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

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*PREAMBLE*

THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY AND

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

*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,*

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

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

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

*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,*

*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,*

*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,*

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

*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,*

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

*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,*

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

*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,*

*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,*

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

*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,*

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

*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 the shared stocks,*

*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,*

*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 of 10 December 1982,*

*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,*

*CONSIDERING that cooperation in areas of shared interest, such as science, research and innovation, nuclear research or 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,*

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*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,*

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

*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:

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**PART ONE: COMMON AND INSTITUTIONAL PROVISIONS**

*TITLE I: GENERAL PROVISIONS*

Article COMPROV.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 COMPROV.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 Euratom, of the one part, and the United Kingdom, of the other part. Article COMPROV.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 COMPROV.13: 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.

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Article COMPROV.16: Private rights

1. Without prejudice to Article MOBI.SSC.67 [Protection of individual rights] and with the exception, with regard to the Union, of Part Three [Law enforcement and judicial cooperation ], 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 COMPROV.17: 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 the Agreement applies in accordance with Article FINPROV.1 [Territorial scope];

(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 INST.1: 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.

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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 [Institutional Framework] of Part One [Common and institutional provisions], 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 Article INST.1(4) [Partnership Council];

(g) by decision, establish Trade Specialised Committees and Specialised Committees, other than those referred to in Article INST.2(1) [Committees], 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 INST-1 [Rules of Procedure of the Partnership Council and Committees]. The Partnership Council may amend that Annex.

Article INST.2: Committees

1. The following Committees are hereby established:

(a) the Trade Partnership Committee, which addresses matters covered by Titles I to VII, Chapter 4 [Energy goods and raw materials] of Title VIII, Titles IX to XII of Heading One [Trade] of Part Two,

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Heading Six [Other provisions] of Part Two, and Annex ENER-2 [ENERGY AND ENVIRONMENTAL SUBSIDIES];

(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 four [Energy goods and raw materials] 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 ENER.25 [Cooperation on standards] of Title VIII [Energy] of Heading One of Part Two;

(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 [Energy Goods and Raw Materials] 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 ENER-2 [ENERGY AND ENVIRONMENTAL SUBSIDIES];

(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 [Energy Goods and Raw Materials], Article ENER.25 [Cooperation on Standards] and Annex ENER-2 [ENERGY AND ENVIRONMENTAL SUBSIDIES], and

(ii) which can discuss and provide expertise to the relevant Trade Specialised Committee on matters pertaining to Chapter four [Energy Goods and Raw Materials] and Article ENER.25 [Cooperation on Standards] of Title VIII of Heading One of Part Two;

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(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 [Road Transport] 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 [Fisheries] of Part Two;

(r) the Specialised Committee on Law Enforcement and Judicial Cooperation, which addresses matters covered by Part Three [Law enforcement and judicial cooperation in criminal matters]; and

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

2. With respect to issues related to Titles I to VII, Chapter 4 [Energy goods and raw materials] of Title VIII, Titles IX to XII of Heading One [Trade] of Part Two, Heading Six [Other provisions] of Part Two and Annex ENER-2 [ENERGY AND ENVIRONMENTAL SUBSIDIES], 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 [Dispute settlement] of Part Six ;

(f) exercise the powers delegated to it by the Partnership Council pursuant to point (f) of Article INST.1(4) [Partnership Council];

(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.

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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 [Dispute Settlement] 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 INST.1(4) [Partnership Council];

(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 INST.13(7) [Consultations] of Title I [Dispute Settlement] of Part Six.

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.

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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 INST-X [Rules of Procedure of the Partnership Council and Committees].

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

Article INST.3: 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 INST.4: 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 [Dispute settlement] 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.

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Article INST.5: 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 INST.6: 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 INST.7 [Domestic advisory groups] and INST.8 [Civil Society Forum].

Article INST.7: 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 INST.8: 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 of this Agreement. 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.

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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 INST.7 [Domestic advisory groups]. 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.

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**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 GOODS.1: 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 GOODS.2: Scope

Except as otherwise provided, this Chapter applies to trade in goods of a Party. Article GOODS.3: 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 [Rules of origin] 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;

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(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 in 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 GOODS.3A: 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 GOODS.4: 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 this end, Article III of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article GOODS.4A: 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 this 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.

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Article GOODS.5: 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 GOODS.6: 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 GOODS.7 [Fees and formalities].

Article GOODS.7: 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.

