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PREAMBLE

The Republic of India (hereinafter referred to as “India”) and the Republic of Korea (hereinafter referred to as “Korea”), and hereinafter referred to jointly as “Parties” and individually as “Party”:

RECOGNISING their long-standing friendship, strong economic ties and close cultural links;

RECALLING the establishment of the Joint Study Group to examine the benefits of a Comprehensive Economic Partnership Agreement (hereinafter referred to as “CEPA”) between India and Korea in January 2005, and its recommendations, which served as the framework for negotiations on the CEPA and its structure as an integrated package of agreements;

CONSIDERING that the expansion of their domestic markets, through economic integration, is important for accelerating their economic development;

DESIRING to promote mutually beneficial economic relations;

SHARING the belief that the CEPA would improve their attractiveness to capital and human resources, and create larger and new markets, to expand trade and investment not only between them but also in the region;

AFFIRMING their commitment to fostering the development of an open market economy in Asia, and to encouraging the economic integration of Asian economies in order to further the liberalisation of trade and investment in the region;

REAFFIRMING that this Agreement shall contribute to the expansion and development of world trade under the multilateral trading system embodied in the WTO Agreement;

BUILDING on their respective rights and obligations under the WTO Agreement and other bilateral, regional and multilateral instruments of cooperation to which both Parties are party;

FURTHER REAFFIRMING their rights to pursue economic philosophies suited to their development goals and their rights to realise their national policy objectives;

RECOGNISING that economic and trade liberalisation should allow for the optimal use of natural resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment; and

RESOLVED to promote reciprocal trade and investment, and to avoid circumvention of benefits of regional trade integration, through the establishment of clear and mutually advantageous trade rules, and industry as well as regulatory cooperation;

HAVE AGREED as follows:

CHAPTER ONE
GENERAL PROVISIONS AND DEFINITIONS

ARTICLE 1.1: OBJECTIVES

The objectives of this Agreement, as elaborated more specifically through its principles and rules are to:

- (a) liberalise and facilitate trade in goods and services and expand investment between the Parties;
- (b) establish a cooperative framework for strengthening and enhancing the economic relations between the Parties;
- (c) establish a framework conducive for a more favourable environment for their businesses and promote conditions of fair competition in the free trade area;
- (d) establish a framework of transparent rules to govern trade and investment between the Parties;
- (e) create effective procedures for the implementation and application of this Agreement;
- (f) explore new areas of economic cooperation and develop appropriate measures for closer economic partnership between the Parties;
- (g) improve the efficiency and competitiveness of their manufacturing and services sectors and expand trade and investment between the Parties; and
- (h) establish a framework for further regional and multilateral cooperation to expand and enhance the benefits of this Agreement throughout Asia, and thereby, to encourage the economic integration of Asian economies.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

1. The Parties reaffirm their existing rights and obligations with respect to each other under existing bilateral, regional and multilateral agreements to which both Parties are party, including the WTO Agreement.

2. In the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

ARTICLE 1.3: GENERAL DEFINITIONS

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

Agreement means the CEPA;

central level of government means:

- (a) for India, the government of the Union of India; and
- (b) for Korea, the central level of government;

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

Days means calendar days, including weekends and holidays;

Enterprise means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation;

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

GATS means the *General Agreement on Trade in Services*, contained in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

Goods/products of a Party means all domestic products including manufactures and commodities in their raw, semi processed and processed forms as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods;

Government procurement means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;

Harmonised System (HS) means the nomenclature of the Harmonised Commodity Description and Coding System defined in the International Convention on the Harmonised Commodity Description and Coding System including all legal notes thereto, as adopted and implemented by the Parties in their respective tariff laws;

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

Measures by Parties means measures taken by:

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

National means:

- (a) for India, natural persons deriving their status as Indian citizens from the law in force in India;
- (b) for Korea, a Korean as defined in Article 2 of the Constitution of Korea and its laws; and

Originating goods means goods qualifying under Chapter Three (Rules of Origin);

Person means a natural person or an enterprise/juridical person;

Person of a Party means a national or an enterprise/juridical person of a Party;

Preferential tariff treatment means the duty rate applicable under this Agreement to an originating good;

Regional level of government means, for India, the state and the Union Territories of India; for Korea, “regional level of government” is not applicable;

Safeguards Agreement means the *Agreement on Safeguards*, contained in Annex 1A to the WTO Agreement;

SPS Agreement means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, contained in Annex 1A to the WTO Agreement;

TBT Agreement means the *Agreement on Technical Barriers to Trade*, contained in Annex 1A to the WTO Agreement;

Territory means:

- (a) for India, the territory of India including its territorial seas and the air space above it and other maritime zones including the Exclusive Economic Zone and the continental shelf over which India has sovereignty, sovereign rights or exclusive jurisdiction in accordance with its laws in force, the *1982 United Nations Convention on the Law of the Sea* and International Law; and
- (b) for Korea, the land, maritime, and air space over which Korea exercises sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its law;

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement;

WTO means the World Trade Organization; and

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

2. In this Agreement, all words in the singular shall include the plural and all words in the plural shall include the singular, unless otherwise indicated in the context.

CHAPTER TWO TRADE IN GOODS

ARTICLE 2.1: DEFINITIONS

For the purposes of this Chapter:

Anti-Dumping Agreement means the *Agreement on Implementation of Article VI of GATT 1994*;

A.T.A. Carnet Convention means the *Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods, done on 6 December 1961*;

A.T.A. carnet has the same meaning as defined in the A.T.A. Carnet Convention;

customs duties¹ includes any duty or charge of any kind imposed in connection with the importation of a good, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III: 2 of GATT 1994;
- (b) duty applied consistently with Articles 2.13 through 2.27;
- (c) fee or other charge that is limited in amount to the approximate cost of services rendered, and does not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes;
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions or tariff rate quotas; or
- (e) duty imposed pursuant to Article 5 of the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement; and

MFN means “most favoured nation” treatment in accordance with Article I of GATT 1994.

ARTICLE 2.2: SCOPE AND COVERAGE

This Chapter applies to trade in goods between the Parties.

¹ Customs duties for India refer to basic customs duties as specified in the First Schedule to the *Customs Tariff Act, 1975* of India. This is without prejudice to Korea’s position either on the definition of customs duties or on the consistency of India’s internal tax or charge equivalent to an internal tax with Article 2.3 of this Chapter or Article III of GATT 1994.

Section A: National Treatment and Market Access for Goods

ARTICLE 2.3: NATIONAL TREATMENT

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes, which is hereby incorporated into and made a part of this Agreement, *mutatis mutandis*.

ARTICLE 2.4: REDUCTION OR ELIMINATION OF CUSTOMS DUTIES

1. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods of the other Party in accordance with its Schedule to Annex 2-A.
2. Upon the request of either Party, the Parties shall consult each other to consider the possibility of accelerating the reduction or elimination of customs duties as set out in their Schedules to Annex 2-A including the goods that are excluded from tariff concession in the Annex. An agreement by the Parties to accelerate the reduction or elimination of customs duties on any goods shall supersede any duty rate or staging category established for those goods in this Article and the Annex 2-A in accordance with Article 15.5 (Amendment) of this Agreement.
3. The reduced customs duty rates calculated in accordance with a Party's Schedule to Annex 2-A shall be applied rounded to the first decimal place.

ARTICLE 2.5: RULES OF ORIGIN

Goods covered by this Agreement shall be eligible for preferential tariff treatment, provided that they satisfy the rules of origin as set out in Chapter Three (Rules of Origin).

ARTICLE 2.6: NON-TARIFF MEASURES

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any goods of the other Party or on the exportation of any goods destined for the territory of the other Party except in accordance with its rights and obligations under the WTO Agreement or in accordance with other provisions of this Agreement.
2. Each Party shall ensure that such measures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade in goods between the Parties.

ARTICLE 2.7: CUSTOMS VALUE

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

ARTICLE 2.8: RESTRICTIONS TO SAFEGUARD BALANCE OF PAYMENTS

Article XII of GATT 1994 and the *Understanding on Balance-of-Payments Provisions of GATT 1994* shall be incorporated into and made a part of this Agreement, for measures taken for balance of payments purposes for trade in goods.

ARTICLE 2.9: GENERAL AND SECURITY EXCEPTIONS

1. For the purposes of this Chapter, Articles XX and XXI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.
2. Nothing in this Chapter shall be construed to require a Party to accord the benefits of this Chapter to the other Party, or the goods of the other Party where a Party adopts or maintains measures in any laws and regulations which it considers necessary for the protection of its essential security interests with respect to a non-Party, or goods of a non-Party that would be violated or circumvented if the benefits of this Chapter were accorded to such Party or goods.

ARTICLE 2.10: STATE TRADING ENTERPRISES

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of GATT 1994.

ARTICLE 2.11: TARIFF CLASSIFICATION

For the purposes of this Chapter and Chapter Three (Rules of Origin), the basis for tariff classification would be the HS.

ARTICLE 2.12: TEMPORARY ADMISSION

1. Each Party shall accept in lieu of its national customs documents, and as due security for the sums referred to in Article 6 of the A.T.A. Carnet Convention, A.T.A. carnets valid for its territory, issued and used in accordance with the conditions laid down in the A.T.A. Carnet Convention, for temporary admission of:

- (a) professional equipment necessary for representatives of the press or of broadcasting or television organisations for purposes of reporting or in order to transmit or record material for specified programmes, cinematographic equipment necessary in order to make a specified film or films or other professional equipment² necessary for the exercise of the calling, trade or profession of a person to perform a specified task;
- (b) goods intended for display or demonstration at an event; and

² It would not include equipment which is to be used for internal transport or 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.

- (c) goods intended for use in connection with the display of foreign products at an event, including:
 - (i) goods necessary for the purposes of demonstrating foreign machinery or apparatus to be displayed;
 - (ii) construction and decoration material, including electrical fittings, for the temporary stands of foreign exhibitors;
 - (iii) advertising and demonstration material which is demonstrably publicity material for the foreign goods displayed, for example, sound recordings, films and lantern slides, as well as apparatus for use therewith; and
 - (iv) equipment including interpretation apparatus, sound recording apparatus and films of an educational, scientific or cultural character intended for use at international meetings, conferences or congresses.
2. The facilities referred to in paragraph 1 shall be granted provided that:
- (a) the goods in all respects conform to the description, quantity, quality, value and other specifications given in the A.T.A. carnet duly certified by the customs authorities of the exporting Party;
 - (b) the goods are capable of identification on re-exporting;
 - (c) the number or quantity of identical articles is reasonable having regard to the purposes of importation; and
 - (d) the goods shall be re-exported within three months from the date of importation or such other longer period in accordance with the laws and practices of the Parties.

Section B: Trade Remedies

Section B-1: Anti-Dumping and Countervailing Duties

ARTICLE 2.13: GENERAL PROVISION

1. Except as otherwise provided for in this Agreement, the Parties retain their rights and obligations under Article VI of GATT 1994 and the Anti-Dumping Agreement.

2. (a) Notwithstanding paragraph 1, in the event of inconsistency between the articles set out in the following subparagraphs (2) (a) (i) through (iv) and any agreement, to which both Parties are party, that results from negotiations aimed at clarifying and improving disciplines under Article VI of GATT 1994 and the Anti-Dumping Agreement, such agreement shall prevail to the extent of the inconsistency:
- (i) Article 2.14 (Notification of Petition for Investigation and Exchange of Information);
 - (ii) Article 2.17 (Lesser Duty Rule);
 - (iii) Article 2.18 (Prohibition of Zeroing); and
 - (iv) Article 2.19 (Exemption from Investigation after Termination on Review);
- (b) A Party may withdraw its commitments under articles listed in subparagraph (a), provided that no agreement is reached in the WTO under Article VI of GATT 1994 and the Anti-Dumping Agreement on them within a reasonable period of time, but not less than two years from the date of entry into force of this Agreement;
- (c) Notwithstanding subparagraph (b), neither Party may withdraw its commitments under articles listed in subparagraph (a) with respect to anti-dumping cases where the imports from the other Party are the only subject of anti-dumping investigation;
- (d) A Party that intends to withdraw its commitments in accordance with subparagraph (b) shall notify the other Party of its intention at least three months before its withdrawal; and
- (e) After the date of entry into force of this Agreement, any articles relating to anti-dumping disciplines may be added to the list of articles in subparagraph (a), if both Parties so agree.

ARTICLE 2.14: NOTIFICATION OF PETITION FOR INVESTIGATION AND EXCHANGE OF INFORMATION

The investigating authority of a Party shall, upon accepting a properly documented application for the initiation of an anti-dumping investigation in respect of goods from the other Party, and before proceeding to initiate such an anti-dumping investigation, notify the other Party at least ten working days in advance of the date of initiation of the investigation.

ARTICLE 2.15: USE OF INFORMATION

1. Where originating goods are subject to an anti-dumping investigation, the export price of such goods before adjustment for fair comparison in accordance with Article 2.4 of the Anti-Dumping Agreement shall, subject to paragraph 2, be based on the value which appears in relevant documents.
2. In cases where the investigating authority of a Party determines that the value referred to in paragraph 1 is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed in accordance with Article 2.3 of the Anti-Dumping Agreement.

ARTICLE 2.16: RECOMMENDATIONS OF THE WTO COMMITTEE ON ANTI-DUMPING PRACTICES

Each Party may, in all investigations conducted against goods from the other Party, take into account the recommendations of the WTO Committee on Anti-Dumping Practices.

ARTICLE 2.17: LESSER DUTY RULE

If a Party takes a decision to impose an anti-dumping duty pursuant to Article 9.1 of the Anti-Dumping Agreement, it shall apply a duty less than the margin of dumping where such lesser duty would be adequate to remove the injury to the domestic industry.

ARTICLE 2.18: PROHIBITION OF ZEROING

When anti-dumping margins are established, assessed or reviewed under Articles 2, 9.3, 9.5, and 11 of the Anti-Dumping Agreement regardless of the comparison bases under Article 2.4.2 of the Anti-Dumping Agreement, all individual margins, whether positive or negative, should be counted toward the average.

ARTICLE 2.19: EXEMPTION FROM INVESTIGATION AFTER TERMINATION

1. In case where the investigating authority of the importing Party determines that the anti-dumping measures against imports from the other Party be terminated as a result of the review under Articles 11.2 and 11.3 of the Anti-Dumping Agreement, no investigation shall be initiated on the same goods during one year after the termination of the anti-dumping duties.
2. Notwithstanding the paragraph 1, the investigating authority of the importing Party may initiate an investigation in an exceptional case, provided that the authority is satisfied, on the basis of evidence available with it, that dumping or injury has recurred as a result of withdrawal of the duties and that initiation of such an investigation is necessary to prevent material injury or threat thereof to the domestic industry as a consequence of such dumped imports from the exporting Party.

ARTICLE 2.20: SUBSIDIES

The Parties reaffirm their commitments to abide by Articles VI and XVI of GATT 1994 and the *Agreement on Subsidies and Countervailing Measures* contained in Annex 1A to the WTO Agreement.

Section B-2: Safeguard Measures

ARTICLE 2.21: DEFINITIONS

For the purposes of Section B-2:

domestic industry means the producers as a whole of the like or directly competitive goods operating in the territory of a Party, or those whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of those goods;

serious injury means a significant overall impairment in the position of a domestic industry;

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

transition period means a period for a good from the date of entry into force of this Agreement until ten years from the date of completion of tariff elimination or completion of tariff reduction, as the case may be for each good.

ARTICLE 2.22: BILATERAL SAFEGUARD MEASURES

During the transition period only, if as a result of the reduction or elimination of a customs duty³ under this Agreement, an originating good of the other Party is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of such good from the other Party alone⁴ constitute a substantial cause of serious injury or threat thereof to domestic industry producing a like or directly competitive good, the Party may:

³ A determination that an originating good is being imported as a result of the reduction or elimination of a customs duty provided for under this Agreement shall be made only if such reduction or elimination is a cause which contributes significantly to the increase in imports, but need not be equal to or greater than any other cause. The passage of a period of time between the commencement or termination of such reduction or elimination and the increase in imports shall not by itself preclude the determination referred to in this footnote. If the increase in imports is demonstrably unrelated to such reduction or elimination, the determination referred to in this footnote shall not be made.

