and registered in the Union.

CHAPTER 2

CONSERVATION AND SUSTAINABLE EXPLOITATION

ARTICLE 496

Fisheries management

1. Each Party shall decide on any measures applicable to its waters in pursuit of the objectives set out in Article 494(1) and (2), and having regard to the principles referred to in Article 494(3).

2. A Party shall base the measures referred to in paragraph 1 on the best available scientific advice.

A Party shall not apply the measures referred to in paragraph 1 to the vessels of the other Party in its waters unless it also applies the same measures to its own vessels.

The second subparagraph is without prejudice to obligations of the Parties under the Port State Measures Agreement, the North East Atlantic Fisheries Commission Scheme of Control and Enforcement, the Northwest Atlantic Fisheries Organisation Conservation and Enforcement Measures, and Recommendation 18-09 by the International Commission for the Conservation of Atlantic Tunas on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

The Specialised Committee on Fisheries may amend the list of pre-existing international obligations referred to in the third subparagraph.

3. Each Party shall notify the other Party of new measures as referred to in paragraph 1 that are likely to affect the vessels of the other Party before those measures are applied, allowing sufficient time for the other Party to provide comments or seek clarification.

ARTICLE 497

Authorisations, compliance and enforcement

1. Where vessels have access to fish in the waters of the other Party pursuant to Article 500 and Article 502:

(a) each Party shall communicate in sufficient time to the other Party a list of vessels for which it seeks to obtain authorisations or licences to fish; and

(b) the other Party shall issue authorisations or licences to fish.

2. Each Party shall take all necessary measures to ensure compliance by its vessels with the rules applicable to those vessels in the other Party's waters, including authorisation or licence conditions.

CHAPTER 3

ARRANGEMENTS ON ACCESS TO WATERS AND RESOURCES

ARTICLE 498

Fishing opportunities

1. By 31 January of each year, the Parties shall cooperate to set the schedule for consultations with the aim of agreeing TACs for the stocks listed in Annex 35 for the following year or years. That schedule shall take into account other annual consultations among coastal States that affect either or both of the Parties.

2. The Parties shall hold consultations annually to agree, by 10 December of each year, the TACs for the following year for the stocks listed in Annex 35. This shall include an early exchange of views on priorities as soon as advice on the level of the TACs is received. The Parties shall agree those TACs:

(a) on the basis of the best available scientific advice, as well as other relevant factors, including socio-economic aspects; and

(b) in compliance with any applicable multi-year strategies for conservation and management agreed by the Parties.

3. The Parties' shares of the TACs for the stocks listed in Annex 35 shall be allocated between the Parties in accordance with the quota shares set out in that Annex.

4. Annual consultations may also cover, inter alia:

(a) transfers of parts of one Party's shares of TACs to the other Party;

(b) a list of stocks for which fishing is prohibited;

(c) the determination of the TAC for any stock which is not listed in Annex 35 or Annex 36 and the Parties' respective shares of those stocks;

(d) measures for fisheries management, including, where appropriate, fishing effort limits;

(e) stocks of mutual interest to the Parties other than those listed in the Annexes to this Heading.

5. The Parties may hold consultations with the aim of agreeing amended TACs if either Party so requests.

6. A written record documenting the arrangements made between the Parties as a result of consultations under this Article shall be produced and signed by the heads of delegation of the Parties.

7. Each Party shall give sufficient notice to the other Party before setting or amending TACs for the stocks listed in Annex 37.

8. The Parties shall set up a mechanism for voluntary in-year transfers of fishing opportunities between the Parties, to take place each year. The Specialised Committee on Fisheries shall decide on the details of this mechanism. The Parties shall consider making transfers of fishing opportunities for stocks which are, or are projected to be, underfished available at market value through that mechanism.

ARTICLE 499

Provisional TACs

1. If the Parties have not agreed a TAC for a stock listed in Annex 35 or tables A or B of Annex 36 by 10 December, they shall immediately resume consultations with the continued aim of agreeing the TAC. The Parties shall engage frequently with a view to exploring all possible options for reaching agreement in the shortest possible time.

2. If a stock listed in Annex 35 or in tables A and B of Annex 36 remains without an agreed TAC on 20 December, each Party shall set a provisional TAC corresponding to the level advised by ICES, applying from 1 January.

3. By way of derogation from paragraph 2, the TACs for special stocks shall be set in accordance with guidelines adopted under paragraph 5.