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Article GOODS.8: 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 GOODS.9: 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 GOODS.10 [Import and export restrictions] 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 GOODS.10: 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 this 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 GOODS.11: 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 GOODS. 13: 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.

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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 this 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 GOODS. 14: 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 its export licensing procedures, or of any modifications it 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;

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(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 GOODS.15: 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 this 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 GOODS.16: 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.

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Article GOODS.17: 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 [Rules of origin] 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 investigation1shall 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. 8. Title I [Dispute settlement] of Part Six does not apply to paragraphs 1 to 6 of this Article. Article GOODS.18: 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 UK 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.

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.

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Article GOODS.19: Measures in case of breaches or circumventions of customs legislation

1. The Parties shall co-operate in preventing, detecting and combating breaches or circumventions of customs legislation, in accordance with their obligations under Chapter 2 [Rules of origin] 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.

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Article GOODS.20: 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 GOODS.21: 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:

(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.

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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 [Dispute Settlement] of Part Six does not apply to this Article.

Chapter 2: Rules of origin

*Section 1: Rules of origin*

Article ORIG.1: 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 ORIG.2: 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 ORIG.3: 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:

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(a) products wholly obtained in that Party within the meaning of Article ORIG.5 [Wholly obtained products];

(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 ORIG-2 [Product-specific rules of origin].

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 ORIG.4: 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 ORIG.7 [Insufficient production].

4. In order for an exporter to complete the statement on origin referred to in point (a) of Article ORIG.18(2) [Claim for preferential tariff treatment] 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 ORIG-3 [Supplier’s declaration] 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 ORIG.5: 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;

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(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 ORIG.6: Tolerances

1. If a product does not satisfy the requirements set out in ANNEX ORIG-2 [Product-specific rules of origin] 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 of 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 Note 7 and 8 of ANNEX ORIG-1 [Introductory Notes to the Product-Specific Rules of Origin] apply.

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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 ORIG-2 [Product-specific rules of origin].

3. Paragraph 1 of this Article does not apply to products wholly obtained in a Party within the meaning of Article ORIG.5 [Wholly obtained products]. If ANNEX ORIG-2 [Product-specific rules of origin] requires that the materials used in the production of a product are wholly obtained, paragraphs 1 and 2 of this Article apply.

Article ORIG.7: Insufficient Production

1. Notwithstanding point (c) of Article ORIG.3(1) [General requirements], 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;2

(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;

(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;

2 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.

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(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 ORIG.8: 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 ORIG.9: 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 ORIG.10: 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 ORIG-2 [Product-specific rules of origin].

Article ORIG.11: 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 in 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 ORIG-2 [Product-specific rules of origin].

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Article ORIG.12: 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 ORIG.13: 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 ORIG.14: 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 in Chapter 10, 15, 27, 28, 29, heading 32.01 to 32.07, or heading 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.

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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 ORIG.15: 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 ORIG.16: 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 ORIG.17: Review of drawback of, or exemption from, customs duties

Not earlier than 2 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 this 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 5 years if that 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

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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 ORIG.18: 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 ORIG.18a: 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 ORIG.18(2) [Claim for preferential tariff treatment] 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 ORIG.18(2) [Claim for preferential tariff treatment]; and

(c) the product would have been considered originating and would have satisfied all other applicable requirements within the meaning of Section 1 [Rules of origin] 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 ORIG.18 [Claim for preferential tariff treatment] remain unchanged.

Article ORIG.19: 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.

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2. A statement on origin shall be made out using one of the language versions set out in ANNEX ORIG-4 [Text of the statement on origin] 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 ORIG.20: 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 ORIG.21: Importer’s knowledge

1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article ORIG.18(2) [Claim for preferential tariff treatment], 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 it 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 ORIG.18(2) [Claim for Preferential Tariff Treatment].

Article ORIG.22: 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.

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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 ORIG.23: Small consignments

1. By way of derogation from Articles ORIG.18 [Claim for Preferential Tariff Treatment] to ORIG.21 [Importer’s Knowledge], 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), 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 ORIG.18 [Claim for Preferential Tariff Treatment];

(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 ORIG.22 [Record-keeping requirements] shall not apply to the importer under this Article.

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Article ORIG.24: 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 ORIG.18 [Claim for Preferential Tariff Treatment], 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

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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 ORIG.25: 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 ORIG.24(1) [Verification] 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 ORIG.18a(2) [Time of the claim for preferential treatment], 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;

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(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 ORIG.26: 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 ORIG.24(1) [Verification]:

(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 ORIG.24(5) [Verification]:

(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 months3 after the date of a request for information pursuant to Article ORIG.25(2) [Administrative Cooperation]:

(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.