⁴ For the purposes of certainty, the Parties understand that a Party is not prevented from initiating a bilateral safeguard investigation in the event of a surge of imports from the territory of non-Parties. For further certainty, the Parties understand that bilateral safeguard measures can only be imposed on the good of the other Party when the increase in the import of such goods from that other Party alone constitute a substantial cause of serious injury or threat of serious injury, to domestic industry producing a like or directly competitive good.

- (a) suspend further reduction of any rate of customs duty on the good provided for under this Agreement; or
- (b) increase the rate of customs duty on the good to a level not to exceed the lesser of:
 - (i) the MFN applied rate of customs duty on the good in effect at the time the measure is taken; and
 - (ii) the MFN applied rate of customs duty on the good in effect on the day immediately preceding the date of entry into force of this Agreement.

ARTICLE 2.23: CONDITIONS AND LIMITATIONS ON IMPOSITION OF A BILATERAL SAFEGUARD
MEASURE

The following conditions and limitations shall apply to an investigation or a measure described in Article 2.22:

- (a) a Party shall immediately deliver written notice to the other Party upon:
 - (i) initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;
 - (ii) making a finding of serious injury or threat thereof caused by increased imports; and
 - (iii) taking a decision to apply a safeguard measure;
- (b) in making the notification referred to in subparagraph (a), the Party proposing to apply a safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by the increased imports, precise description of the good involved and the proposed measure, proposed date of introduction and expected duration;
- (c) a Party proposing to apply a safeguard measure shall provide adequate opportunity for prior consultations with the other Party as far in advance of taking any such measure as practicable, with a view to reviewing the information arising from the investigation, exchanging views on the measure and reaching an agreement on the compensation set out in Article 2.25. The Parties shall in such consultations, review, *inter alia*, the information provided under subparagraph (b), to determine:
 - (i) compliance with Section B-2;
 - (ii) whether any proposed measure should be taken; and
 - (iii) the appropriateness of the proposed measure, including consideration of alternative measures;

- (d) a Party shall apply a measure only following an investigation by its competent authorities in accordance with Articles 3 and 4.2(c) of the Safeguards Agreement, and to this end, Articles 3 and 4.2(c) of the Safeguards Agreement are incorporated into and made a part of this Agreement, *mutatis mutandis*;
- (e) in undertaking the investigation described in subparagraph (d), a Party shall comply with the requirements of Articles 4.2(a) and (b) of the Safeguards Agreement, and to this end, Articles 4.2(a) and (b) are incorporated into and made a part of this Agreement, *mutatis mutandis*;
- (f) the investigation shall in all cases be completed within one year following its date of initiation;
- (g) no measure shall be maintained:
 - (i) except to the extent and for such time as may be necessary to remedy serious injury and to facilitate adjustment; or
 - (ii) for a period exceeding two years, except that in exceptional circumstances, the period may be extended by up to additional two years, to a total of four years from the date of first imposition of the measure if the investigating authorities determine in conformity with procedures set out in subparagraphs (a) through (f), that the safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting;
- (h) no bilateral safeguard measure shall be taken against a particular good while a global safeguard measure in respect of that good is in place; in the event that a global safeguard measure is taken in respect of a particular good, any existing bilateral safeguard measure which is taken against that good shall be terminated;
- (i) upon the termination of the safeguard measure, the rate of customs duty shall be the rate which would have been in effect but for the measure; and
- (j) no measures shall be applied again to the import of a good which has previously been subject to such a measure for a period of time equal to that during which such measure had been previously applied, provided that the period of non-application is at least two years.

ARTICLE 2.24: PROVISIONAL MEASURES

In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a measure described in Article 2.22 on a provisional basis pursuant to a preliminary determination that there is clear evidence that imports from the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The duration of such provisional measure shall not exceed 200 days, during which time the requirements of Articles 2.23(d) and (e) shall be met. Any tariff increases shall be promptly refunded if the investigation provided for in Article 2.23(d) does not result in a finding that the requirements of Article 2.22 are met. The duration of any provisional measure shall be counted as part of the period described in Article 2.23(g) (ii).

ARTICLE 2.25: COMPENSATION

1. The Party proposing to apply a measure described in Article 2.22 shall provide to the other Party mutually agreed adequate means of trade liberalising compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. If the Parties are unable to agree on compensation within 30 days in the consultations under Article 2.23(c), the Party against whose originating goods the measure is applied may take action having trade effects substantially equivalent to the measure applied under this Article. This action shall be applied only for the minimum period necessary to achieve the substantially equivalent effects.

2. The right to take action referred to in the second sentence of paragraph 1 shall not be exercised for:

- (a) the first two years that the measure is in effect; and
- (b) the first three years that the measure is in effect where it has been extended beyond two years in accordance with Article 2.23(g) (ii);

provided that the measure described in Article 2.22 has been taken as a result of an absolute increase in imports and that such a measure conforms to the provisions of this Section.

ARTICLE 2.26: ADMINISTRATION OF EMERGENCY ACTION PROCEEDINGS

1. Each Party shall ensure the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing all safeguard investigation proceedings.

2. Each Party shall entrust determinations of serious injury or threat thereof in safeguard investigation proceedings to a competent investigating authority, subject to review by judicial or administrative tribunals, to the extent provided for in its laws. Negative injury determinations shall not be subject to modification, except by such review.

3. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures for safeguard investigation proceedings.

ARTICLE 2.27: GLOBAL SAFEGUARD MEASURES

Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement. This Agreement does not confer any additional rights or impose any additional obligations on the Parties with regard to measures taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement, except that a Party taking a safeguard measure under Article XIX of GATT 1994 and the Safeguards Agreement may, to the extent consistent with the obligations under the WTO Agreement, exclude imports of an originating good of the other Party if such imports are not a substantial cause of serious injury or threat thereof.

Section C: Technical Regulations and SPS Measures

ARTICLE 2.28: TECHNICAL REGULATIONS AND SPS MEASURES

1. Each Party reaffirms its rights and obligations under the TBT Agreement and the SPS Agreement.

2. For exchange of information, bilateral consultation, and mutual cooperation to facilitate bilateral trade, while respecting each other's legitimate rights to adopt measures to protect human, animal and plant life or health, both Parties shall:

- (a) in respect of TBT matters:
 - (i) exchange information on technical regulations, standards and conformity assessment procedures in the Parties;
 - (ii) address any TBT issues to identify a practical solution with a view to facilitating bilateral trade;
 - (iii) explore developing possible mutual recognition agreements or arrangements on technical regulations, standards and conformity assessment procedures between the Parties for mutual benefit and facilitating access to each other's market;
 - (iv) undertake consultation no later than one year from the date of entry into force of this Agreement with a view to arriving at mutual recognition agreements or arrangements for conformity assessment of the sectors listed in Annex 2-B within three years after the start of the consultation. The aforementioned period of consultation may be extended, as necessary. Any legitimate delay or failure to reach and conclude agreements or arrangements, including on the basis of science and risk-based assessment, shall not be regarded as a breach of a Party's obligations under this

subparagraph. The Parties may undertake a joint study through their technical bodies, as necessary, before starting aforementioned consultation. In this case, the time-frame of the consultation may be modified accordingly. The Parties may, after mutual consultation, agree to include more sectors in Annex 2-B;

- (v) strengthen cooperation between the Parties at relevant international and regional fora on standards and conformity assessment and promote the use of international standards and conformity assessment guidelines, as appropriate, as a basis for the development of national technical regulations; and
 - (vi) work towards framing guidelines for the recognition of suppliers' declaration on conformity assessment and standards in a manner consistent with international norms;
- (b) in respect of SPS matters:
- (i) exchange information on such matters as occurrences of specific SPS incidents in the Parties and change or introduction of their SPS-related regulations or standards, which may, directly or indirectly, affect trade in goods between the Parties;
 - (ii) identify and consult, based on the SPS Agreement and relevant international standards, guidelines and recommendations, on specific issues that may arise from the application of SPS measures, including acceptance of equivalence of the other Party's SPS measures and recognition of pest or disease free areas and areas of low-pest or disease prevalence as per the relevant provisions of the SPS Agreement. These shall be done in terms of the exporting Party objectively demonstrating to the importing Party that its measures achieve the importing Party's appropriate level of sanitary or phytosanitary protection and that the concerned areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. Reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures;
 - (iii) explore areas and forms of technical cooperation including personnel training and joint research in respect of mutually agreed SPS issues; and
 - (iv) identify other functions as mutually agreed upon by the Parties.

3. The Parties shall establish a Joint Working Group to address specific TBT or SPS issues, including works enumerated in paragraph 2. The Joint Working Group shall endeavour to resolve the issues raised before it within a reasonable period of time based on science and risk-based

assessment.

4. Notwithstanding Article 14.3.1 (Choice of Forum), any dispute regarding TBT or SPS matters arising under this Article shall not be brought to dispute settlement under this Agreement unless the Parties otherwise agree.

ANNEX 2-B
ANNEX UNDER ARTICLE 2.28.2(a) (iv)

1. Telecommunication equipment
2. Electrical and Electronic equipment

**CHAPTER THREE
RULES OF ORIGIN**

ARTICLE 3.1: DEFINITIONS

For the purposes of this Chapter:

Carrier means any vehicle for air, sea, and land transport;

CIF value means the price actually paid or payable to the exporter for a good when the good is loaded out of the carrier, at the port of importation, including the cost of the good, insurance, and freight necessary to deliver the good to the named port of destination. The valuation shall be made in accordance with the Customs Valuation Agreement;

FOB value means the price actually paid or payable to the exporter for a good when the good is loaded onto the carrier at the named port of exportation, including the cost of the good and all costs necessary to bring the good onto the carrier. The valuation shall be made in accordance with the Customs Valuation Agreement;

Fungible materials means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which once they are incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings, etc;

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

Good means any merchandise, product, article or material;

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

- (a) fuel and energy;
- (b) tools, dies and moulds;
- (c) parts including spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production

or used to operate equipment and buildings;

- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting the good;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

Materials means ingredients, raw materials, parts, components, subassemblies and goods that are used in the production of another good and physically incorporated into another good;

Non-originating materials used in production means any materials whose country of origin is other than the Parties (imported non-originating) and any materials whose origin cannot be determined (undetermined origin);

Originating materials means materials that qualify as originating under this Chapter;

Packing materials and containers for shipment means goods used to protect a good during its transportation, different from those containers or materials used for its retail sale;

Producer means a person who grows, mines, raises, harvests, fishes, reproduces and breeds, traps, hunts, manufactures, processes, assembles or disassembles a good;

Production means method of obtaining goods including growing, raising, mining, extracting, harvesting, fishing, producing, reproducing and breeding, trapping, gathering, collecting, hunting and capturing, manufacturing, processing, assembling or disassembling a good; and

Used means utilised or consumed in the production of goods.

ARTICLE 3.2: ORIGINATING GOODS

For the purposes of this Agreement, goods shall be deemed originating and eligible for preferential tariff treatment if they are consigned according to Article 3.15 and conform to the origin requirements under any of the following conditions:

- (a) goods wholly obtained or produced in the territory of the exporting Party, in accordance with Article 3.3; or
- (b) goods not wholly obtained or produced in the territory of the exporting Party, provided that the said products are eligible under Article 3.4.

ARTICLE 3.3: WHOLLY OBTAINED OR PRODUCED

Within the meaning of Article 3.2(a), the following goods shall be considered as being wholly obtained or produced in the territory of a Party:

- (a) raw or mineral goods extracted from its territory;
- (b) plants and plant products harvested, picked or gathered after being grown there;
- (c) live animals born and raised there;
- (d) goods obtained from animals referred to in subparagraph (c);
- (e) goods obtained by hunting or trapping within the land territory, or fishing or aquaculture conducted within the internal waters or within the territorial sea of the Party;
- (f) goods of sea-fishing and other goods taken from the sea outside the territorial sea of a Party by vessels registered or recorded with a Party and flying its flag;
- (g) goods produced on board factory ships from the goods referred to in subparagraph (f), provided that such factory ships are registered or recorded with a Party and fly its flag;
- (h) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial sea of a Party, provided that the Party has rights to exploit such seabed or beneath the seabed in accordance with the *1982 United Nations Convention on the Law of the Sea*;
- (i) articles collected there, including waste and scrap derived from production there, which can no longer perform their original purpose nor are capable of being restored or repaired and are fit only for disposal or recovery of parts or raw materials, or for recycling purposes; and
- (j) goods produced there exclusively from goods referred to in subparagraphs (a) through (i) or from their derivatives, at any stage of production.

ARTICLE 3.4: NOT WHOLLY OBTAINED OR PRODUCED

1. Except as under Article 3.14 and provided that the final process of manufacturing is performed within the territory of the exporting Party, goods would be considered as originating within the meaning of Article 3.2(b),

- (a) which satisfy the Product Specific Rules provided in Annex 3-A;

- (b) except for goods covered under subparagraph (a) as provided for in Annex 3-A, if;
 - (i) the regional value content is not less than 35 percent of the FOB value; and
 - (ii) the goods have undergone a change in tariff classification in a subheading, at the six digit level, of the HS from tariff classification in which all the non-originating materials used in their manufacture are classified;

2. When a regional value content is required to determine an originating good, the regional value content of a good shall be calculated on the basis of the following method:

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

where,

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

FOB value is the value of the good as defined in Article 3.1;

VNM means the value of non-originating materials specified in paragraph 4.

3. For the purpose of paragraph 2, if the material does not satisfy the requirements of paragraph 1, the non-qualifying value of the material shall be that proportion which cannot be attributed to one or both of the Parties, provided that the requirements of Article 3.6 at each stage of value accumulation are satisfied.

4. The value of the non-originating materials used in the production of a good shall be:

- (a) for imported materials, the CIF value as defined in Article 3.1; or
- (b) for materials of undetermined origin, the earliest price as ascertained to have been paid for in the territory of the Party where the working or processing takes place, in accordance with the Customs Valuation Agreement.

5. For the value of non-originating materials, the following expenses, where included under paragraph 4, may be deducted from the value of the non-originating materials:

- (a) inland transportation costs incurred to transport the materials to the location of the producer; and
- (b) duties, taxes and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duties or taxes paid or payable.

ARTICLE 3.5: INDIRECT MATERIALS

In order to determine whether a good originates in a Party, the origin of the indirect materials shall not be taken into account.

ARTICLE 3.6: NON-QUALIFYING OPERATIONS

1. Notwithstanding any provision in this Chapter, a good shall not be considered to have satisfied the requirements for an originating good in Article 3.4 merely by reason of going through the following operations or processes:

- (a) preserving operations¹ to ensure that the products remain in good condition during transport;
- (b) changes of packaging or packing, and breaking-up and assembly of packages;
- (c) washing, cleaning or removal of dust, oxide, oil, paint or other coverings;
- (d) simple² painting and polishing operations;
- (e) sifting, screening, sorting, classifying, grading or matching, including the making-up of sets of articles;
- (f) simple combining operations, labeling, pressing, cleaning or dry cleaning, packaging operations, or any combination thereof;
- (g) cutting to length or width and hemming, or stitching or over locking of fabrics which are readily identifiable as being intended for a particular commercial use;
- (h) trimming and/or joining together by sewing, looping, linking or attaching accessory articles such as straps, bands, beads, cords, rings and eyelets;
- (i) one or more finishing operations on yarns, fabrics or other textile articles, such as bleaching, waterproofing, decanting, shrinking, mercerizing, or similar operations;
- (j) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (k) operations to colour sugar or form sugar lumps;
- (l) peeling, stoning and unshelling;

¹ Preserving operations include drying, freezing, keeping in brine, ventilation, spreading out, chilling, placing in salt or sulfur dioxide, removal of damaged parts, and like operations.

² “simple” generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity.

- (m) unflaking, crushing, squeezing, slicing, macerating and removal of bones;
- (n) sharpening, simple grinding or simple cutting and repackaging;
- (o) simple³ placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (p) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (q) simple mixing⁴ of products, whether or not of different kinds;
- (r) simple⁵ assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (s) simple⁶ testing or calibrations;
- (t) mere dilution with water or another substance that does not materially alter the characteristics of the goods;
- (u) slaughtering of animals; or
- (v) a combination of two or more operations referred to in subparagraphs (a) through (u).