4. For the purposes of this Article, "special stocks" means:

(a) stocks where the ICES advice is for a zero TAC;

(b) stocks caught in a mixed fishery, if that stock or another stock in the same fishery is vulnerable; or

(c) other stocks which the Parties consider require special treatment.

5. The Specialised Committee on Fisheries shall adopt guidelines by 1 July 2021 for the setting of provisional TACs for special stocks.

6. Each year when advice is received from ICES on TACs, the Parties shall discuss, as a priority, the special stocks and the application of any guidelines set under paragraph 5 to the setting of provisional TACs by each Party.

7. Each Party shall set its share for each of the provisional TACs, which shall not exceed its share as set out in the corresponding Annex.

8. The provisional TACs and shares referred to in paragraphs 2, 3 and 7 shall apply until agreement is reached under paragraph 1.

9. Each Party shall, immediately, notify the other Party of its provisional TACs under paragraphs 2 and 3 and its provisional share of each of those TACs under paragraph 7.

ARTICLE 500

Access to waters

1. Provided that TACs have been agreed, each Party shall grant vessels of the other Party access to fish in its waters in the relevant ICES sub-areas that year. Access shall be granted at a level and on conditions determined in those annual consultations.

2. The Parties may agree, in annual consultations, further specific access conditions in relation to:

(a) the fishing opportunities agreed;

(b) any multi-year strategies for non-quota stocks developed under point (c) of Article 508(1); and

(c) any technical and conservation measures agreed by the Parties, without prejudice to Article 496.

3. The Parties shall conduct the annual consultations, including on the level and conditions of access referred to in paragraph 1, in good faith and with the objective of ensuring a mutually satisfactory balance between the interests of both Parties.

4. In particular, the outcome of the annual consultations should normally result in each Party granting:

(a) access to fish the stocks listed in Annex 35 and tables A, B and F of Annex 36 in each other's EEZ (or if access is granted under point (c), in EEZs and in the divisions mentioned in that point) at a level that is reasonably commensurate with the Parties' respective shares of the TACs;

(b) access to fish non-quota stocks in each other's EEZ (or if access is granted under point (c), in EEZs and in the divisions mentioned in that point), at a level that at least equates to the average tonnage fished by that Party in the waters of the other Party during the period 2012-2016; and

(c) access to the waters of the Parties between six and twelve nautical miles from the baselines in ICES divisions 4c and 7d-g for qualifying vessels to the extent that Union fishing vessels and United Kingdom fishing vessels had access to those waters on 31 December 2020.

For the purposes of point (c), "qualifying vessel" means a vessel of a Party which fished in the zone mentioned in the previous sentence in four of the years between 2012 and 2016, or its direct replacement.

Annual consultations referred to in point (c) may include appropriate financial commitments and quota transfers between the Parties.

5. During the application of a provisional TAC, and pending an agreed TAC, the Parties shall grant provisional access to fish in the relevant ICES sub-areas as follows:

(a) for stocks listed in Annex 35 and non-quota stocks, from 1 January until 31 March at the levels provided for in points (a) and (b) of paragraph 4;

(b) for stocks listed in Annex 36 from 1 January until 14 February at the levels provided for in point (a) of paragraph 4; and

(c) in relation to access to fish in the six to twelve nautical miles zone, access in accordance with point (c) of paragraph 4 from 1 January to 31 January at a level equivalent to the average monthly tonnage fished in that zone in the previous three months.

Such access, for each of the relevant stocks in points (a) and (b), shall be in proportion to the average percentage of a Party's share of the annual TAC which that Party's vessels fished in the other Party's waters in the relevant ICES sub-areas during the same period of the previous three calendar years. The same shall apply, *mutatis mutandis*, to access to fish non-quota stocks.

By 15 January in relation to the situation in point (c) of this paragraph, by 31 January in respect of the stocks listed in Annex 36, and by 15 March in respect of all other stocks, each Party shall notify the other Party of the change in the level and conditions of access to waters that will apply as of 1 February in relation to the situation in point (c) of this paragraph, as of 15 February in respect of the stocks listed in Annex 36, and as of 1 April in respect of all other stocks for the relevant ICES sub-areas.