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

3 The period will be of 12 months for requests of information pursuant to Article ORIG.25(2) [Administrative cooperation] addressed to the customs authority of the exporting Party during the first three months of the application of this Agreement.

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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 ORIG.25(4) [Administrative cooperation] 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 ORIG.25(5) [Administrative cooperation] 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 ORIG.27: 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 ORIG.25(5) [Administrative cooperation], 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 ORIG.24 [Verification] and ORIG.25 [Administrative cooperation], 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 ORIG.28: 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,

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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 ORIG.22 [Record-keeping requirements], or who does not provide the evidence, or refuses to submit to a visit, as referred to in Article ORIG.25(3) [Administrative cooperation].

*Section 3: Other Provisions*

Article ORIG.29: 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 ORIG.4 [Cumulation of origin] 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 ORIG.30: 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 ORIG.18 [Claim for preferential tariff treatment] to the customs authority of the importing Party, within 12 months of that date.

Article ORIG.31: Amendment to this chapter and its annexes

The Partnership Council may amend this Chapter and its Annexes.

Chapter 3: Sanitary and phytosanitary measures

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Article SPS.1: 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 SPS.2: 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 SPS.3: 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:

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

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(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 SPS.4: 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 SPS.5: 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 these 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.

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

Article SPS.6: 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 SPS.7: 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

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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

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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 SPS.8 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 SPS.9: 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;

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(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 SPS.10: 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

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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 11 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 SPS 12(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.

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Article SPS.11: 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 Alimentarius, 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 SPS.12: 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;

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(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 SPS.13: 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: SPS.14: 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 SPS.15: Implementation and competent authorities

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

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(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 SPS.16: 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 SPS.17: 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 anti-microbial resistance.

2. The Parties recognise that anti-microbial resistance is a serious threat to human and animal health. Misuse of anti-microbials in animal production, including non-therapeutic use, can contribute to anti-microbial 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.

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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 Alimentarius.

Article SPS.18: 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 SPS.19: 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 SPS-1: Criteria referred to in Article SPS.19.(d).

(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 SPS. 16 and 17;

(f) on request of a Party, considering what constitutes a significant change in the disease or pest situation referred to in Article SPS 10(9);

(g) adopting decisions to:

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(i) add definitions as referred to in Article SPS 3(3);

(ii) define the specific cases referred to in Article SPS 6(2);

(iii) define details for the procedures referred to in Article SPS 10(1);

(iv) establish other ways to support the explanations referred to in Article SPS 10(5) and (7).

Chapter 4: Technical barriers to trade

Article TBT.1: 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 TBT.2: 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 scope of Chapter 3 [Sanitary and phytosanitary measures].

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

Article TBT.3: 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 TBT.4: 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.

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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), International Electrotechnical Commission (IEC), International Telecommunication Union (ITU) and 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, could 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 for 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.4

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.

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 [Good Regulatory Practices and Regulatory Cooperation], 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.

4 G/TBT/9, 13 November 2000, Annex 4.

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Article TBT.5: 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 TBT.7 [Transparency] and in Articles 2 or 5 of the TBT Agreement shall apply.

Article TBT.6: Conformity assessment

1. Article TBT.4 [Technical regulations] 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

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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.

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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 TBT.7: 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.

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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 TBT.8: 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 points (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

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(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 TBT.9: 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 TBT-XX, 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

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(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 TBT-ZZ 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 TBT-XX and TBT-ZZ.

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 TBT.10: 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 TBT.12 [Contact points].

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.

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Article TBT.11: 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 European Union.

Article TBT.12: 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 TBT.13: 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 the Annexes to it 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 CUSTMS.1: Objective

The objectives of this Chapter are:

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(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 CUSTMS.1a: Definitions

For the purposes of this Chapter and ANNEX CUSTMS-1 [Authorised Economic Operators] 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;

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(g) “person” means any person as defined in point (m) of Article OTH.1 [Definitions] of Title XVII [OTHER PROVISIONS]5;

(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

(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 CUSTMS.2: Customs cooperation

1. The relevant authorities of the Parties shall cooperate on customs matters to support the objectives set out in Article CUSTMS.1 [Objective], taking into account the resources of their respective authorities. For the purpose of this Title [Trade in goods], 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;

5 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.