2. All operations carried out in a Party on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

ARTICLE 3.7: ACCUMULATION

Originating materials from the territory of a Party, incorporated in the production of a good in the territory of the other Party shall be considered to originate in the territory, of the other Party.

ARTICLE 3.8: DE MINIMIS

³ See footnote 2.

⁴ “simple mixing” generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction. **Chemical reaction** means a process, including a biochemical process, which results in a molecule with a new structure by breaking intra-molecular bonds and by forming new intra-molecular bonds, or by altering the spatial arrangement of atoms in a molecule.

⁵ See footnote 2.

⁶ See footnote 2.

1. A good that does not undergo a change in tariff classification pursuant to Article 3.4 and Annex 3-A in the final process of production shall be considered as originating if:
 - (a) for goods except for those falling within Chapters 1 through 14 and Chapters 50 through 63 of the HS, the value of all non-originating materials used in its production, which do not undergo the required change in tariff classification, does not exceed ten percent of the FOB value of the good;
 - (b) for goods falling within Chapters 50 through 63 of the HS, the total weight of non-originating basic textile materials used in its production, which do not undergo the required change in tariff classification, does not exceed seven percent of the total weight of all the basic textile materials used; and
 - (c) the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good.
2. The value of such non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement for the good.

ARTICLE 3.9: ACCESSORIES, SPARE PARTS AND TOOLS

Accessories, spare parts or tools delivered with a good that form part of the good's standard accessories, spare parts or tools, shall be treated as originating goods if the good is an originating good, and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:

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

ARTICLE 3.10: PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE

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

ARTICLE 3.11: PACKING MATERIALS AND CONTAINERS FOR SHIPMENT

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

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

ARTICLE 3.12: FUNGIBLE MATERIALS

1. Where identical and interchangeable originating and non-originating materials are used in the manufacture of a product, those materials shall be physically segregated, according to their origin, during storage.

2. A producer facing considerable costs or material difficulties in keeping separate stocks of identical and interchangeable originating and non-originating materials used in the manufacture of a product, may use the so-called “accounting segregation” method for managing stocks.

3. The accounting method shall be recorded, applied and maintained in accordance with Generally Accepted Accounting Principles applicable in the Party in which the product is manufactured. The method chosen shall:

- (a) permit a clear distinction to be made between originating and non-originating materials acquired and/or kept in stock; and
- (b) guarantee that no more products receive originating status than would be the case if the materials had been physically segregated.

ARTICLE 3.13: PRINCIPLE OF TERRITORIALITY

1. Except as provided for in Articles 3.7 and 3.14, the conditions for acquiring originating status set out in Articles 3.2 through 3.12 shall be fulfilled without interruption in a Party.

2. Except as provided for in Article 3.7, an originating product exported from a Party to a non-Party shall, when returned, be considered to be non-originating unless it can be demonstrated to the satisfaction of the customs authority in accordance with laws and regulations of the importing Party concerned that:

- (a) the returning product is the same as that exported; and
- (b) the returning product has not undergone any operation beyond that necessary to preserve it in good condition while being exported.

ARTICLE 3.14: EXEMPTION FROM THE PRINCIPLE OF TERRITORIALITY

Notwithstanding the provisions of Article 3.13, the acquisition of originating status in accordance with the conditions set out in Articles 3.2 through 3.12 shall not be affected by working or processing carried out in the area agreed by both Parties in the Exchange of Notes on materials exported from the Party concerned and subsequently re-imported there, provided that the conditions set out in Annex 3-B are fulfilled.

ARTICLE 3.15: DIRECT CONSIGNMENT

1. Preferential tariff treatment shall be applied to a good satisfying the requirements of this Chapter and which is transported directly between the territories of the exporting Party and the importing Party.

2. Notwithstanding paragraph 1, a good of which transport involves transit through one or more intermediate third countries, other than the territories of the exporting Party and the importing Party, shall be considered to be consigned directly, provided that:

- (a) the goods have not entered into trade or consumption there;
- (b) the goods have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition; and
- (c) the goods have remained under the customs control in the country of transit.

ARTICLE 3.16: INTERPRETATION AND APPLICATION

For the purposes of this Chapter:

- (a) the basis for tariff classification in this Chapter is the HS;
- (b) in applying the Customs Valuation Agreement for the determination of the origin of a good under this Chapter:
 - (i) the principles of the Customs Valuation Agreement shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions;
 - (ii) the provisions of this Chapter shall take precedence over the Customs Valuation Agreement to the extent of any difference; and
 - (iii) the definitions in Article 3.1 shall take precedence over the definitions in the Customs Valuation Agreement to the extent of any difference; and

- (c) all costs referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

ARTICLE 3.17: CONSULTATIONS AND MODIFICATIONS

1. The Parties shall consult and cooperate to ensure that this Chapter is applied in an effective and uniform manner.
2. Pursuant to Article 15.2.2(c) (Review), the Parties shall consult to review, no later than three years after the date of entry into force of this Agreement, the rules of origin and discuss necessary amendments or modifications to this Chapter and its Annexes, including Article 3.4.1 and Product Specific Rules provided in Annex 3-A, taking into account developments in technology, production processes, and other related matters including the recommended amendments to the HS.

ANNEX 3-A
PRODUCTS SPECIFIC RULES

Part I – General Interpretative Notes

1. The specific rule, or specific set of rules, that applies to a particular heading or subheading is set out immediately adjacent to the heading or subheading.
2. The following definitions apply:
 - (a) the **Product Specific Rules** in this Annex are structured on the basis of the HS, including its General Interpretative Rules, Section Notes and Chapter Notes;
 - (b) **Chapter** means a chapter of the HS;
 - (c) **Heading** means the first four digits in the tariff classification number under the HS; and
 - (d) **Subheading** means the first six digits in the tariff classification number under the HS.
3. A requirement of a change in tariff classification applies only to non-originating materials.
4. Where a specific rule of origin is defined using the criterion of a change in tariff classification, and the rule is written to exclude tariff provisions at the level of a chapter, heading or subheading of the HS, each Party shall construe the rule of origin to require that materials classified in those excluded provisions be originating for the good to qualify as originating.

Part II – Product Specific Rules

Chapter 1

Live Animals

01.01-01.06

All the animals of Chapter 1 shall be wholly obtained.

Chapter 2

Meat and Edible Meat Offal

02.01-02.10

Manufacture in which all the materials of Chapter 1 and 2 used are wholly obtained.

Chapter 3

Fish and Crustaceans, Molluscs and Other Aquatic Invertebrates

03.01-03.07

Manufacture in which all the materials of Chapter 3 used are wholly obtained.

Chapter 4

Dairy Produce; Birds' Eggs; Natural Honey; Edible Products of Animal Origin, Not Elsewhere Specified or Included

04.01-04.10

Manufacture in which all the materials of Chapter 4 used are wholly obtained.

Chapter 5

Products of Animal Origin, Not Elsewhere Specified or Included

05.01-05.11

Manufacture in which all the materials of Chapter 5 used are wholly obtained.

Chapter 6

Live Trees and Other Plants; Bulbs, Roots and the Like; Cut Flowers and Ornamental Foliage

06.01-06.04

Manufacture in which all the materials of Chapter 6 used are wholly obtained.

Chapter 7

Edible Vegetables and Certain Roots and Tubers

07.01-07.14

Manufacture in which all the materials of Chapter 7 used are wholly obtained.

Chapter 8
Edible Fruit and Nuts; Peel of Citrus Fruit or Melons

08.01-08.14

Manufacture in which all the materials of Chapter 8 used are wholly obtained.

Chapter 9
Coffee, Tea, Maté and Spices

09.01-09.10

Manufacture in which all the materials of Chapter 9 used are wholly obtained.

Chapter 10
Cereals

10.01-10.08

Manufacture in which all the materials of Chapter 10 used are wholly obtained.

Chapter 11
Products of the Milling Industry; Malt; Starches; Inulin; Wheat Gluten

11.01-11.09

Manufacture in which all the materials of Chapter 7, 8 and 10 used are wholly obtained.

Chapter 12
Oil Seeds and Oleaginous Fruits; Miscellaneous Grains, Seeds and Fruit; Industrial or Medicinal Plants; Straw and Fodder

12.01-12.14

Manufacture in which all the materials of Chapter 12 used are wholly obtained.

Chapter 13
Lac; Gums, Resins and Other Vegetable Saps and Extracts

13.01-13.02

Manufacture in which all the materials of Chapter 13 used are wholly obtained.

Chapter 14
Vegetable Plaiting Materials; Vegetable Products Not Elsewhere Specified or Included

14.01-14.04

Manufacture in which all the materials of Chapter 14 used are wholly obtained.

Chapter 15
Animal or vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes

15.01-15.03

A change to heading 15.01 through 15.03 from any other chapter, provided that there is a regional value content of not less than 40 percent.

15.04

A change to heading 15.04 from any other heading, provided that there is a regional value content of not less than 40 percent.

15.07-15.22

A change to heading 15.07 through 15.22 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 16

Preparations of Meat, of Fish or of Crustaceans, Molluscs or Other Aquatic Invertebrates

1604.11-1604.19

A change to subheading 1604.11 through 1604.19 from any other heading, provided that there is a regional value content of not less than 40 percent.

1604.30-1605.30

A change to subheading 1604.30 through 1605.30 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 18

Cocoa and Cocoa Preparations

18.01-18.02

A change to heading 18.01 through 18.02 from any other chapter, provided that there is a regional value content of not less than 40 percent.

18.03-18.06

A change to heading 18.03 through 18.06 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 19

Preparations of Cereals, Flour, Starch or milk; Pastrycooks' Products

1902.11-1905.20

A change to subheading 1902.11 through 1905.20 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 20

Preparations of Vegetables, Fruit, Nuts or Other Parts of Plants

2001.10-2003.10

A change to subheading 2001.10 through 2003.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

2003.20-2003.90

A change to subheading 2003.20 through 2003.90 from any other chapter, provided that there is a

regional value content of not less than 40 percent.

2004.10-2005.80

A change to subheading 2004.10 through 2005.80 from any other heading, provided that there is a regional value content of not less than 40 percent.

2005.90-2006.00

A change to subheading 2005.90 through 2006.00 from any other chapter, provided that there is a regional value content of not less than 40 percent.

2007.10-2008.11

A change to subheading 2007.10 through 2008.11 from any other heading, provided that there is a regional value content of not less than 40 percent.

2008.19

A change to subheading 2008.19 from any other chapter, provided that there is a regional value content of not less than 40 percent.

2008.20-2009.90

A change to subheading 2008.20 through 2009.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 21

Miscellaneous Edible Preparations

2101.11-2106.10

A change to subheading 2101.11 through 2106.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 22

Beverages, Spirits and Vinegar

22.02

A change to heading 22.02 from any other heading, provided that there is a regional value content of not less than 40 percent.

2208.90

A change to subheading 2208.90 from any other heading.

22.09

A change to heading 22.09 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 23

Residues and Waste from the Food Industries; Prepared Animal Fodder

2301.20

A change to subheading 2301.20 from any other chapter.

Chapter 27

Mineral Fuels, Mineral Oils and Products of Their Distillation; Bituminous Substances; Mineral Waxes

27.07

A change to heading 27.07 from any other heading.

2710.11-2710.19

A change to subheading 2710.11 through 2710.19 from any other heading.

2713.20

A change to subheading 2713.20 from any other heading.

Chapter 28

Inorganic Chemicals; Organic or Inorganic Compounds of Precious Metals, of Rare-earth Metals, of Radioactive Elements or of Isotopes

28.01-28.03

A change to heading 28.01 through 28.03 from any other heading.

2804.21-2804.29

A change to subheading 2804.21 through 2804.29 from any other heading.

2804.50

A change to subheading 2804.50 from any other heading.

2804.69-2804.90

A change to subheading 2804.69 through 2804.90 from any other heading.

2805.19-2805.30

A change to subheading 2805.19 through 2805.30 from any other heading.

28.06

A change to heading 28.06 from any other heading, provided that there is a regional value content of not less than 35 percent.

28.07

A change to heading 28.07 from any other heading, provided that there is a regional value content of not less than 30 percent.

2809.20

A change to subheading 2809.20 from any other heading, provided that there is a regional value content of not less than 30 percent.

2815.11

A change to subheading 2815.11 from any other heading, provided that there is a regional value content of not less than 35 percent.

2815.12

A change to subheading 2815.12 from any other heading.

2815.20

A change to subheading 2815.20 from any other heading, provided that there is a regional value content of not less than 30 percent.

28.17

A change to heading 28.17 from any other heading.

2821.10

A change to subheading 2821.10 from any other heading, provided that there is a regional value content of not less than 30 percent.

2823.00-2824.10

A change to subheading 2823.00 through 2824.10 from any other heading, provided that there is a regional value content of not less than 30 percent.

2825.10

A change to subheading 2825.10 from any other heading, provided that there is a regional value content of not less than 30 percent.

2827.32

A change to subheading 2827.32 from any other heading, provided that there is a regional value content of not less than 35 percent.

2827.59

A change to subheading 2827.59 from any other heading, provided that there is a regional value content of not less than 30 percent.

2828.90

A change to subheading 2828.90 from any other heading, provided that there is a regional value content of not less than 35 percent.

2832.10

A change to subheading 2832.10 from any other heading

2836.40

A change to subheading 2836.40 from any other heading, provided that there is a regional value content of not less than 30 percent.

2836.99-2837.19

A change to subheading 2836.99 through 2837.19 from any other heading, provided that there is a regional value content of not less than 30 percent.

28.47

A change to heading 28.47 from any other heading, provided that there is a regional value content of not less than 30 percent.

Chapter 29

Organic Chemicals

2902.11-2902.41

A change to subheading 2902.11 through 2902.41 from any other heading.

2902.43-2902.44

A change to subheading 2902.43 through 2902.44 from any other heading.

2902.60-2902.70

A change to subheading 2902.60 through 2902.70 from any other heading.

2903.12-2903.13

A change to subheading 2903.12 through 2903.13 from any other heading.

2903.15

A change to subheading 2903.15 from any other heading.

2903.21-2903.29

A change to subheading 2903.21 through 2903.29 from any other heading.

2903.47-2903.49

A change to subheading 2903.47 through 2903.49 from any other heading.

2903.59-2903.61

A change to subheading 2903.59 through 2903.61 from any other heading.

2903.69-2904.90

A change to subheading 2903.69 through 2904.90 from any other heading.

2905.12-2905.19

A change to subheading 2905.12 through 2905.19 from any other heading.

2905.31-2905.42

A change to subheading 2905.31 through 2905.42 from any other heading.

2905.49-2905.51

A change to subheading 2905.49 through 2905.51 from any other heading.

2906.12

A change to subheading 2906.12 from any other heading.

2906.19-2907.13

A change to subheading 2906.19 through 2907.13 from any other heading.

2907.15-2908.20

A change to subheading 2907.15 through 2908.20 from any other heading.

2909.19-2909.49

A change to subheading 2909.19 through 2909.49 from any other heading.

2910.10-2912.30

A change to subheading 2910.10 through 2912.30 from any other heading.

2912.60-2914.19

A change to subheading 2912.60 through 2914.19 from any other heading.

2914.22

A change to subheading 2914.22 from any other heading.

2914.39-2914.50

A change to subheading 2914.39 through 2914.50 from any other heading.

2914.70-2915.23

A change to subheading 2914.70 through 2915.23 from any other heading.

2915.29-2915.39

A change to subheading 2915.29 through 2915.39 from any other heading.

2915.60

A change to subheading 2915.60 from any other heading.

2916.11-2917.32

A change to subheading 2916.11 through 2917.32 from any other heading.

2917.34-2917.39

A change to subheading 2917.34 through 2917.39 from any other heading.

2918.15-2918.19

A change to subheading 2918.15 through 2918.19 from any other heading.

2918.90-2919.00

A change to subheading 2918.90 through 2919.00 from any other heading.

2920.90

A change to subheading 2920.90 from any other heading.

2921.12-2921.45

A change to subheading 2921.12 through 2921.45 from any other heading.

2921.51-2922.13

A change to subheading 2921.51 through 2922.13 from any other heading.