6. Without prejudice to Article 499(1) and (8), after the period of one month in relation to the situation in point (c) of paragraph 5 of this Article, one and a half months in respect of the stocks listed in Annex 36 and three months in respect of all other stocks, the Parties shall seek to agree further provisional access arrangements at the appropriate geographical level with the aim of minimising disruption to fishing activities.

7. In granting access under paragraph 1 of this Article, a Party may take into account compliance of individual or groups of vessels with the applicable rules in its waters during the preceding year, and measures taken by the other Party pursuant to Article 497(2) during the preceding year.

8. This Article shall apply subject to Annex 38.

ARTICLE 501

Compensatory measures in case of withdrawal or reduction of access

1. Following a notification by a Party ("host Party") under Article 500(5), the other Party ("fishing Party") may take compensatory measures commensurate to the economic and societal impact of the change in the level and conditions of access to waters. Such impact shall be measured on the basis of reliable evidence and not merely on conjecture and remote possibility. Giving priority to those compensatory measures which will least disturb the functioning of this Agreement, the fishing Party may suspend, in whole or in part, access to its waters and the preferential tariff treatment granted to fishery products under Article 21.

2. A compensatory measure referred to in paragraph 1 of this Article may take effect at the earliest seven days after the fishing Party has given notice to the host Party of the intended suspension under paragraph 1 of this Article and, in any case, not earlier than 1 February in relation to the situation in point (c) of Article 500(5), 15 February in respect of Annex 36 and 1 April in respect of other stocks. The Parties shall consult within the Specialised Committee with a view to reaching a mutually agreeable solution. That notification shall identify:

(a) the date upon which the fishing Party intends to suspend; and

(b) the obligations to be suspended and the level of the intended suspension.

3. After the notification of the compensatory measures in accordance with paragraph 2 of this Article, the host Party may request the establishment of an arbitration tribunal pursuant to Article 739, without having recourse to consultations in accordance with Article 738. The arbitration tribunal may only review the conformity of the compensatory measures with paragraph 1 of this Article. The arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744.

4. When the conditions for taking compensatory measures referred to in paragraph 1 are no longer met, such measures shall be withdrawn immediately.

5. Following a finding against the fishing Party in the procedure referred to in paragraph 3 of this Article, the host Party may request the arbitration tribunal, within 30 days from its ruling, to determine a level of suspension of obligations under this Agreement not exceeding the level equivalent to the nullification or impairment caused by the application of the compensatory measures, if it finds that the inconsistency of the compensatory measures with paragraph 1 of this Article is significant. The request shall propose a level of suspension in accordance with the principles set out in paragraph 1 of this Article and any relevant principles set out in Article 761. The host Party may apply the level of suspension of obligations under this Agreement in accordance with the level of suspension determined by the arbitration tribunal, no sooner than 15 days following such ruling.

6. A Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from suspending obligations under this Article.

ARTICLE 502

Specific access arrangements relating to the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man

1. By way of derogation from Article 500(1) and (3) to (7), Article 501 and Annex 38, each Party shall grant vessels of the other Party access to fish in its waters reflecting the actual extent and nature of fishing activity that it can be demonstrated was carried out during the period beginning on 1 February 2017 and ending on 31 January 2020 by qualifying vessels of the other Party in the waters and under any treaty arrangements that existed on 31 January 2020.

2. For the purposes of this Article and, in so far as the other Articles in this Heading apply in relation to the arrangements for access established under this Article:

(a) "qualifying vessel" means, in respect of fishing activity carried out in waters adjacent to the Bailiwick of Guernsey, the Bailiwick of Jersey, the Isle of Man or a Member State, any vessel which fished in the territorial sea adjacent to that territory or that Member State on more than 10 days in any of the three 12 month periods ending on 31 January, or between 1 February 2017 and 31 January 2020;

(b) "vessel" (of a Party)" means, in respect of the United Kingdom, a fishing vessel flying the flag of the United Kingdom and registered in the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man, and licensed by a United Kingdom fisheries administration;

(c) "waters" (of a Party) means:

(i) in respect of the Union, the territorial sea adjacent to a Member State; and

(ii) in respect of the United Kingdom, the territorial sea adjacent to each of the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man.

3. At the request of either Party, the Partnership Council shall decide, within 90 days of the entry into force of this Agreement, that this Article, Article 503 and any other provisions of this Heading in so far as they relate to the arrangements provided for in those Articles as well as Article 520(3) to (8) shall cease to apply in respect of one or more of the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man, following 30 days from this decision.