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(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 [Information exchange and confidentiality], *mutatis mutandis*, as well as to any confidentiality requirements set out in the legislation of the Parties.

Article CUSTMS.3: 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;

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(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 CUSTMS.4: 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.

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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 CUSTMS.5: 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 CUSTMS.6: Transit and transhipment

1. For the purposes of Article GOODS.4a [Freedom of Transit], 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.

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Article CUSTMS.7: 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 CUSTMS.8: 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 CUSTMS.9: Authorised Economic Operators

1. Each Party shall maintain a partnership programme for operators who meet the specified criteria in Annex CUSTMS-1 [Authorised Economic Operators].

2. The Parties shall recognise their respective programmes for Authorised Economic Operators in accordance with Annex CUSTMS-1 [Authorised Economic Operators].

Article CUSTMS.10: 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.

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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 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.

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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 CUSTMS.11: 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.

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Article CUSTMS.12: 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 CUSTMS.13: 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 CUSTMS.14: 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 CUSTMS.15: 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 CUSTMS.16: 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

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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;

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(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 CUSTMS 17. 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 CUSTMS 18. 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:

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(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 CUSTMS.19: 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 CUSTMS. 20: 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 the Annex CUSTMS-1 [Authorised Economic Operators]:

(i) jointly validate programme members to identify strengths and weaknesses in implementing Annex CUSTMS-1 [Authorised Economic Operators]; 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 [Automatic exchange of information] 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 the Annex CUSTMS-1 [Authorised Economic Operators]; and

(d) on the procedures for the consultation established in Article ORIG.26 [Denial of preferential tariff treatment] on any technical or administrative matters relating to the implementation of

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Chapter 2 [Rules of Origin] of this Title, including on interpretative notes aimed at ensuring the uniform administration of the rules of origin.

Article CUSTMS.21: Amendments

1. The Partnership Council may amend:

(a) Annex CUSTMS-1 [Authorised Economic Operators], the Protocol on mutual administrative assistance in customs matters and the list of goods set out in paragraph 2 of CUSTMS.16 [Temporary admission]; 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 SERVIN.1.1: 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 services6, other than:

6 Air services or related services in support of air services include, but are not limited to, the following

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(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;

(c) national maritime cabotage7; 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 PPROC.2 [Incorporation of certain provisions of the GPA and covered procurement].

7. Except for Article SERVIN.2.6 [Performance requirements], this Title does not apply to subsidies or grants provided by the Parties, including government-supported loans, guarantees and insurance.

Article SERVIN.1.2: Definitions

For the purposes of this Title:

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.

7 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 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, done in Montego Bay, Jamaica, on 10 December 1982, 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, done in Montego Bay, Jamaica, on 10 December 1982, and traffic originating and terminating in the same port or point located in the United Kingdom.

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(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 operators8;

(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;

(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"9 means:

8 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 SERVIN.1.2 [Definitions]. 9 For greater certainty, the shipping companies referred to in this point are only considered as legal persons

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(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;

(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.

of a Party with respect to their activities relating to the supply of maritime transport services.

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Article SERVIN.1.3: Denial of benefits

1. A Party may deny the benefits of this Title and Title IV [Capital movements, payments, transfers and temporary safeguard measures] 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 [Capital movements, payments, transfers and temporary safeguard measures] 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 [Capital movements, payments, transfers and temporary safeguard measures] 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 SERVIN.1.4: 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 FINPROV.3 [Review].

2. The Parties shall endeavour, where appropriate, to review the non-conforming measures and reservations set out in Annex SERVIN-1 [Existing measures], Annex SERVIN-2 [Future measures], Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors] and Annex SERVIN-4 [Contractual service suppliers and independent professionals] and the activities for short term business visitors set out in Annex SERVIN-3 [Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors], 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 SERVIN.2.1: 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 SERVIN.2.6 [Performance requirements], any enterprise in the territory of the Party which adopts or maintains the measure.

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Article SERVIN.2.2: 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;10 11

(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 SERVIN.2.3: 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.

10 Points (a) (i) to (iii) of Article SERVIN.2.2 [Market access] do not cover measures taken in order to limit the production of an agricultural or fishery product.

11 Point (a)(iii) of Article SERVIN.2.2 [Market access] does not cover measures by a Party which limit inputs for the supply of services.

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*24.12.2020*

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Article SERVIN.2.4: 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 SERVIN.2.5: 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 SERVIN.2.6: 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;

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*24.12.2020*