2922.19-2922.29

A change to subheading 2922.19 through 2922.29 from any other heading.

2922.41

A change to subheading 2922.41 from any other heading.

2923.90

A change to subheading 2923.90 from any other heading.

2924.19

A change to subheading 2924.19 from any other heading.

2925.11

A change to subheading 2925.11 from any other heading.

2925.19-2926.20

A change to subheading 2925.19 through 2926.20 from any other heading.

2927.00-2930.10

A change to subheading 2927.00 through 2930.10 from any other heading.

2930.30

A change to subheading 2930.30 from any other heading.

2931.00-2932.11

A change to subheading 2931.00 through 2932.11 from any other heading.

2933.61

A change to subheading 2933.61 from any other heading.

2933.71

A change to subheading 2933.71 from any other heading.

2934.20-2934.30

A change to subheading 2934.20 through 2934.30 from any other heading.

29.42

A change to heading 29.42 from any other heading.

Chapter 32

Tanning or Dyeing Extracts; Tannins and Their Derivatives; Dyes, Pigments and Other Colouring Matter; Paints and Varnishes; Putty and Other Mastics; Inks

32.01

A change to heading 32.01 from any other heading, provided that there is a regional value content of not less than 35 percent.

3202.90-3203.00

A change to subheading 3202.90 through 3203.00 from any other heading, provided that there is a regional value content of not less than 35 percent.

3204.11

A change to subheading 3204.11 from any other heading, provided that there is a regional value content of not less than 30 percent.

3204.12-3204.16

A change to subheading 3204.12 through 3204.16 from any other heading, provided that there is a regional value content of not less than 35 percent.

3204.17-3204.19

A change to sub heading 3204.17 through 3204.19 from any other heading, provided that there is a regional value content of not less than 30 percent.

3205.00-3206.43

A change to subheading 3205.00 through 3206.43 from any other heading, provided that there is a regional value content of not less than 35 percent.

3206.50-3208.90

A change to subheading 3206.50 through 3208.90 from any other heading, provided that there is a regional value content of not less than 35 percent.

3209.90

A change to subheading 3209.90 from any other heading, provided that there is a regional value content of not less than 35 percent.

32.11-32.12

A change to heading 32.11 through 32.12 from any other heading, provided that there is a regional value content of not less than 35 percent.

3213.90-3215.90

A change to subheading 3213.90 through 3215.90 from any other heading, provided that there is a regional value content of not less than 35 percent.

Chapter 39

Plastics and Articles Thereof

3901.10-3901.20

A change to subheading 3901.10 through 3901.20 from any other heading.

3901.30-3901.90

A change to subheading 3901.30 through 3901.90 from any other heading, provided that there is a regional value content of not less than 25 percent.

3902.10-3904.22

A change to subheading 3902.10 through 3904.22 from any other heading.

3904.30

A change to subheading 3904.30 from any other heading, provided that there is a regional value content of not less than 25 percent.

3904.50-3905.29

A change to subheading 3904.50 through 3905.29 from any other heading.

3905.30

A change to subheading 3905.30 from any other heading, provided that there is a regional value

content of not less than 25 percent.

3906.10

A change to subheading 3906.10 from any other heading, provided that there is a regional value content of not less than 25 percent.

3906.90-3907.30

A change to subheading 3906.90 through 3907.30 from any other heading.

3907.40

A change to subheading 3907.40 from any other heading, provided that there is a regional value content of not less than 25 percent.

3907.50-3907.91

A change to subheading 3907.50 through 3907.91 from any other heading.

3907.99-3908.90

A change to subheading 3907.99 through 3908.90 from any other heading, provided that there is a regional value content of not less than 25 percent.

3909.50

A change to subheading 3909.50 from any other heading, provided that there is a regional value content of not less than 25 percent.

39.10

A change to heading 39.10 from any other heading.

3911.10

A change to subheading 3911.10 from any other heading, provided that there is a regional value content of not less than 25 percent.

Chapter 40

Rubber and Articles Thereof

4002.11

A change to subheading 4002.11 from any other heading.

4002.20-4002.70

A change to subheading 4002.20 through 4002.70 from any other heading.

4002.91-4002.99

A change to subheading 4002.91 through 4002.99 from any other heading.

Chapter 41

Raw Hides and Skins (Other Than Fur skins) and Leather

41.04-41.15

A change to heading 41.04 through 41.15 from any other heading.

Chapter 42

Articles of Leather; Saddlery and Harness; Travel Goods, Handbags and Similar Containers; Articles of Animal Gut (Other Than Silk-worm Gut)

42.01-42.06

A change to heading 42.01 through 42.06 from any other heading.

Chapter 44

Wood and Articles of Wood; Wood Charcoal

44.01-44.06

A change to heading 44.01 through 44.06 from any other heading.

Textile goods falling within Chapter 50 through 60

A change to heading 50.01 through 60.06 from any other heading, provided that there is a regional value content of not less than 40 percent.

Apparel goods falling within Chapter 61 through 63

61.01-63.10

Manufacture from non-originating yarn

Chapter 64

Footwear, Gaiters and the Like; Parts of Such Articles

6401.10

A change to subheading 6401.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

6402.12-6402.19

A change to subheading 6402.12 through 6402.19 from any other heading, provided that there is a regional value content of not less than 40 percent.

6402.30-6403.19

A change to subheading 6402.30 through 6403.19 from any other heading, provided that there is a regional value content of not less than 40 percent.

6403.30-6404.11

A change to subheading 6403.30 through 6404.11 from any other heading, provided that there is a regional value content of not less than 40 percent.

64.05

A change to heading 64.05 from any other heading, provided that there is a regional value content of not less than 40 percent.

6406.20

A change to subheading 6406.20 from any other heading, provided that there is a regional value

content of not less than 40 percent.

Chapter 68

Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials

68.13

A change to heading 68.13 from any other heading, provided that there is a regional value content of not less than 35 percent.

Chapter 70

Glass and Glassware

70.07

A change to heading 70.07 from any other heading, provided that there is a regional value content of not less than 35 percent.

7009.10

A change to subheading 7009.10 from any other heading, provided that there is a regional value content of not less than 35 percent.

Chapter 71

Natural or Cultured Pearls, Precious or Semi-precious Stones, Precious Metals, Metals Clad with Precious Metal, and Articles Thereof; Imitation Jewellery; Coin

71.13-71.18

A change to heading 71.13 through 71.18 from any other heading.

Chapter 72

Iron and Steel

72.01-72.07

A change to heading 72.01 through 72.07 from any other heading.

7208.25-7208.39

A change to subheading 7208.25 through 7208.39 from any other heading.

7208.51-7208.90

A change to subheading 7208.51 through 7208.90 from any other heading.

7209.16-7209.18

A change to subheading 7209.16 through 7209.18 from any other heading.

7209.26-7210.30

A change to subheading 7209.26 through 7210.30 from any other heading.

72010.49-7211.13

A change to subheading 7210.49 through 7211.13 from any other heading.

7211.19-7229.90

A change to subheading 7211.19 through 7229.90 from any other heading.

Chapter 73

Articles of Iron or Steel

7304.39-7304.49

A change to subheading 7304.39 through 7304.49 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7305.11-7305.12

A change to subheading 7305.11 through 7305.12 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7305.31

A change to subheading 7305.31 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7306.40-7306.50

A change to subheading 7306.40 through 7306.50 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7306.90

A change to subheading 7306.90 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7307.21-7307.22

A change to subheading 7307.21 through 7307.22 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7307.91-7307.99

A change to subheading 7307.91 through 7307.99 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7308.30

A change to subheading 7308.30 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7308.90-7309.00

A change to subheading 7308.90 through 7309.00 from any other chapter, provided that there is a regional value content of not less than 25 percent.

73.11

A change to heading 73.11 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7318.15

A change to subheading 7318.15 from any other heading, provided that there is a regional value content of not less than 40 percent.

7318.23-7318.24

A change to subheading 7318.23 through 7318.24 from any other heading, provided that there is a regional value content of not less than 40 percent.

73.20

A change to heading 73.20 from any other heading, provided that there is a regional value content of not less than 40 percent.

7322.11

A change to subheading 7322.11 from any other heading, provided that there is a regional value content of not less than 40 percent.

7325.99

A change to subheading 7325.99 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7326.19

A change to subheading 7326.19 from any other chapter, provided that there is a regional value content of not less than 25 percent.

7326.90

A change to subheading 7326.90 from any other chapter, provided that there is a regional value content of not less than 25 percent

Chapter 74

Copper and Articles Thereof

7403.11

A change to subheading 7403.11 from any other heading.

74.04

A change to heading 74.04 from any other heading.

7407.21

A change to subheading 7407.21 from any other heading, provided that there is a regional value content of not less than 25 percent.

7407.29

A change to subheading 7407.29 from any other heading, provided that there is a regional value content of not less than 25 percent.

7408.11-7408.19

A change to subheading 7408.11 through 7408.19 from any other heading, except from heading 74.07.

7408.21

A change to subheading 7408.21 from any other heading, provided that there is a regional value content of not less than 25 percent.

7408.22-7408.29

A change to subheading 7408.22 through 7408.29 from any other heading, provided that there is a regional value content of not less than 25 percent.

7409.11

A change to subheading 7409.11 from any other heading.

7410.11-7410.12

A change to subheading 7410.11 through 7410.12 from any other heading, except from heading 74.09.

7410.21

A change to subheading 7810.21 from any other heading, provided that there is a regional value content of not less than 25 percent

7410.22

A change to subheading 7410.22 from any other heading, except from heading 74.09.

7411.10

A change to subheading 7411.10 from any other heading, provided that there is a regional value content of not less than 25 percent

7411.21-7411.22

A change to subheading 7411.21 through 7411.22 from any other heading, provided that there is a regional value content of not less than 25 percent.

7412.20

A change to subheading 7412.20 from any other heading, provided that there is a regional value content of not less than 25 percent.

7419.99

A change to subheading 7419.99 from any other heading, provided that there is a regional value content of not less than 25 percent.

Chapter 75

Nickel and Articles Thereof

75.01-75.08

A change to heading 75.01 through 75.08 from any other heading.

Chapter 76

Aluminium and Articles Thereof

76.01-76.09

A change to heading 76.01 through 76.09 from any other heading.

7610.10

A change to subheading 7610.10 from any other heading, provided that there is a regional value content of not less than 25 percent.

7612.90

A change to subheading 7612.90 from any other heading, provided that there is a regional value content of not less than 25 percent.

7614.10

A change to subheading 7614.10 from any other heading, provided that there is a regional value content of not less than 25 percent.

7616.99

A change to subheading 7616.99 from any other heading, provided that there is a regional value content of not less than 25 percent.

Chapter 78
Lead and Articles Thereof

78.01-78.06

A change to heading 78.01 through 78.06 from any other heading.

Chapter 79
Zinc and Articles Thereof

79.01-79.05

A change to heading 79.01 through 79.05 from any other heading.

Chapter 80
Tin and Articles Thereof

80.01

A change to heading 80.01 from any other heading.

80.03

A change to heading 80.03 from any other heading.

Chapter 81
Other Base Metals; Cermets; Articles Thereof

8101.10

A change to subheading 8101.10 from any other heading, provided that there is a regional value content of not less than 25 percent.

8101.96

A change to subheading 8101.96 from any other subheading, provided that there is a regional value content of not less than 25 percent.

8104.11

A change to subheading 8104.11 from any other subheading, provided that there is a regional value content of not less than 25 percent.

81.06

A change to heading 81.06 from any other heading, provided that there is a regional value content

of not less than 25 percent.

8107.20

A change to subheading 8107.20 from any other subheading, provided that there is a regional value content of not less than 25 percent.

8108.90

A change to subheading 8108.90 from any other heading, provided that there is a regional value content of not less than 25 percent

8110.10

A change to subheading 8110.10 from any other subheading, provided that there is a regional value content of not less than 25 percent.

81.11

A change to heading 81.11 from any other subheading, provided that there is a regional value content of not less than 25 percent.

Chapter 83

Miscellaneous Articles of Base Metal

8301.20

A change to subheading 8301.20 from any other heading, provided that there is a regional value content of not less than 40 percent.

8302.30

A change to subheading 8302.30 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 84

Nuclear Reactors, Boilers, Machinery and Mechanical Appliances; Parts Thereof

8407.31

A change to subheading 8407.31 from any other heading, provided that there is a regional value content of not less than 50 percent.

8407.32-8407.34

A change to subheading 8407.32 through 8407.34 from any other heading, provided that there is a regional value content of not less than 40 percent.

8408.20-8408.90

A change to subheading 8408.20 through 8408.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8409.99

A change to subheading 8409.99 from any other heading, provided that there is a regional value content of not less than 40 percent.

8413.30

A change to subheading 8413.30 from any other subheading, provided that there is a regional

value content of not less than 40 percent.

8414.80

A change to subheading 8414.80 from any other subheading, provided that there is a regional value content of not less than 40 percent.

8415.10

A change to subheading 8415.10 from any other subheading, provided that there is a regional value content of not less than 50 percent.

8415.20

A change to subheading 8415.20 from any other subheading, provided that there is a regional value content of not less than 40 percent.

8421.23

A change to subheading 8421.23 from any other subheading, provided that there is a regional value content of not less than 40 percent.

8421.31-8421.39

A change to subheading 8421.31 through 8421.39 from any other subheading, provided that there is a regional value content of not less than 40 percent.

8482.10

A change to subheading 8482.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

8482.20-8482.80

A change to subheading 8482.20 through 8482.80 from any other heading, provided that there is a regional value content of not less than 40 percent and the bearing races(rings) used are wholly obtained or produced.

8482.91

A change to subheading 8482.91 from any other heading, provided that there is a regional value content of not less than 40 percent.

8482.99

A change to subheading 8482.99 from any other heading, provided that there is a regional value content of not less than 40 percent and the bearing races(rings) used are wholly obtained or produced.

8483.10-8483.40

A change to subheading 8483.10 through 8483.40 from any other subheading, provided that there is a regional value content of not less than 40 percent.

84.84

A change to heading 84.84 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 85
Electrical Machinery and Equipment and Parts Thereof; Sound Recorders and
Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and
Accessories of Such Articles

8501.10

A change to subheading 8501.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

8501.31-8501.32

A change to subheading 8501.31 through 8501.32 from any other heading, provided that there is a regional value content of not less than 40 percent.

8507.10-8507.20

A change to subheading 8507.10 through 8507.20 from any other heading, provided that there is a regional value content of not less than 40 percent.

8511.10-8511.50

A change to subheading 8511.10 through 8511.50 from any other subheading, provided that there is a regional value content of not less than 40 percent.

8511.90

A change to subheading 8511.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8512.20

A change to subheading 8512.20 from any other subheading, provided that there is a regional value content of not less than 40 percent.

8512.40-8512.90

A change to subheading 8512.40 through 8512.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8516.50

A change to subheading 8516.50 from any other heading, provided that there is a regional value content of not less than 40 percent.

8518.40

A change to subheading 8518.40 from any other heading, provided that there is a regional value content of not less than 40 percent.

8521.90

A change to subheading 8521.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8528.12

A change to subheading 8528.12 from any other heading, provided that there is a regional value content of not less than 40 percent.

8544.30

A change to subheading 8544.30 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 87

Vehicles Other Than Railway or Tramway Rolling-stock, and Parts and Accessories Thereof

8701.20-8701.90

A change to subheading 8701.20 through 8701.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8703.10

A change to subheading 8703.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

8705.10-8708.80

A change to subheading 8705.10 through 8708.80 from any other heading, provided that there is a regional value content of not less than 40 percent.

8708.92-8709.90

A change to subheading 8708.92 through 8709.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8711.10

A change to subheading 8711.10 from any other heading, provided that there is a regional value content of not less than 40 percent.

8711.30

A change to subheading 8711.30 from any other heading, provided that there is a regional value content of not less than 40 percent.

8711.50-8711.90

A change to subheading 8711.50 through 8711.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

8714.19

A change to subheading 8714.19 from any other heading, provided that there is a regional value content of not less than 40 percent.

8714.91-8714.96

A change to subheading 8714.91 through 8714.96 from any other heading, provided that there is a regional value content of not less than 40 percent.