4. The Partnership Council may decide to amend this Article, Article 503 and any other provisions of this Heading in so far as they relate to the arrangements provided for in those Articles.

ARTICLE 503

Notification periods relating to the importation and direct landing of fishery products

1. The Union shall apply the following notification periods to fishery products caught by vessels flying the flag of the United Kingdom and registered in the Bailiwick of Guernsey or the Bailiwick of Jersey in the territorial sea adjacent to those territories or in the territorial sea adjacent to a Member State:

(a) prior notification of between three and five hours before landing fresh fishery products into the Union's territory;

(b) prior notification of between one and three hours of the validated catch certificate for the direct movement of consignments of fishery products by sea before the estimated time of arrival at the place of entry into the Union's territory.

2. For the purposes of this Article only, "fishery products" means all species of marine fish, molluscs and crustaceans.

ARTICLE 504

Alignment of management areas

1. By 1 July 2021, the Parties shall request advice from ICES on the alignment of the management areas and the assessment units used by ICES for the stocks marked with an asterisk in Annex 35.

2. Within six months of receipt of the advice referred to in paragraph 1, the Parties shall jointly review that advice and shall jointly consider adjustments to the management areas of the stocks concerned, with a view to agreeing consequential changes to the list of stocks and shares set out in Annex 35.

ARTICLE 505

Shares of TACs for certain other stocks

1. The Parties' respective shares of the TACs for certain other stocks are set out in Annex 36.

2. Each Party shall notify the relevant States and international organisations of its shares in accordance with the sharing arrangement set out in tables A to D of Annex 36.

3. Any subsequent changes to those shares in tables C and D of Annex 36 are a matter for the relevant multilateral fora.

4. Without prejudice to the powers of the Partnership Council in Article 508(3), any subsequent changes to the shares in tables A and B of Annex 36 after 30 June 2026 are a matter for the relevant multilateral fora.

5. Both Parties shall approach the management of those stocks in tables A to D of Annex 36 in accordance with the objectives and principles set out in Article 494.

CHAPTER 4

ARRANGEMENTS ON GOVERNANCE

ARTICLE 506

Remedial measures and dispute resolution

1. In relation to an alleged failure by a Party (the "respondent Party") to comply with this Heading (other than in relation to alleged failures dealt with under paragraph 2), the other Party (the "complaining Party") may, after giving notice to the respondent Party:

(a) suspend, in whole or in part, access to its waters and the preferential tariff treatment granted to fishery products under Article 21; and

(b) if it considers that the suspension referred to in point (a) of this paragraph is not commensurate to the economic and societal impact of the alleged failure, it may suspend, in whole or in part, the preferential tariff treatment of other goods under Article 21; and

(c) if it considers that the suspension referred to in points (a) and (b) of this paragraph is not commensurate to the economic and societal impact of the alleged failure, it may suspend, in whole or in part, obligations under Heading One of this Part with the exception of Title XI. If Heading One of this Part is suspended in whole, Heading Three of this part is also suspended.

2. In relation to an alleged failure by a Party (the "respondent Party") to comply with Article 502, 503 or any other provision of this Heading in so far as it relates to the arrangements provided for in those Articles, the other Party (the "complaining Party"), after giving notice to the respondent Party:

(a) may suspend, in whole or in part, access to its waters within the meaning of Article 502;

(b) if it considers that the suspension referred to in point (a) of this paragraph is not commensurate to the economic and societal impact of the alleged failure, may suspend, in whole or in part, the preferential tariff treatment granted to fishery products under Article 21;

(c) if it considers that the suspension referred to in points (a) and (b) of this paragraph is not commensurate to the economic and societal impact of the alleged failure, may suspend, in whole or in part, the preferential tariff treatment of other goods under Article 21.

By way of derogation from paragraph 1 of this Article, remedial measures affecting the arrangements established under Article 502, Article 503 or any other provision of this Heading in so far as it relates to the arrangements provided for in those Articles may not be taken as a result of an alleged failure by a Party to comply with provisions of this Heading unconnected to those arrangements.

3. Measures referred to in paragraphs 1 and 2 shall be proportionate to the alleged failure by the respondent Party and the economic and societal impact thereof.