8716.90

A change to subheading 8716.90 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 90
Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus; Parts and Accessories Thereof

9015.80

A change to subheading 9015.80 from any other heading, provided that there is a regional value content of not less than 40 percent.

9029.10-9029.20

A change to subheading 9029.10 through 9029.20 from any other heading, provided that there is a regional value content of not less than 40 percent.

Chapter 94
Furniture; Bedding, Mattresses, Mattress Supports, Cushions and Similar Stuffed Furnishings; Lamps and Lighting Fittings, Not Elsewhere Specified or Included; Illuminated Signs, Illuminated Name-plates and The Like; Prefabricated Buildings

9401.20

A change to subheading 9401.20 from any other heading, provided that there is a regional value content of not less than 40 percent.

9402.10

A change to subheading 9402.10 from any other heading.

94.04

A change to heading 94.04 from any other heading.

9405.91-9406.00

A change to subheading 9405.91 through 9406.00 from any other heading.

Chapter 96
Miscellaneous Manufactured Articles

96.01

A change to heading 96.01 from any other heading.

9603.10-9603.29

A change to subheading 9603.10 through 9603.29 from any other heading.

9603.40

A change to subheading 9603.40 from any other heading.

ANNEX 3-B
EXEMPTION FROM THE PRINCIPLE OF TERRITORIALITY

1. *List of Goods*

- (a) Each Party shall apply Article 3.14 to goods listed in Appendix 3-B-1 attached hereto.
- (b) A Party may request amendment of the list referred to in subparagraph (a), which the other Party shall consider in good faith. Such amendment shall be adopted when mutually agreed by both Parties.

2. *Origin Conferring*

- (a) Goods referred to in paragraph 1(a) and any subsequent amendments, which are re-imported as the goods that do not undergo any process beyond operations within the territory of the re-importing Party for export as set out in Article 3.6 shall be deemed to be originating in the territory of that Party, provided that:
 - (i) the total value of non-originating input⁷ does not exceed 40 percent of the FOB price of the final good for which originating status is claimed; and
 - (ii) the value of originating materials exported from the Party is not less than 60 percent of the total value of materials used in manufacturing the re-imported material or good.
- (b) Except as otherwise provided for in this Annex, relevant Articles of this Chapter shall be applied *mutatis mutandis* to the origin conferring of the goods to which Article 3.14 applies.

3. *Specific Procedures for the Implementation of Article 3.14*

- (a) Certificate of Origin for goods covered by Article 3.14 shall be issued by the Issuing Authorities⁸ of the exporting Party in accordance with Chapter Four (Origin Procedures).
- (b) The issuing authority of the exporting Party shall indicate in the Certificate of Origin that the good is covered by Article 3.14.

⁷ “Total value of non-originating input” shall mean the value of any non- originating materials added inside as well as any materials added and all other cost accumulated outside the Party concerned, including transport costs

⁸ With regard to Korea, Issuing Authorities means the Korean customs authority

- (c) Except as otherwise provided for in this Annex, the relevant Articles of Chapter Four (Origin Procedures) shall be applied *mutatis mutandis* to the goods to which Article 3.14 applies.
- (d) Each Party shall assist the customs authority of importing Party to conduct verification on goods covered by Article 3.14 in accordance with Articles 4.11 (Verification by competent authority of exporting Party), 4.12 (Verification by Customs Authority of Importing Party), 4.13 (Verification of Materials that are used in the Production of the Good), 4.15 (Confidentiality) and 4.18 (Uniform Regulations/Rules).

4. *Special Safeguard*

- (a) When a Party determines that there is an increase of importation of a good covered by Article 3.14 into the territory of that Party in such quantities and under such conditions as to cause, or threaten to cause, serious injury to its domestic industry, that Party shall be free to suspend the application of Article 3.14 to such a good for such a period of time as it may consider necessary to prevent or remedy such injury or threat to cause injury to the domestic industry of the Party.
- (b) A Party that intends to suspend the application of Article 3.14 pursuant to subparagraph (a) shall notify to the other Party two months in advance of the start of the suspension period and afford the other Party an opportunity to exchange views with it in respect of the proposed suspension.
- (c) The period mentioned in subparagraph (a) may be extended provided that the Party which has taken the action of suspension, has determined that the suspension continues to be necessary to prevent or remedy injury.
- (d) In critical circumstances, where delay would cause damage which would be difficult to repair, the suspension of the application of Article 3.14 under subparagraph (a) may be taken provisionally without two months advance notification to the other Party, on the condition that notification shall be made before such suspension takes effect.
- (e) When a Party has made a determination mentioned in subparagraph (a) and the requirements set out in subparagraph (b) are fulfilled, the Party concerned may suspend the application of Article 3.14 unilaterally and unconditionally, including as follows:

- (i) there shall be no obligation to prove that there is serious injury;
- (ii) there shall be no obligation for advance consultation;
- (iii) there shall be no limit to the duration or frequency of suspension; and
- (iv) there shall be no obligation for compensation.

5. *Review*

- (a) Parties shall review the implementation and operation of Article 3.14 in accordance with the procedure set out in Article 15.2.2(c) (Joint Committee and Review). For the purposes:
 - (i) the exporting Party shall provide to the importing Party or Joint Committee a brief factual report on the operation of Article 3.14, including export statistics of each good listed in the attached lists referred to in paragraph 1(a) to the importing Party during the previous six month period; and
 - (ii) the importing Party shall provide upon the request of the exporting Party or Joint Committee information pertaining to denial of claims for preferential tariff treatment, if any, including the number of Certificates of Origin not accepted, and reasons for denial.
- (b) The importing Party or Joint Committee may request such additional information as it may consider necessary for its review of the implementation and operation of Article 3.14 from the exporting Party.
- (c) Taking into account the result of the review provided for in subparagraph (a), the Parties or Joint Committee may make recommendations as they may consider necessary.

6. *Option of Rescinding*

Anytime five years after the date of entry into force of this Agreement, each Party will have an option of rescinding the application of this Annex when it determines, on the basis of a review and on its own discretion, that its interests have been seriously damaged as a consequence of the application of Article 3.14.

7. Any dispute concerning the interpretation, implementation or application of this Annex shall not be subject to the procedures and mechanism set out in Chapter Fourteen (Dispute

Settlement).

8. Nothing in this Annex shall affect the rights and obligations of the Parties under this Agreement, including Section B-2 (Safeguard Measures) of Chapter Two (Trade in Goods).

APPENDIX 3-B-1

PRODUCT LIST SUBJECT TO EXEMPTION FROM THE PRINCIPLE OF TERRITORIALITY

Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants
200892	
Chapter 43	Fur skins and artificial fur; manufactures thereof
430400	
Chapter 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard
480439	
Chapter 55	Man-made staple fibers
550962, 550969	
Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery
581099	
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted
610120, 610130, 610190, 610210, 610220, 610230, 610290, 610322, 610323, 610329, 610331, 610332, 610333, 610339, 610341, 610342, 610343, 610349, 610413, 610419, 610422, 610423, 610429, 610431, 610439, 610441, 610449, 610451, 610459, 610461, 610469, 610590, 610712, 610719, 610721, 610722, 610729, 610791, 610811, 610829, 610832, 611019, 611211, 611212, 611219, 611220, 611231, 611239, 611241, 611249, 611420, 611490	
Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted
620111, 620112, 620113, 620119, 620192, 620219, 620291, 620292, 620299, 620312, 620322, 620323, 620329, 620339, 620349, 620412, 620419, 620421, 620422, 620423, 620429, 620441, 620444, 620590, 620610, 620620, 620721, 620722, 620791, 620799, 620811, 620819, 620821, 620822, 620829, 620891, 620899, 620920, 620930, 620990, 621040, 621120, 621132, 621139, 621141, 621142, 621230, 621390, 621420	
Chapter 63	Other made up textile articles; sets; worn clothing and worn textile articles; rags
630130	

CHAPTER FOUR ORIGIN PROCEDURES

ARTICLE 4.1: DEFINITIONS

For the purposes of this Chapter:

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

determination of origin means a determination as to whether a good qualifies as an originating good in accordance with Chapter Three (Rules of Origin);

identical goods means goods that are same in all respects, including physical characteristics and quality, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods under Chapter Three (Rules of Origin);

indirect materials means “indirect materials” as defined in Article 3.1 (Definitions);

materials means “materials” as defined in Article 3.1 (Definitions);

producer means “producer” as defined in Article 3.1 (Definitions); and

production means “production” as defined in Article 3.1 (Definitions).

ARTICLE 4.2: ISSUING AUTHORITIES OF CERTIFICATE OF ORIGIN

1. The Certificate of Origin shall be issued by the Government designated authorities (hereinafter referred to as “Issuing Authorities”) of the exporting Party as provided in Annex 4-A.
2. Each Party shall inform the other Party of the names and addresses of the authorised officials of its respective Issuing Authorities and also provide the original sets of their specimen signatures and specimen of official seals. Any change in names, addresses, specimen signatures or official seals shall be promptly informed to the other Party.
3. For the purposes of verifying the requirements for preferential tariff treatment, the Issuing Authorities shall have the right to request for any supporting documentary evidence or to carry out any verification considered appropriate, consistent with its laws or practices.

ARTICLE 4.3: APPLICATION FOR CERTIFICATE OF ORIGIN

1. The exporter or the producer of the goods qualified for preferential tariff treatment shall apply in writing or electronically, as the case may be, to the relevant Issuing Authorities requesting for pre-export verification of the origin of the goods. The Issuing Authorities may conduct pre-export verification. The result of the verification, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in verifying the origin of the said goods to be exported thereafter. The pre-export verification may not apply to the goods of which, by their nature, origin can be easily verified.

2. At the time of carrying out the formalities for exporting the goods under preferential tariff treatment:

- (a) the exporter or his or her authorised representative shall submit a written application for a Certificate of Origin together with appropriate supporting documents proving that the goods to be exported qualify for the issuance of the Certificate of Origin; or
- (b) where an exporter is not the producer of the good, the application for a Certificate of Origin may be on the basis of the producer's origin declaration that the goods qualify as originating goods, including the result of pre-export verification pursuant to paragraph 1.

3. The Issuing Authorities shall, to the best of their competence and ability, carry out proper examination upon each application for a Certificate of Origin to ensure that:

- (a) the application for the Certificate of Origin is duly completed and signed by the exporter or its authorised signatory;
- (b) the origin of the goods is in conformity with Chapter Three (Rules of Origin);
- (c) the other statements of the Certificate of Origin correspond to supporting documentary evidence submitted; and
- (d) export of multiple items declared on a single Certificate of Origin shall be allowed, provided that each item qualifies as originating separately in its own right.

ARTICLE 4.4: ISSUANCE OF A CERTIFICATE OF ORIGIN

1. A Certificate of Origin shall:
 - (a) be in a printed format or such other medium including electronic format;
 - (b) be completed in English in conformity with the specimen and the instructions contained therein as set out in the Annex 4-B; and
 - (c) comprise one original and three copies.
2. The Issuing Authorities, while retaining the duplicate, shall provide the original and remaining two copies to the exporter. The original shall be forwarded, together with the triplicate, by the exporter to the importer for submission to the customs authority at the port or place of importation. The triplicate shall be retained by the importer. The quadruplicate shall be retained by the exporter.
3. No erasures and superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the errors and making any addition required. Such alterations shall be approved and certified by an official authorised to sign the Certificate of Origin issued by the relevant Issuing Authorities. Unused spaces shall be crossed out to prevent any subsequent addition.
4. The Certificate of Origin shall be issued at the time of exportation, or within seven working days from the date of shipment whenever the goods to be exported can be considered originating in that Party. Under exceptional cases where a Certificate of Origin has not been issued at the time of exportation or within seven working days from the date of shipment due to involuntary errors or omissions, or any other valid reasons, the Certificate of Origin may be issued retrospectively but not later than one year from the date of shipment, bearing the words “ISSUED RETROSPECTIVELY” in Remarks box of the Certificate of Origin.
5. In the event of theft, loss or destruction of a Certificate of Origin, the exporter may apply in writing to the Issuing Authorities which issued it for a certified true copy of the original and the triplicate to be made on the basis of the export documents in their possession bearing the endorsement of the words “CERTIFIED TRUE COPY”, (in lieu of the original certificate) in Remarks box of the Certificate of Origin. This copy shall bear the date of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued not later than one year from the date of issuance of the original Certificate of Origin and on the condition that the exporter provides to the relevant Issuing Authorities the quadruplicate.

ARTICLE 4.5: VALIDITY OF CERTIFICATE OF ORIGIN

1. A Certificate of Origin shall be valid for 12 months from the date of issue in the exporting

Party, and the claim for preferential tariff treatment shall be made within the said period to the customs authority of the importing Party.

2. A Certificate of Origin, which is submitted to the customs authority of the importing Party after the said expiration date specified in paragraph 1, may be accepted for the purpose of claiming preferential tariff treatment, in accordance with the procedures applicable in that Party where the failure to submit these documents by the final date is due to exceptional circumstances.

3. In all cases, the customs authority in the importing Party may accept such Certificate of Origin, provided that the goods have been imported before the expiration date of the said Certificate of Origin in accordance with the procedures applicable in that Party.

4. A single Certificate of Origin may be used for:

- (a) a single shipment of goods that results in the filing of one or more entries on the importation of the goods into the territory of a Party; or
- (b) more than one shipment of goods that results in the filing of one entry on the importation of the goods into the territory of a Party.

ARTICLE 4.6: INVOICING BY A NON-PARTY OPERATOR

1. The customs authority in the importing Party may accept a Certificate of Origin in cases where the sales invoice is issued by an operator located in a third country or by an exporter for the account of the said operator, provided that the good meets the requirements of Chapter Three (Rules of Origin).

2. The exporter of the goods shall indicate “third country invoicing” and such information as name, address and country of the operator issuing the invoice in the Certificate of Origin.

ARTICLE 4.7: DISCREPANCIES IN THE CERTIFICATE OF ORIGIN

The discovery of minor discrepancies between the statements made in the Certificate of Origin and those made in the documents submitted to the customs authority of the importing Party for the purpose of carrying out the formalities for importing the goods shall not *ipso facto* invalidate the Certificate of Origin, if it does in fact correspond to the said goods.

ARTICLE 4.8: CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

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

- (a) request preferential tariff treatment at the time of importation of an originating good, if required by the customs authority of the importing Party;

- (b) make a written declaration, if it deems necessary, that the good qualifies as an originating good;
- (c) submit the original Certificate of Origin to the customs authority of the importing Party at the time of importation, if required by the customs authority of the importing Party;
- (d) provide, on the request of that Party's customs authority, any other documentation relating to the importation of the good; and
- (e) promptly make a corrected declaration in a manner required by the customs authority of the importing Party, subject to the customs laws of the importing Party and pay any duties along with interest and other charges owing, where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct.

2. Each Party may in accordance with its laws and regulations, provide that, where a good would have qualified as an originating good when it was imported into its territory, the importer of the good may, within a period of at least one year or for such longer period specified by the importing Party's laws and regulations after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment.

3. For the purposes of paragraph 1(d), the customs authority of the importing Party may require an importer to demonstrate that the good was shipped in accordance with Article 3.15 (Direct Consignment) by providing with:

- (a) bills of lading or waybills indicating the shipping route and all points of shipment and transshipment prior to the importation of the good; and
- (b) where the good is shipped through or transhipped in a non-Party, a copy of the customs control documents indicating that the good remained under customs control while in that non-Party.

4. Where the customs authority of the importing Party determines that a Certificate of Origin is illegible, defective on its face or has not been completed pursuant to Article 4.4, or discovers that discrepancies exist between the Certificate of Origin and the written declaration, the importer will be granted a period of not less than five working days, but not exceeding 30 working days from the date of request by the customs authority to provide a copy of the corrected Certificate of Origin.

5. An importer that makes a corrected declaration of origin pursuant to paragraph 1(e) and pays any duties owing, will not be subject to penalties under Article 4.16, in accordance with each Party's laws and regulations.

ARTICLE 4.9: WAIVER OF CERTIFICATE OF ORIGIN

Goods sent as small packages from private persons to private persons or forming part of travellers' personal luggage may be admitted as originating goods without requiring the submission of a Certificate of Origin, in accordance with each Party's laws and regulations.

ARTICLE 4.10: RECORD KEEPING REQUIREMENT

1. The application for a Certificate of Origin and all documents related to origin shall be retained by the Issuing Authorities, exporter and producer for not less than five years from the date of issuance of the Certificate of Origin.
2. A copy of the Certificate of Origin and all relevant import documents shall be retained by an importer for not less than five years from the date of importation.
3. An importer, exporter or producer may choose to maintain records specified in paragraphs 1 and 2 in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic or hard copy.
4. Importers, exporters and producers that are required to maintain documents related to origin pursuant to paragraphs 1 and 2 will make those documents available for inspection by an officer of the customs authority or Issuing Authorities of a Party conducting a verification visit and provide facilities for inspection thereof.

ARTICLE 4.11: VERIFICATION BY COMPETENT AUTHORITY OF EXPORTING PARTY

1. The importing Party may, at random or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof, request the Issuing Authorities¹ of the exporting Party for a retroactive check. The Issuing Authorities shall conduct such check subject to the following procedures:
 - (a) the request for a retroactive check shall be accompanied with the Certificate of Origin concerned and shall specify the reasons and any additional information suggesting that the particulars given on that Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis;
 - (b) the Issuing Authorities receiving a request for a retroactive check shall respond to

¹ In the case of Korea, the Issuing Authorities referred to Articles 4.11 through 4.13 for the purposes of origin verification for the exported goods into India refer to the customs authority in accordance with its customs laws and regulations.

the request promptly and reply within three months after receipt of the request;

- (c) the customs authority of the importing Party may suspend the provision of preferential tariff treatment while awaiting the result of verification. However, it may release the goods to the importer subject to any administrative measures deemed necessary, provided that they are not subject to import prohibition or restriction and that there is no suspicion of fraud; and
- (d) the Issuing Authorities shall promptly transmit the results of the verification process to the customs authority of the importing Party which shall then determine whether or not the subject good is originating. The retroactive check process, including the process of notifying the Issuing Authorities of the exporting Party of the results of determination on whether the subject good is originating or not, should be completed within six months. While the process of the retroactive check is being undertaken, subparagraph (c) shall be applied.

2. The customs authority of the importing Party may request an importer for information or documents relating to the origin of imported goods in accordance with its laws and regulations before requesting the retroactive check pursuant to paragraph 1.

ARTICLE 4.12: VERIFICATION BY CUSTOMS AUTHORITY OF IMPORTING PARTY

1. If the customs authority of the importing Party is not satisfied with the results of the retroactive check pursuant to Article 4.11, it may, under exceptional circumstances, conduct a verification in the exporting Party by means of:

- (a) written requests for information and documentation from the exporter or producer;
- (b) written questionnaires to the exporter or producer; and/or
- (c) verification visits to the premises of an exporter or producer in the exporting Party.

2. The written request or questionnaire pursuant to paragraph 1(a) or (b) will indicate that the time period the exporter or producer has to complete and return the questionnaire or the information and documentation required will be 30 days or for such longer period as the Parties may agree, from the date of its receipt.

3. When the customs authority of a Party has received the completed questionnaire or the information and documentation required pursuant to paragraph 1(a) or (b), and considers that it needs more information to determine the origin of the goods subject to verification, it may request additional information from the exporter or producer.

4. Where an exporter or producer fails to return a duly completed questionnaire or fails to provide the information and documentation required within the period referred to in paragraph 2, the importing Party may deny preferential tariff treatment to the good in question after providing

at least 30 days written notice to the exporter or producer to provide written comments or additional information that will be taken into account prior to completing the verification.

5. Prior to conducting a verification visit pursuant to paragraph 1(c):
- (a) an importing Party shall deliver a written notification of its intention to conduct the verification visit simultaneously to:
 - (i) the producer or exporter whose premises are to be visited;
 - (ii) the Issuing Authorities of the Party in the territory of which the verification visit is to occur;
 - (iii) the customs authority of the Party in the territory of which the verification visit is to occur; and
 - (iv) the importer of the good subject to the verification visit;
 - (b) the written notification mentioned in subparagraph (a) shall be as comprehensive as possible and shall include, among others:
 - (i) the name of the customs authority issuing the notification;
 - (ii) the name of the producer or exporter whose premises are to be visited;
 - (iii) the proposed date of the verification visit;
 - (iv) the coverage of the proposed verification visit, including reference to the good subject to the verification; and
 - (v) the names and designation of the officials performing the verification visit;
 - (c) an importing Party shall obtain the written consent of the producer or exporter whose premises are to be visited;
 - (d) when a written consent from the producer or exporter is not obtained within 30 days from the date of receipt of the notification pursuant to subparagraph (a), the notifying Party may deny preferential tariff treatment to the good referred to in the Certificate of Origin that would have been subject to the verification visit; and
 - (e) the Issuing Authorities receiving the notification may postpone the proposed verification visit and notify in writing the customs authority of the importing Party of such intention within 15 days from the date of receipt of the notification. Notwithstanding any postponement, any verification visit shall be carried out within 60 days from the date of such receipt, or for such longer period as the

Parties may agree.

6. For the purposes of paragraph 1(c), an exporter or producer of a good will identify any observers to be present during such verification visit by the customs authority of the importing Party.

7. The importing Party conducting the verification visit shall provide the producer or exporter and importer whose goods are subject to the verification and the relevant issuing authority with a written determination of whether or not the subject good qualifies as an originating good. Any suspended preferential tariff treatment shall be reinstated upon the determination that goods qualify as originating goods.

8. The producer or exporter shall be allowed 30 days from the date of receipt of the written determination pursuant to paragraphs 4 and 7 to provide written comments or additional information regarding the eligibility of the good for preferential tariff treatment. If the good is still found to be non-originating, the final written determination shall be communicated to the Issuing Authorities within 30 days from the date of receipt of the comments or additional information from the producer or exporter.

9. The verification visit process, including the actual visit, the determination and its notification of whether the subject good is originating or not shall be carried out and its results shall be communicated to the Issuing Authorities within a maximum period of six months from the first day when the verification visit was conducted. While the process of verification is undertaken, Article 4.11.1(c) shall be applied.

10. The customs authority of a Party may, prior to the verification visit, request the importer of the good to voluntarily obtain and supply written information provided by the exporter or producer of the good in the territory of the other Party. The failure of the importer to obtain and supply such information will not be considered as a failure of the exporter or producer to supply the information, or as a ground for denying preferential tariff treatment.

ARTICLE 4.13: VERIFICATION OF MATERIALS THAT ARE USED IN THE PRODUCTION OF THE GOOD

1. Where the customs authority of a Party, in conducting a verification of origin of a good imported into its territory under Articles 4.11 and 4.12, conducts a verification of the origin of a material that is used in the production of the good, the verification of the material may be conducted in accordance with the procedures set out in Article 4.12.1.

2. The customs authority of a Party may consider the material to be non-originating in determining whether the good is an originating good where the producer or supplier of that material does not allow the customs authority access to information required to make a determination of whether the material is an originating material by the following or other means:

- (a) denial of access to its records;

- (b) failure to respond to a verification questionnaire; or
 - (c) refusal to consent to a verification visit within 30 days of receipt of notification under Article 4.12.5(d) as made applicable by Article 4.12.1.
3. A Party will not consider a material that is used in the production of a good to be a non-originating material solely on the basis of postponement of a verification visit under Article 4.12.5(e) as made applicable by paragraph 1.
4. Communications under Articles 4.11 through 4.13 between the Parties shall be in the English language.

ARTICLE 4.14: DENIAL OF PREFERENTIAL TARIFF TREATMENT

1. Except as otherwise provided for in this Chapter, the importing Party may deny claim for preferential tariff treatment or recover unpaid duties in accordance with its laws and regulations, where:

- (a) the good does not meet the requirements of Chapter Three (Rules of Origin);
- (b) the exporter, producer or importer of the good that is required to maintain records or documentation under Article 4.10 fails to maintain records or documentation relevant to determining the origin of the good or denies access to the records or documentation;
- (c) the importer, exporter or producer fails to provide information that the Party requested pursuant to Articles 4.12.1(a) and 4.12.1(b) demonstrating that the good is an originating good;
- (d) after receipt of a written notification for a verification visit pursuant to Article 4.12.5, the exporter or producer in the territory of the other Party prevents such verification visit; or
- (e) the Party finds a pattern of conduct indicating that an importer, exporter or producer has provided false or unsupported information or declarations that a good imported into its territory is an originating good.

2. For the purposes of paragraph 1(e), "pattern of conduct" means at least two instances of false or unsupported representations by an exporter or producer of a good resulting in at least two written determinations being sent to that exporter or producer pursuant to Articles 4.12.4 and 4.12.7, that conclude, as a finding of fact, that Certificates of Origin applied by that exporter or producer with respect to identical goods contain false or unsupported representations.

ARTICLE 4.15: CONFIDENTIALITY

1. Each Party shall maintain, in accordance with its laws and regulations, confidentiality of the information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information. Where the Party receiving the information is required by its laws and regulations to disclose information, that Party shall ensure to notify the Party or persons who provided that information.
2. The confidential information collected pursuant to this Chapter shall not be used for purposes other than the administration and enforcement of determinations of origin, and of customs matters except with the permission of the Party or persons who provided the confidential information.
3. Notwithstanding paragraph 2, information that is obtained pursuant to this Chapter may be used in any administrative, judicial or quasi-judicial proceedings instituted for failure to comply with customs-related laws and regulations implementing Chapter Three (Rules of Origin) and this Chapter. The Party or persons who provided the information will be notified in advance of such use.

ARTICLE 4.16: PENALTIES

1. Each Party shall maintain measures imposing criminal, civil or administrative sanctions for violations of its laws and regulations relating to this Chapter.
2. When it is suspected that fraudulent acts in connection with the Certificate of Origin have been committed, the Issuing Authorities concerned shall cooperate in the action to be taken in the territory of the respective Party against the persons involved.

ARTICLE 4.17: REVIEW

After five years from the date of entry into force of this Agreement, the Parties shall examine and revise, if deemed necessary, the system of the Certificate of Origin including certification completed and signed by the exporter or producer and other procedures under this Chapter.

ARTICLE 4.18: UNIFORM REGULATIONS/RULES

1. The Parties shall establish and implement, through their respective laws, regulations or administrative policies, by the date of entry into force of this Agreement, Uniform Regulations/Rules regarding the interpretation, application and administration of Chapter Three (Rules of Origin) and this Chapter.
2. Each Party shall implement any modification of or addition to the Uniform Regulations/Rules within such period as the Parties may agree.

3. The Parties shall commit:

- (a) for the purposes of facilitating the flow of trade between them, in customs-related matters regarding the importation, exportation and transit of goods, to pursuing the harmonisation of documentation used in trade and data elements according to international standards;
- (b) to intensifying cooperation between their customs laboratories and scientific departments;
- (c) to the exchange of customs' personnel between the Parties;
- (d) to jointly organising training programmes on customs-related issues;
- (e) to the development of effective mechanisms for communicating with the trade and business communities;
- (f) to developing verification standards and a framework to ensure that both Parties act in a consistent manner in determining that goods imported into their territories meet the requirements set out in Chapter Three (Rules of Origin);
- (g) to the extent practicable, to assisting each other in the tariff classification, valuation and determination of origin of goods, for the purposes of preferential tariff treatment; and
- (h) to promoting a strong and efficient regime of intellectual property rights in accordance with their laws and regulations.

4. Each Party, on request, shall notify the other Party, in writing, the classification of a good of the other Party, determined by it. The Parties shall consult to address the discrepancies regarding classification between the Parties.

ARTICLE 5.10: CUSTOMS COMMITTEE

1. The Parties agree to establish a Customs Committee to address any customs-related issues for:

- (a) the uniform interpretation, application and administration of Chapter Three (Rules of Origin), Chapter Four (Origin Procedures), this Chapter and Uniform Regulations/Rules;
- (b) addressing issues on tariff classification and valuation relating to determinations of origin;
- (c) reviewing of rules of origin;

- (d) developing detailed guidelines for origin verification procedures to ensure uniform interpretation, application and administration of Articles 4.11 through 4.13 ; and
 - (e) considering any other customs-related matter referred to it by the customs authority of the Parties or the Parties or Joint Committee.
2. The Customs Committee will meet within one year from the date of entry into force of this Agreement and shall meet thereafter as required and at least once a year, alternately between India and Korea
3. The Customs Committee shall comprise representatives of customs and other competent authorities from each Party and shall draw up its own rules of procedure at its first meeting.
4. The Customs Committee may formulate resolutions, recommendations or opinions which it considers necessary and report to the Parties or to the Joint Committee..

ARTICLE 5.11: CUSTOMS CONTACT POINTS

Each Party shall designate official contact points and provide details thereof to the other Party, with a view to facilitating the effective implementation of this Chapter and other related Chapters. If the matter cannot be resolved through the contact points, the matter shall be referred to the Customs Committee set out in Article 5.10.

CHAPTER SIX
TRADE IN SERVICES

ARTICLE 6.1: DEFINITIONS

For the purposes of this Chapter:

A juridical person is:

owned by persons of a Party if more than 50 percent of the equity interest in it is beneficially owned by persons of that Party;

controlled by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions; or

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

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

Aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance;

Commercial presence means any type of business or professional establishment, including through:

- (a) the constitution, acquisition or maintenance of a juridical person; or
- (b) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of supplying a service;

Computer reservation system (CRS) 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;

Direct taxes comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation;

Financial services means “financial service” as defined in Annex 6-C;

Juridical person means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association, cooperative or society¹;

Juridical person of the other Party means a juridical person which is either:

- (a) constituted or otherwise organised under the law of the other Party, and is engaged in substantive business operations in the territory of the other Party, or a non-Party; or
- (b) in the case of the supply of a service through commercial presence, owned or controlled by natural or juridical person of the other Party;

Measures by Parties affecting trade in services include measures in respect of:

- (a) the purchase, payment or use of a service;
- (b) the access to and use of, in connection with the supply of a service, services which are required by the Parties to be offered to the public generally; or
- (c) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the other Party;

Monopoly supplier of a service means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

Natural person of a Party means a natural person who resides in the territory of the Party or elsewhere and who under its laws:

- (a) is a national of that Party; or
- (b) has the right of permanent residence in that Party;

Person means either a natural person or a juridical person;

Selling and marketing of air transport services mean 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. These activities do not include the pricing of air transport services nor the applicable conditions;

Services means all services except services supplied in the exercise of governmental authority;

¹ A cooperative or a society are legal entities constituted under the relevant applicable laws in India

Service consumer means any person that receives or uses a service;

Service of the other Party means a service which is supplied:

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

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

Service supplier means any person that supplies or seeks to supply a service²;

Supply of a service includes the production, distribution, marketing, sale and delivery of a service; and

Trade in services is defined as the supply of a service:

(a) from the territory of a Party into the territory of the other Party (cross-border);

(b) in the territory of a Party by a person of that Party to a person of the other Party (consumption abroad);

(c) by a service supplier of a Party, through commercial presence in the territory of the other Party (commercial presence); or

(d) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party (presence of natural persons).

ARTICLE 6.2: SCOPE AND COVERAGE

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

2. For the purposes of this Chapter, measures adopted or maintained by a Party mean measures adopted or maintained by central, regional or local governments and authorities, or by non-governmental bodies in the exercise of any regulatory, administrative or other governmental authority delegated by central, regional or local governments and authorities.

² Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Chapter. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied. The Parties understand that 'seeks to provide' or 'provides a service' has the same meaning as 'supplies a service' as used in Article XXVIII(g) of GATS.

3. This Chapter does not apply to:

(a) government procurement;

(b) subsidies or grants, including government-supported loans, guarantees and insurance; or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers;

(c) services provided in the exercise of governmental authority, provided that such services are supplied neither on a commercial basis, nor in competition with one or more service providers; and

(d) transportation and non-transportation air services, including domestic and international services, whether scheduled or non-scheduled, and related services in support of air services³ other than:

(i) aircraft repair and maintenance services;

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

(iii) computer reservation system services.

4. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

5. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Chapter as well as the terms of specific commitments undertaken.