4. A measure referred to in paragraphs 1 and 2 may take effect at the earliest seven days after the complaining Party has given the respondent Party notice of the proposed suspension. The Parties shall consult within the Specialised Committee on Fisheries with a view to reaching a mutually agreeable solution. That notification shall identify:

(a) the way in which the complaining Party considers that the respondent Party has failed to comply;

(b) the date upon which the complaining Party intends to suspend; and

(c) the level of intended suspension.

5. The complaining Party must, within 14 days of the notification referred to in paragraph 4 of this Article, challenge the alleged failure by the respondent Party to comply with this Heading, as referred to in paragraphs 1 and 2 of this Article, by requesting the establishment of an arbitration tribunal under Article 739. Recourse to arbitration under this Article shall be made without having prior recourse to consultations under Article 738. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 744.

6. The suspension shall cease to apply when:

(a) the complaining Party is satisfied that the respondent Party is complying with its relevant obligations under this Heading; or

(b) the arbitration tribunal has decided that the respondent Party has not failed to comply with its relevant obligations under this Heading.

7. Following a finding against the complaining Party in the procedure referred to in paragraph 5 of this Article, the respondent Party may request the arbitration tribunal, within 30 days from its ruling, to determine a level of suspension of obligations under this Agreement not exceeding the level equivalent to the nullification or impairment caused by the application of the remedial measures, if it finds that the inconsistency of the remedial measures with paragraph 1 or 2 of this Article is significant. The request shall propose a level of suspension in accordance with paragraph 1 or 2 of this Article and any relevant principles set out in Article 761. The respondent Party may apply the level of suspension of obligations under this Agreement in accordance with the level of suspension determined by the arbitration tribunal, no sooner than 15 days following such ruling.

8. A Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from suspending obligations under this Article.

ARTICLE 507

Data sharing

The Parties shall share such information as is necessary to support the implementation of this Heading, subject to each Party's laws.

ARTICLE 508

Specialised Committee on Fisheries

1. The Specialised Committee on Fisheries may in particular:

(a) provide a forum for discussion and cooperation in relation to sustainable fisheries management;

(b) consider the development of multi-year strategies for conservation and management as the basis for the setting of TACs and other management measures;

(c) develop multi-year strategies for the conservation and management of non-quota stocks as referred to in point (b) of Article 500(2);

(d) consider measures for fisheries management and conservation, including emergency measures and measures to ensure selectivity of fishing;

(e) consider approaches to the collection of data for science and fisheries management purposes, the sharing of such data (including information relevant to monitoring, controlling and enforcing compliance), and the consultation of scientific bodies regarding the best available scientific advice;

(f) consider measures to ensure compliance with the applicable rules, including joint control, monitoring and surveillance programmes and the exchange of data to facilitate monitoring uptake of fishing opportunities and control and enforcement;

(g) develop the guidelines for setting the TACs referred to in Article 499(5);

(h) make preparations for annual consultations;

(i) consider matters relating to the designation of ports for landings, including the facilitation of the timely notification by the Parties of such designations and of any changes to those designations;

(j) establish timelines for the notification of measures referred to in Article 496(3), the communication of the lists of vessels referred to in Article 497(1) and the notice referred to in Article 498(7);

(k) provide a forum for consultations under Article 501(2) and Article 506(4);

(l) develop guidelines to support the practical application of Article 500;

(m) develop a mechanism for voluntary in-year transfers of fishing opportunities between the Parties, as referred to in Article 498(8); and

(n) consider the application and implementation of Article 502 and Article 503.

2. The Specialised Committee on Fisheries may adopt measures, including decisions and recommendations:

(a) recording matters agreed by the Parties following consultations under Article 498;

(b) in relation to any of the matters referred to in points (b), (c), (d), (e), (f), (g), (i), (j), (l), (m) and (n) of paragraph 1 of this Article;

(c) amending the list of pre-existing international obligations referred to in Article 496(2);

(d) in relation to any other aspect of cooperation on sustainable fisheries management under this Heading; and

(e) on the modalities of a review under Article 510.

3. The Partnership Council shall have the power to amend Annexes 35, 36 and 37.

ARTICLE 509

Termination

1. Without prejudice to Article 779 or Article 521, each Party may at any moment terminate this Heading, by written notification through diplomatic channels. In that event, Heading One, Heading Two, Heading Three and this Heading shall cease to be in force on the first day of the ninth month following the date of notification.

2. In the event of termination of this Heading pursuant to paragraph 1 of this Article, Article 779 or Article 521, obligations entered into by the Parties under this Heading for the year ongoing at the time when this Heading ceases to be in force shall continue to apply until the end of the year.