6. New services, including new financial services, shall be considered for possible incorporation into this Chapter at future reviews held in accordance with Article 6.19, or at the request of either Party immediately. The supply of services which are not technically or technologically feasible when this Agreement comes into force shall, when they become feasible, also be considered for possible incorporation at future reviews or at the request of either Party immediately.

³ The Parties understand that ground handling services are part of related services in support of air services.

ARTICLE 6.3: REVIEW OF MOST FAVOURED NATION COMMITMENTS

If, after the date of entry into force of this Agreement, a Party enters into any agreement on trade in services with a non-Party, it shall give consideration to a request by the other Party for the incorporation herein of treatment no less favourable than that provided under the aforesaid agreement. Any such incorporation should maintain the overall balance of commitments undertaken by each Party under this Agreement.

ARTICLE 6.4: MARKET ACCESS

1. With respect to market access through the modes of supply defined in Article 6.1, each Party shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of specific commitments⁴.

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

- (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test⁵;
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

⁴ If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in Article 6.1 and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 6.1, it is thereby committed to allow related transfers of capital into its territory.

⁵ Subparagraph (c) does not cover measures of a Party which limits inputs for the supply of services.

- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

ARTICLE 6.5: NATIONAL TREATMENT

1. In the sectors inscribed in its Schedule of specific commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers⁶.

2. Any subsequent establishment, acquisition and expansion of investments by a service supplier that is incorporated, constituted, set up or otherwise duly organised under the law of a Party, and which is owned by a service supplier of the other Party, shall be regarded as an investment of the other Party, for the purpose of determining the applicable treatment to be accorded under this Article⁷.

3. The treatment to be accorded by a Party under paragraph 1 means, with respect to a regional or local level government, treatment no less favourable than the most favourable treatment accorded by that regional or local level government to like service suppliers of the Party of which it forms a part.

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

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

⁶ Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

⁷ The Parties understand that although such service suppliers may be accorded any better treatment which is available under the regime of that Party, at the time of such subsequent establishment, acquisition and expansion of investments, any such better treatment accorded shall not be construed as an automatic modification to the Parties' respective Schedules in Annex I (Non-Conformity Measures for Investment(Existing Measures)) or II (Non-Conformity Measures for Investment(Future Measures)) in Chapter Ten (Investment).

ARTICLE 6.6: ADDITIONAL COMMITMENTS

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Article 6.4 or 6.5, including those regarding qualifications, standards or licencing matters. Such commitments shall be inscribed in a Party's Schedule of specific commitments.

ARTICLE 6.7: DOMESTIC REGULATION

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

2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of the other Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Paragraph 2 shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. Where authorisation is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Party shall, within a reasonable period of time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Party shall provide, without undue delay, information concerning the status of the application.

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

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service; and

- (c) in the case of licencing procedures, not in themselves a restriction on the supply of the service.
6. Pending the incorporation of disciplines pursuant to paragraph 5 for sectors where a Party has undertaken specific commitments and subject to any terms, limitations, conditions or qualifications set out therein, a Party shall not apply licencing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:
- (a) does not comply with the criteria outlined in paragraph 5(a), (b) or (c); and
 - (b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.
7. In determining whether a Party is in conformity with the obligations under paragraph 6, account shall be taken of international standards of relevant international organisations⁸ applied by that Party.
8. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.

ARTICLE 6.8: RECOGNITION

1. For the purposes of the fulfillment of its standards or criteria for the authorisation, licencing or certification of services suppliers, a Party may recognise the education or experience obtained, requirements met, or licences or certifications granted in the other Party.
2. After the date of entry into force of this Agreement, upon request being made in writing by a Party to the other Party in any regulated service sector, the Parties shall encourage that their respective professional bodies negotiate and conclude, within 12 months of the date of entry into force of this Agreement, in that service sector for mutual recognition of education, or experience obtained, requirements met, or licences or certifications granted in that service sector, with a view to the achievement of early outcomes. Any delay or failure by these professional bodies to reach and conclude agreement on the details of such agreement or arrangements shall not be regarded as a breach of a Party's obligations under this paragraph and shall not be subject to Chapter Fourteen (Dispute Settlement). Progress in this regard will be continually reviewed by the Parties in the course of the review pursuant to Article 15.2 (Joint Committee and Review).

⁸ The term "relevant international organisations" refers to international bodies whose membership is open to relevant bodies of both Parties.

3. Where a Party recognises, by agreement or arrangement, the education or experience obtained, requirements met or licences or certifications granted in the territory of a country that is not a Party to this Agreement, that Party shall accord the other Party, upon request, adequate opportunity to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the education or experience obtained, requirements met or licences or certifications granted in the territory of that other Party should also be recognised.

4. The Parties agree that they shall not be responsible in any way for the settlement of disputes arising out of or under these agreements or arrangements for mutual recognition concluded by their respective professional, standard-setting or self-regulatory bodies under this Article and that the provisions of Chapter Fourteen (Dispute Settlement) shall not apply to disputes arising out of, or under the provisions of such agreements or arrangements.

ARTICLE 6.9: MONOPOLY AND EXCLUSIVE SERVICE SUPPLIERS

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

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

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

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

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

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

ARTICLE 6.10: BUSINESS PRACTICES

1. The Parties recognise that certain business practices of service suppliers, other than those falling under Article 6.9, may restrain competition and thereby restrict trade in services.

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

ARTICLE 6.11: SAFEGUARD MEASURES

1. Neither Party shall take safeguard action against services and service suppliers of the other Party from the date of entry into force of this Agreement. Neither Party shall initiate or continue any safeguard investigations in respect of services and service suppliers of the other Party.

2. The Parties shall review the issue of safeguard measures in the context of developments in international fora of which both Parties are party.

ARTICLE 6.12: PAYMENTS AND TRANSFERS

1. Except under the circumstances envisaged in Article 6.13, a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund under the *Articles of Agreement of the International Monetary Fund*, including the use of exchange actions which are in conformity with them, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 6.13 or at the request of the Fund.

ARTICLE 6.13: RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS

1. In the event of serious balance of payments and external financial difficulties or a threat thereof, a Party may, in accordance with Articles XI and XII of GATS adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions relating to such obligations. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development.

2. The restrictions referred to in paragraph 1 shall:

- (a) be consistent with the *Articles of Agreement of the International Monetary Fund*;
- (b) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
- (c) not exceed those necessary to deal with the circumstances described in paragraph 1;
- (d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and

(e) be applied on a national treatment basis and such that the other Party is treated no less favourably than any country that is not a Party to this Agreement.

3. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party.

4. The Party adopting any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions adopted by it.

ARTICLE 6.14: GENERAL EXCEPTIONS

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on trade in services, nothing in this Chapter shall be construed to prevent the adoption or enforcement by either Party of measures:

(a) necessary to protect public morals or to maintain public order⁹;

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

⁹ The public order exception may be invoked by a Party only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or

(iii) safety; or

(d) inconsistent with Article 6.5, provided that the difference in treatment is aimed at ensuring the equitable or effective¹⁰ imposition or collection of direct taxes in respect of services or service suppliers of the other Party.

2. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures under which it accords more favourable treatment to persons of a non-Party than that accorded to persons of the other Party to this Agreement as a result of a bilateral double taxation avoidance agreement between the Party and such non-Party.

ARTICLE 6.15: SECURITY EXCEPTIONS

1. Nothing in this Chapter shall be construed:

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

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

(i) relating to the supply of services as carried out directly or indirectly for the purposes of provisioning a military establishment;

¹⁰ Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which:

(i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of nonresidents is determined with respect to taxable items sourced or located in the Party's territory; or

(ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; or

(iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or

(iv) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; or

(v) distinguish service suppliers subject to tax on world-wide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

(vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base. Tax terms or concepts in paragraph 1(d) and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.

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

(iii) taken in time of war or other emergency in international relations; or

(iv) relating to protection of critical public infrastructure for communications, power and water supply from deliberate attempts intended to disable or degrade such infrastructures¹¹; or

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

2. Each Party shall inform the other Party to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

3. Nothing in this Chapter shall be construed to require a Party to accord the benefits of this Chapter to a service supplier of the other Party where a Party adopts or maintains measures in any laws and regulations which it considers necessary for the protection of its essential security interests with respect to a non-Party or a service supplier of a non-Party that would be violated or circumvented if the benefits of this Chapter were accorded to such a service supplier.

ARTICLE 6.16: SUBSIDIES

1. The Parties shall review the treatment of subsidies in the context of developments in multilateral fora of which both Parties are party.

2. In the event that either Party considers that its interests have been adversely affected by a subsidy or grant provided by the other Party, upon request, the other Party shall enter into consultations with a view to resolving the matter.

3. During the consultations referred to in paragraph 2, the subsidising Party may, as it deems fit, consider a request of the other Party for information relating to the subsidy scheme or programme such as:

(a) its laws and regulations under which the measure is introduced;

(b) form of the measure, including grant, loan or tax measure;

(c) policy objective and/or purpose of the measure;

¹¹ Paragraph 1(b)(iv) is subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on trade in services.

(d) dates and duration of the programme or subsidy and any other time limits attached to it; and

(e) eligibility requirements of the measure, including criteria applied with respect to the potential population of beneficiaries.

4. Chapter Fourteen (Dispute Settlement) shall not apply to any requests made or consultations held under this Article or to any disputes that may arise between the Parties under this Article.

ARTICLE 6.17: SCHEDULE OF SPECIFIC COMMITMENTS

1. Each Party shall set out in its Schedule the specific commitments it undertakes under Articles 6.4 through 6.6. With respect to sectors where such commitments are undertaken, each Schedule of specific commitments shall specify:

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

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments;

(d) where appropriate the time frame for implementation of such commitments; and

(e) the date of entry into force of such commitments.

2. Measures inconsistent with Articles 6.4 and 6.5 shall be inscribed in the column relating to Article 6.4. In this case the inscription will be considered to provide a condition or qualification to Article 6.5 as well.

3. Schedules of specific commitments shall be annexed to this Chapter as Annexes 6-A and 6-B and shall form an integral part of this Agreement.

4. Regarding commitments on Articles 6.4 and 6.5 for trade in services, only the Schedule of specific commitments in Annex 6-A or 6-B applies.

ARTICLE 6.18: MODIFICATION OF SCHEDULES

1. A Party may modify or withdraw any commitment in its Schedule, at any time after three years have elapsed from the date on which that commitment entered into force, in accordance with this Article. The modifying Party shall notify the other Party of its intent to so modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal.

2. At the request of the other Party, the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the Party shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in the Schedule of specific commitments prior to such negotiations. The Parties shall endeavour to conclude negotiations on such compensatory adjustment to mutual satisfaction within six months, failing which recourse may be had to Chapter Fourteen (Dispute Settlement).

ARTICLE 6.19: PROGRESSIVE LIBERALISATION

The Parties shall endeavour to review their Schedules of specific commitments at least once every three years, or earlier, at the request of either Party, with a view to facilitating the elimination of substantially all remaining discrimination between the Parties with regard to trade in services covered in this Chapter over a period of time. In this process, there shall be due respect for the national policy objectives and the level of development of the Parties, in both overall and individual sectors.

ARTICLE 6.20: TRANSPARENCY

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Chapter. International agreements pertaining to or affecting trade in services to which a Party is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.

3. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1. Each Party shall also establish one or more enquiry points to provide specific information to the other Party, upon request, on all such matters.

ARTICLE 6.21: DISCLOSURE OF CONFIDENTIAL INFORMATION

Nothing in this Agreement shall require each Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

ARTICLE 6.22: DENIAL OF BENEFITS

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter:

(a) to the supply of a service, if it establishes that the service is supplied from or in

the territory of a country that is not a Party to this Agreement;

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

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

(ii) a person which operates or uses the vessel in whole or in part but which is of a non-Party;

(c) to a service provider of the other Party where the Party establishes that the service is being provided by a juridical person that is owned or controlled by persons of a non-Party or of the denying Party and that has no real and continuous business activities or no substantive business operations in the territory of the other Party; or

(d) to a service supplier of the other Party if the service supplier is a juridical person owned or controlled by persons of a non-Party, and the denying Party adopts or maintains measures which include notification or an order, with respect to the non-Party or a person of the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person.

ARTICLE 6.23: SERVICES-INVESTMENT LINKAGE

1. For the avoidance of doubt, the Parties confirm, in respect of this Chapter, that:

(a) subject to paragraph 2, the following articles of Chapter Ten (Investment) apply, *mutatis mutandis*, to measures affecting the supply of service by a service supplier of a Party through commercial presence in the territory of the other Party, only to the extent that they relate to an investment, regardless of whether or not such a service sector is scheduled in a Party's Schedule of specific commitments in Annex 6-A or 6-B:

(i) Article 10.4 (Minimum Standard of Treatment);

(ii) Article 10.10 (Transfers);

(iii) Article 10.12 (Expropriation and Compensation);

(iv) Article 10.13 (Losses and Compensation);

(v) Article 10.14 (Subrogation);

(vi) Article 10.15 (Special Formalities and Information Requirements);

(vii) Article 10.19 (Access to the Judicial and Administrative

Procedures); and

(viii) Article 10.21 (Settlement of Disputes between a Party and an Investor of the other Party); and

(b) Article 10.22 (Entry into Force, Duration and Termination) shall be applicable to paragraph (a).

2. Notwithstanding Article 10.2 (Scope and Coverage), the following articles of Chapter Ten (Investment) apply, *mutatis mutandis*, to measures affecting the supply of financial services by a service supplier of a Party through commercial presence in the territory of the other Party, only to the extent that they relate to an investment, regardless of whether or not such a service sector is scheduled in a Party's Schedule of specific commitments in Annex 6-A or 6-B:

(a) Article 10.12 (Expropriation and Compensation); and

(b) Article 10.21 (Settlement of Disputes between a Party and an Investor of the other Party) solely for claims that a Party has breached Article 10.12 (Expropriation and Compensation).

ANNEX 6-A
SCHEDULE OF SPECIFIC COMMITMENTS OF INDIA

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	<p>3) FIPB approval will be required in sectors where the provision of Press Note 1 (2005 Series) issued by the Government of India are attracted.¹</p> <p>3) A foreign company can set up operations in India under the following routes:</p> <p style="padding-left: 20px;">a) As a incorporated entity by incorporating a company under the Companies Act, 1956 through a Joint Ventures or Wholly Owned Subsidiaries. These entities can undertake activities permitted as per FEMA (Transfer or issue of securities by a person resident outside India) Regulation, 2000 (FDI Scheme)</p> <p style="padding-left: 20px;">b) As an office of a foreign entity through liaison office / representative office, project office and branch office.</p> <p style="padding-left: 20px;">Such offices can undertake activities permitted under the Foreign Exchange Management Act (Establishment in India of Branch Office or other place of business) regulations, 2000</p>	<p>3) In case of collaboration with public sector enterprises or government undertakings as joint venture partners, preference in access will be given to Korean service suppliers/entities which offer the best terms for transfer of technology.</p> <p>3) Taxation laws for domestic and Korean service suppliers, as per the provisions of the Income tax Act, 1961, shall apply.</p> <p>3) Subsidies, where granted, shall be available only to domestic service suppliers.</p>	