3. Notwithstanding paragraph 1 of this Article, Heading Two may remain in force, if the Parties agree to integrate the relevant parts of Title XI of Heading One.

4. By way of derogation from paragraphs 1 to 3 of this Article and without prejudice to Article 779 or Article 521:

(a) unless agreed otherwise between the Parties, Article 502, Article 503 and any other provision of this Heading in so far as it relates to the arrangements provided for in those Articles, shall remain in force until:

(i) they are terminated by either Party giving to the other Party three years' written notice of termination; or

(ii) if earlier, the date on which Article 520(3) to (5) cease to be in force;

(b) for the purposes of point (a)(i), notice of termination may be given in respect of one or more of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man and Article 502, Article 503 and any other provision of this Heading in so far as it relates to the arrangements provided for in those Articles, shall continue to be in force for those territories in respect of which a notice of termination has not been given; and

(c) for the purposes of point (a)(ii), if Article 520(3) to (5) cease to be in force in relation to one or more (but not all) of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man, Article 502, Article 503 and any other provision of this Heading in so far as it relates to the arrangements provided for in those Articles, shall continue to be in force for those territories in respect of which Article 520(3) to (5) remain in force.

ARTICLE 510

Review clause

1. The Parties, within the Partnership Council, shall jointly review the implementation of this Heading four years after the end of the adjustment period referred to in the Article 1 of Annex 38 with the aim of considering whether arrangements, including in relation to access to waters, can be further codified and strengthened.

2. Such a review may be repeated at subsequent intervals of four years after the conclusion of the first review.

3. The Parties shall decide, in advance, on the modalities of the review through the Specialised Committee on Fisheries.

4. The review shall, in particular, allow for an evaluation, in relation to the previous years, of:

(a) the provisions for access to each other's waters under Article 500;

(b) the shares of TACs set out in Annexes 35, 36 and 37;

(c) the number and extent of transfers as part of annual consultations under Article 498(4) and any transfers under Article 498(8);

(d) the fluctuations in annual TACs;

(e) compliance by both Parties with the provisions of this Heading and the compliance by vessels of each Party with the rules applicable to those vessels when in the other Party's waters;

(f) the nature and extent of cooperation under this Heading; and

(g) any other element the Parties decide, in advance, through the Specialised Committee on Fisheries.

ARTICLE 511

Relationship with other agreements

1. Subject to paragraph 2, this Heading shall be without prejudice to other existing agreements concerning fishing by vessels of a Party within the area of jurisdiction of the other Party.

2. This Heading shall supersede and replace any existing agreements or arrangements with respect to fishing by Union fishing vessels in the territorial sea adjacent to the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man and with respect to fishing by United Kingdom fishing vessels registered in the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man in the territorial sea adjacent to a Member State. However, if the Partnership Council takes a decision in accordance with Article 502 for this Agreement to cease to apply in respect of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man, the relevant agreements or arrangements shall not be superseded and replaced in respect of the territory or territories for which such a decision has been taken.

HEADING SIX

OTHER PROVISIONS

ARTICLE 512

Definitions

Unless otherwise specified, for the purposes of Part Two, the Protocol on mutual administrative assistance in customs matters and the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties, the following definitions apply:

(a) "customs authority" means:

(i) with respect to the Union, the services of the European Commission responsible for customs matters or, as appropriate, the customs administrations and any other authorities empowered in the Member States of the Union to apply and enforce customs legislation, and

(ii) with respect to the United Kingdom, Her Majesty's Revenue and Customs and any other authority responsible for customs matters;

(b) "customs duty" means any duty or charge of any kind imposed on, or in connection with, the importation of a good but does not include:

(i) a charge equivalent to an internal tax imposed consistently with Article 19;

(ii) an anti-dumping, special safeguard, countervailing or safeguard duty applied consistently with GATT 1994, the Anti-dumping Agreement, the Agreement on Agriculture, the Agreement on Subsidies and Countervailing Measures or the Agreement on Safeguards, as appropriate; or

(iii) a fee or other charge imposed on or in connection with importation that is limited in amount to the approximate cost of the services rendered;

(c) "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No.77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

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

(e) "goods of a Party" means domestic products within the meaning of GATT 1994, and includes originating goods of that Party;

(f) "Harmonised System" or "HS" means the Harmonised Commodity Description and Coding System, including all legal notes and amendments thereto developed by the World Customs Organization;

(g) "heading" means the first four digits in the tariff classification number under the Harmonised System;

(h) "legal 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;

(i) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement or practice, or any other form;[1]

(j) "measures of a Party" means any measures adopted or maintained by:

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

[1] For greater certainty, the term "measure" includes failures to act.

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

"measures of a Party" includes measures adopted or maintained by entities listed under sub-paragraphs (i) and (ii) by instructing, directing or controlling, either directly or indirectly, the conduct of other entities with regard to those measures.

(k) "natural person of a Party" means[1]:

(i) for the European Union, a national of a Member State according to its law;[2] and

(ii) for the United Kingdom, a British citizen;

(l) "person" means a natural person or a legal person;

(m) "sanitary or phytosanitary measure" means any measure referred to in paragraph 1 of Annex A to the SPS Agreement;

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1 This does not include natural persons residing in the territory referred to in Article 774(3).

2 The definition of natural person also includes persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the law of the Republic of Latvia, to receive a non-citizen's passport.

(n) "third country" means a country or territory outside the territorial scope of application of this Agreement; and

(o) "WTO" means the World Trade Organization.

ARTICLE 513

WTO Agreements

For the purposes of this Agreement, the WTO Agreements are referred to as follows:

(a) "Agreement on Agriculture" means the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement;

(b) "Anti-dumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994;

(c) "GATS" means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

(d) "GATT 1994" means the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

(e) "GPA" means the Agreement on Government Procurement in Annex 4 to the WTO Agreement[1];

(f) "Safeguards Agreement" means the Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;

(g) "SCM Agreement" means the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement;

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

(i) "TBT Agreement" means the Agreement on Technical Barriers to Trade, contained in Annex 1 to the WTO Agreement;

(j) "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement; and

[1] For greater certainty, the "GPA" shall be understood to be the GPA as amended by the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012.

(k) "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

ARTICLE 514

Establishment of a free trade area

The Parties hereby establish a free trade area, in conformity with Article XXIV of GATT 1994 and Article V of GATS.

ARTICLE 515

Relation to the WTO Agreement

The Parties affirm their rights and obligations with respect to each other under the WTO Agreement and other agreements to which they are party.

Nothing in this Agreement shall be construed as requiring either Party to act in a manner inconsistent with its obligations under the WTO Agreement.

ARTICLE 516

WTO case-law

The interpretation and application of the provisions of this Part shall take into account relevant interpretations in reports of WTO panels and of the Appellate Body adopted by the Dispute Settlement Body of the WTO as well as in arbitration awards under the Dispute Settlement Understanding.

ARTICLE 517

Fulfilment of obligations

Each Party shall adopt any general or specific measures required to fulfil their obligations under this Part, including those required to ensure its observance by central, regional or local governments and authorities, as well as non-governmental bodies in the exercise of powers delegated to them.

ARTICLE 518

References to laws and other Agreements

1. Unless otherwise specified, where reference is made in this Part to laws and regulations of a Party, those laws and regulations shall be understood to include amendments thereto.

2. Unless otherwise specified, where international agreements are referred to or incorporated into this Part, in whole or in part, they shall be understood to include amendments thereto or their successor agreements entering into force for both Parties on or after the date of signature of this Agreement. If any matter arises regarding the implementation or application of the provisions of this Part as a result of such amendments or successor agreements, the Parties may, on request of either Party, consult with each other with a view to finding a mutually satisfactory solution to this matter, as necessary.

ARTICLE 519

Tasks of the Partnership Council in Part Two

The Partnership Council may:

(a) adopt decisions to amend:

(i) Chapter 2 of Title I of Heading one of Part two and its Annexes, in accordance with Article 68;

(ii) the arrangements set out in Annexes 16 and 17, in accordance with Article 96(8);

(iii) Appendices 15-A and 15-B, in accordance with Article 2(3) of Annex 15;

(iv) Appendix 15-C, in accordance with Article 3(3) of Annex 15;

(v) Appendices 14-A, 14-B, 14-C and 14-D, in accordance with Article 1 of Annex 14;

(vi) Appendices 12-A, 12-B and 12-C, in accordance with Article 11 of Annex 12;

(vii) the Annex on Authorised Economic Operators, the Protocol on mutual administrative assistance in customs matters, the Protocol on combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties, and the list of goods set out in Article 117(2), in accordance with Article 122;

(viii) the relevant Sub-section under Section B of Annex 25, in accordance with Article 293;

(ix) Annexes 26, 27 and 28, in accordance with Article 329;

(x) Article 364(4) in accordance with that paragraph, the third sentence of Article 365(2) in accordance with the fourth sentence of that paragraph, Article 365(3) in accordance with that paragraph, Article 367 in accordance with paragraph 1 of that Article and Article 373 in accordance with paragraph 7 of that Article;

(xi) Article 502, Article 503 and any other provision of Heading Five, in accordance with Article 502(4);

(xii) Annexes 35, 36 and 37, in accordance with Article 508(3);

(xiii) any other provision, protocol, appendix or annex, for which the possibility of such decision is explicitly foreseen in this Part;

(b) adopt decisions to issue interpretations of the provisions of this Part.

ARTICLE 520

Geographical application

1. The provisions of this Agreement concerning the tariff treatment of goods, including rules of origin and the temporary suspension of this treatment shall also apply, with respect to the Union, to those areas of the customs territory of the Union, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[1], which are not covered by point (a) of Article 774(1).

2. Without prejudice to Article 774(2), (3) and (4), the rights and obligations of the Parties under this Part shall also apply with regard to the areas beyond each Party's territorial sea, including the sea-bed and subsoil thereof, over which that Party exercises sovereign rights or jurisdiction in accordance with international law including the United Nations Convention on the Law of the Sea and its laws and regulations which are consistent with international law[2].

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (OJ EU L 269, 10.10.2013, p. 1).

[2] For greater certainty, for the Union, the areas beyond each Party's territorial sea shall be understood as the respective areas of the Member States of the Union.

3. Subject to the exceptions contained in paragraph 4 of this Article, Chapters 1, 2 and 5 of Title I of Heading One and the Protocols and Annexes to those Chapters shall also apply, with respect to the United Kingdom, to the territories referred to in Article 774(2). For that purpose, the territories referred to in Article 774(2) shall be considered as being part of the customs territory of the United Kingdom. The customs authorities of the territories referred to in Article 774(2) shall be responsible for the application and implementation of these Chapters, and the Protocols and Annexes to these Chapters, in their respective territories. References to "customs authority" in those provisions shall be read accordingly. However, requests and communications made under these Chapters, and the Protocols and Annexes to these Chapters, shall be administered by the customs authority of the United Kingdom.

4. Article 110, Annex 18 and the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties shall not apply to the Bailiwick of Jersey or the Bailiwick of Guernsey.

5. Chapters 3 and 4 of Title I of Heading One and the Annexes to those Chapters shall also apply, with respect to the United Kingdom, to the territories referred to in Article 774(2). The authorities of the territories referred to in Article 774(2) shall be responsible for the application and implementation of these Chapters, and the Annexes to these Chapters, in their respective territories and relevant references shall be read accordingly. However, requests and communications made under these Chapters, and the Annexes to these Chapters, shall be administered by the authorities of the United Kingdom.

6. Without prejudice to Article 779 and Article 521 and unless agreed otherwise between the Parties, paragraphs 3 to 5 of this Article shall remain in force until the earlier of:

(a) expiry of a period of three years following written notice of termination to the other Party; or

(b) the date on which Article 502, Article 503 and any other provision of Heading Five in so far as it relates to the arrangements provided for in those Articles cease to be in force.

7. For the purposes of point (a) of paragraph 6, notice of termination may be given in respect of one or more of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man and paragraphs 3 to 5 of this Article shall continue in force for those territories in respect of which a notice of termination has not been given.

8. For the purposes of point (b) of paragraph 6, if Article 502, Article 503 and any other provision of Heading Five in so far as it relates to the arrangements provided for in those Articles cease to be in force in relation to one or more (but not all) of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man, paragraphs 3 to 5 of this Article shall continue to be in force for those territories in respect of which Article 502, Article 503 and any other provision of Heading Five in so far as it relates to the arrangements provided for in those Articles remain in force.

ARTICLE 521

Termination of Part Two

Without prejudice to Article 779, each Party may at any moment terminate this Part by written notification through diplomatic channels. In that event, this Part shall cease to be in force on the first day of the ninth month following the date of notification. Heading Four and the Protocol on Social Security Coordination shall not be terminated pursuant to this Article.