¹ These are not ENT requirements

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	4) Unbound except as per commitments in Chapter 8 on Movement of Natural Persons.	4) None, except for requirement of requisite visa and the conditions attached to entry and temporary stay under such a visa for each of the categories specified in the Market Access column including: For all categories: fulfillment of specific requirements regarding information in support of the application and required documentation For categories (c) and (d): <ul style="list-style-type: none"> • Proof of Contract • Possession of requisite educational and professional qualifications relevant to the service to be provided including work experience 	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
II. SECTOR – SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. Professional Services			
(b) Accounting and Book Keeping Services (CPC 862) (excluding Auditing Services)	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section and further subject to the requirement of obtaining professional indemnity insurance from home country of service provider.	
(d) Architectural services(CPC 8671)	1) None 2) None 3) None except that the establishment would be only through incorporation as partnership firm constituted by Architects. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(e) Engineering Services (CPC 8672)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None except that the establishment would be only through incorporation as partnership firm constituted by Architects. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(h) Medical and Dental Services (CPC 9312)	1) None for provision of services on provider to provider basis such that the transaction is between established medical institutions covering areas of second opinion to help in diagnosis of cases or in the field of research. 2) None 3) Only through incorporation with a foreign equity ceiling of 74 per cent subject to the condition that the latest technology for treatment will be brought in. 4) Unbound except as indicated in the horizontal section. None for charitable purposes	1) None 2) None 3) Publicly funded services may be available only to Indian citizens or may be supplied at differential prices to persons other than Indian citizens. 4) Unbound except as indicated in the horizontal section	
(i) Veterinary services (CPC 932)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal Section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(j) Services provided by Midwives, Nurses, Physiotherapists and para-medical personnel (CPC 93191)	1) None for provision of services on provider to provider basis such that the transaction is between established medical institutions covering areas of second opinion to help in diagnosis of cases or in the field of research. 2) None 3) None except that foreign equity ceiling of 74 per cent subject to the condition that the latest technology for treatment will be brought in. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) Publicly funded services may be available only to Indian citizens or may be supplied at differential prices to persons other than Indian citizens. 4) Unbound except as indicated in the horizontal section	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
C. Research and Development Services			
(a) R&D services on the following natural sciences only: Heat, light, electromagnetism, astronomy, but excluding atomic energy and related matters (CPC 85101)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Engineering and technology, including applied science and technology for casting, metal, machinery, electricity, communications, vessels, aircrafts, civil engineering, construction, information, etc. (CPC 85103)			
R&D services in Agricultural Sciences (CPC 85104)	1) None 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section	1) None 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section	
(b) R&D services on social sciences and humanities (CPC 852)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
R&D Services on Biotechnology excluding medical biotechnology	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
D. Real Estate Services (b) on a fee or contract basis (CPC 822)	1) None 2) None 3) None for Consultancy Services. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section.	
E. Rental/Leasing Services (without operators)			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(a) Rental/ leasing services without operators relating to ships (CPC 83103) (excluding the services of actual international transport of Cargo)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None, except that prescribed minimum capitalization norms must be adhered to. 4) Unbound except as indicated in the horizontal section	
(b) Rental/ leasing services without operators relating to aircraft (CPC 83104)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None, except that prescribed minimum capitalization norms must be adhered to. 4) Unbound except as indicated in the horizontal section	
(c) Rental/ leasing services without operators relating to other transport equipment (CPC 83101 + 83102 + 83105) (excluding Railroad Transport & Multimodal Transport)	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None, except that prescribed minimum capitalization norms must be adhered to. 4) Unbound except as indicated in the horizontal section	
(d) Rental/ leasing services without operators relating to other machinery and equipment (CPC 83106 – 83109)	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None, except that prescribed minimum capitalization norms must be adhered to 4) Unbound except as indicated in the horizontal section	
(e) Rental/ leasing services concerning personal and household goods (CPC832)	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None, except that prescribed minimum capitalization norms must be adhered to 4) Unbound except as indicated in the horizontal section	
F. Other Business Services			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(a) Advertising Services Sale of leasing services of advertising space of time (CPC 87110) Planning, creating and placement of services of advertising (CPC 87120)	1) None, subject to the requirement that foreign channels must seek advertising for the down link beam through domestic entities and foreign print media must seek advertisement through domestic entities. 2) None 3) None subject to incorporation and foreign equity ceiling of 49%. Management control must be located in India 4) Unbound except as indicated in the horizontal section	1) None, subject to the requirement that majority of content would be created locally by Indian nationals 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(c) Management consulting services excluding all services relating to legal consultancy (CPC 86501**, 86502**, 86503**, 86505**, 86506**, 86509**)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(d) Services related to management consulting (CPC 86601)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(g) Services incidental to fishing (CPC 882)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(h) Services incidental to mining (CPC 883 + 5115)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(j) Services incidental to energy distribution (CPC 887 ** excluding energy trading and load dispatch functions)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(k) Placement and supply services of Personnel (CPC 872)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(o) Building-cleaning services (CPC 874)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(p) Photographic Services excluding aerial photography, satellite pictures and satellite enabled photography (CPC 875**)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(q) Packaging Services (CPC 876)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
(s) Convention services (CPC 87909*)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
Other: (t) Specialty design services (CPC 87907*)	1) None 2) None 3) None except that the establishment would be only through incorporation as partnership firm constituted by Architects 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2.COMMUNICATIO N SERVICES			
C. Telecommunication Services			
(a) Voice telephone service (CPC 7521**)	<p>1) Unbound. 2) None 3) The service will be permitted to be provided only after the private operator gets a licence from the Designated Authority. In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>Number of licenses, may, however, be limited due to scarce resources such as right of way and spectrum availability, subject to a minimum of two licences in each service area.</p> <p>The private operator should be a company registered in India in which total foreign equity must not exceed 49 per cent.</p>	<p>1) Unbound. 2) None 3) Unbound</p>	The definition and principles on the regulatory framework for the basic telecommunication services subscribed to by India are contained in the annex titled "Explanatory Paper on Additional Commitments by India
	<p>Service operator will be permitted to provide long distance service within the licensed service area only.</p> <p>Resale of voice telephone services is not permitted. However, licensees can grant franchises on commission basis for providing public call offices (PCOs) service.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p>		
	4) Unbound except as indicated in the horizontal commitments	4) Unbound except as indicated in the horizontal commitments	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(b) Packet Switched Data Transmission Services (CPC 7523**)	<p>1) Unbound. 2) None. 3) The service will be permitted to be provided only after the private operator gets a licence from the Designated Authority.</p> <p>In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>Number of licenses, may, however, be limited due to scarce resources such as right of way and spectrum availability, subject to a minimum of two licences in each service area.</p> <p>The private operator should be a company registered in India in which total foreign equity must not exceed 49 per cent.</p> <p>Service operator will be permitted to provide long distance service within the licensed service area only.</p> <p>Resale of voice telephone services is not permitted. However, licensees can grant franchises on commission basis for providing public call offices (PCOs) service.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	<p>1) Unbound. 2) None 3) Unbound</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Radio Paging Services (CPC 7523**)	<p>1) Unbound. 2) None. 3) The service will be permitted to be provided only after the private operator gets a licence from the Designated Authority.</p> <p>In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>Number of licenses, may, however, be limited due to scarce resources such as right of way and spectrum availability, subject to a minimum of two licences in each service area.</p> <p>The private operator should be a company registered in India in which total foreign equity must not exceed 49 per cent.</p> <p>Service operator will be permitted to provide long distance service within the licensed service area only.</p> <p>Resale of voice telephone services is not permitted. However, licensees can grant franchises on commission basis for providing public call offices (PCOs) service.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	<p>1) Unbound. 2) None 3) Unbound</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(c) Circuit switched data transmission services (CPC 7523**)	1) Unbound. 2) None 3) Licensed voice telephone service operators will be permitted for transmission of data on the PSTN ² network in its licensed service area. 4) Unbound except as indicated in the horizontal commitments	1) Unbound. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal commitments	
(f) Facsimile services (CPC 7521** + 7529**)	1) Unbound. 2) None 3) Licensed voice telephone service operators will be permitted for transmission of facsimile on the PSTN network in its licensed service area. Franchisees of service operators can provide commercial facsimile services 4) Unbound except as indicated in the horizontal commitments	1) Unbound. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal commitments	
(g) Private Leased Circuit Services (CPC 7522** + 7523**)	1) Unbound. 2) None 3) Licensed voice telephone service operators will be permitted to provide leased circuits to their customers, for their own use within their licensed service area. Resale of such leased circuits will not be permitted. 4) Unbound except as indicated in the horizontal commitments	1) Unbound. 2) None 3) Unbound 4) Unbound except as indicated in the horizontal commitments	

² PSTN refers to Public Switched Voice Telephone Network which is operated by DoT/MTNL or licensed operator.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Data and message transmission services, the following: (h) Electronic mail (CPC 7523**) (i) Voice mail (CPC 7523**) (j) On-line information and database retrieval (CPC 7523**) (l) Enhanced / value added facsimile services, including store and forward, store and retrieve (CPC 7523**) (n) On-line information and/or data processing (CPC 843**)	1) None 2) None 3) Total foreign equity must not exceed 74% in a company registered in India under the Companies Act 1956 and such investment will be governed by the Foreign Exchange Management Act (FEMA). In the case of foreign investors having prior collaboration in that specific service sector in India or Foreign equity of more than 49%, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(o) Others (i) V-Sat Services	<p>1) Unbound 2) None 3) The service will be permitted to be provided only after the private operator gets a licence from the Designated Authority.</p> <p>The private operator should be a company registered in India in which total foreign equity must not exceed 49%.</p> <p>In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	<p>1) Unbound 2) None 3) Unbound</p> <p>4) Unbound except as indicated in the horizontal section</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(ii) Cellular mobile telephone	<p>1) Unbound 2) None 3) The service will be permitted to be provided only after the private operator gets a licence from the Designated Authority,</p> <p>The private operator should be a company registered in India in which foreign direct investment must not exceed 49 %. Number of licenses, may, however, be limited due to scarce resources such as right of way and spectrum availability, subject to a minimum of two licences in each service area.</p> <p>In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	<p>1) Unbound 2) None 3) Unbound</p> <p>4) Unbound except as indicated in the horizontal section</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Infrastructure Services Infrastructure Providers (<u>Category I</u>)	1) Unbound 2) None 3) None except, a) The detailed terms and conditions for providing the services will be as per license conditions b) Total foreign equity must not exceed 74% in a company registered in India under the Companies Act 1956 and such investment will be governed by Foreign Exchange Management Act (FEMA) 4) Unbound except as indicated in the horizontal commitments	1) Unbound 2) None 3) None except the followings: i) The Chief Officer in charge of Technical Network Operations, Chief Security Officer and officer/officials of the licensee companies dealing with the lawful inception of messages should be resident Indian citizens. ii) The Majority Directors on the Board of the licensee shall be Indian Citizens. iii) The positions of the Chairman, managing Director, Chief Executive Officer and/or Chief Financial Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs in India annually. 4) Unbound except as indicated in the horizontal section.	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Internet Services	<p>1) Unbound. 2) None 3) The service will be permitted to be provided only after the private operator gets a licence from the Designated Authority. In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>Number of licenses may be limited to a minimum of two licences in each service area.</p> <p>The private operator should be a company registered in India under the Companies Act 1956 in which total foreign equity must not exceed 74 per cent and such investment will be governed by the Foreign Exchange Management Act (FEMA).</p> <p>In the case of foreign investors having prior collaboration in that specific service sector in India or Foreign equity of more than 49%, FIPB approval would be required.</p> <p>Resale of telephone services is not permitted. However, licensees can grant franchises on commission basis.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	<p>1) Unbound. 2) None 3) None except the followings:</p> <p>(i) The Chief Officer in charge of Technical Network Operations, Chief Security Officer and officer/officials of the licensee companies dealing with the lawful inception of messages should be resident Indian Citizens.</p> <p>(ii) The Majority Directors on the Board of the licensee shall be Indian Citizens.</p> <p>(iii) The positions of the Chairman, managing Director, Chief Executive Officer and/or Chief Financial Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs in India annually.</p> <p>(iv) Government Public Sector Undertakings</p> <p>4) Unbound except as indicated in the horizontal commitments</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
D. Audiovisual Services (a) Motion picture or video distribution services (CPC 96113)	1) Unbound 2) Unbound* 3) (i) Only through representative offices which will be allowed to function as branches of companies incorporated outside India. (ii) Numerical ceiling in relation to the import of titles for the India- Korea CEPA will be in accordance with the India's Revised Offer number TN/S/O/IND Rev.1* dated 24 August 2005 at the WTO General Agreement on Trade in Services ³ . The current limit is 100 titles per year 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound* 3) None. 4) Unbound except as indicated in the horizontal section	

³ India's commitment will be as per its schedule to the GATS with no special dispensation to the Republic of Korea.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES			
A. General construction work for buildings (CPC 512) B. General Construction work for civil engineering (CPC 513)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
C. Installation and assembly work (CPC 514+516) D. Building completion and finishing work (CPC 517) E. Other (CPC 511+515+518)			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
4. DISTRIBUTION SERVICES (EXCLUDING LIVE ANIMALS)			
A. Commission agents' services covering sales on a fee or contract basis of: Agricultural raw materials (CPC 62111**) Food products excluding beverages and tobacco (CPC 62112**) Machinery, industrial equipment and vehicles other than motor vehicles, bicycles and motorcycles (CPC 62114) Furniture, household goods, hardware and iron mongery (CPC 62115) Textiles, clothing and footwear (CPC 62116)	1) None 2) None 3) None, subject to approval of RBI/FIPB and conformity with FEMA regulations, as applicable. 4) Unbound, except as in the horizontal section	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
B. Wholesale trade services	1) None	1) None	
Agricultural raw materials (CPC 6221**)	2) None	2) None	
Food excluding beverages and tobacco (CPC 6222**)	3) None, subject to approval of RBI/FIPB and conformity with Foreign Exchange Management Act(FEMA) regulations, as applicable.	3) None	
Textiles, clothing and footwear (CPC 6223)	4) Unbound except as indicated in the horizontal section	4) Unbound except as indicated in the horizontal section	
Household appliances, articles and equipment (6224)			
Miscellaneous consumer goods (6226)			
Machinery, equipment and supplies (CPC 6228)			

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
5. EDUCATION SERVICES			
Higher Education Services (CPC 923)	1) None subject to the condition that service providers would be subject to regulations, as applicable to domestic providers in the country of origin. 2) None 3) None subject to the condition that fees to be charged can be fixed by an appropriate authority and that such fees do not lead to charging capitation fees or to profiteering. Subject further to such regulations, already in place or to be prescribed by the appropriate regulatory authority. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
6. ENVIRONMENTAL SERVICES			
B. Refuse Disposal Services (CPC 9402) C. Sanitation and Similar Services (CPC 9403)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>7. FINANCIAL SERVICES</p> <p>The commitments in financial services are made in accordance with the General Agreement on Trade in Services and the Annex on Financial Services. All the commitments are subject to entry requirements, domestic laws, rules and regulations, guidelines and the terms and conditions of the Reserve Bank of India, Securities and Exchange Board of India, and any other competent authority in India.</p> <p>The sectors/sub-sectors listed below are in accordance with the listing in the Annex on Financial Services.</p>			
A. Insurance and Insurance Related Services			
Life Insurance [5(a) (i) (A)]	1) Unbound 2) Unbound 3) None, except establishment would be through incorporation with foreign equity not exceeding 26 per cent 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	
Non-life insurance [5(a) (i) (B)]	1) Unbound except in the case of insurance of freight, where there is no requirement that goods in transit to and from India should be insured with Indian insurance companies only. Insurance is taken by the buyer or seller in accordance with the terms of the contract. This position will be maintained. Once under a contract the Indian importer or exporter agrees to assume the responsibility for insurance such as in the case of f.o.b. contracts for imports into India or c.i.f. contracts for exports from India, insurance has to be taken only with an Indian insurance company. 2) Unbound 3) None except establishment would be through incorporation with foreign equity not exceeding 26 per cent 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Reinsurance and retrocession 5(a)(ii)	<p>1),2) Reinsurance can be taken with foreign reinsurers to the extent of the residual uncovered risk after obligatory or statutory placements domestically with Indian insurance companies</p> <p>3) None except establishment would be through incorporation and subject to the condition that foreign equity not exceeding 26%</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) Unbound</p> <p>4) Unbound except as indicated in the horizontal section</p>	
Insurance intermediation, limited to reinsurance Ex. 5(a)(iii)	<p>1),2) Reinsurance of domestic risks can be placed with foreign reinsurers through overseas brokers, to the extent mentioned under reinsurance and retrocession.</p> <p>3) (i) Overseas brokers are allowed to have resident representatives and representative offices who can procure reinsurance business from Indian insurance companies to the extent mentioned above. They can also place reinsurance business from abroad with Indian insurance companies.</p> <p>(ii) Except for the business indicated above, the resident representatives and representative offices cannot undertake any other activity in India.</p> <p>(iii) All expenses of the resident representatives and representative offices have to be met by remittances from abroad and no income can be received in India from Indian residents.</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) Unbound</p> <p>4) Unbound except as indicated in the horizontal section</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Services auxiliary to insurance, such as consultancy, actuarial, risk assessment Ex.[5 (a) (iv)]	1) None 2) Unbound 3) None subject to the conditions that foreign companies can be established through incorporation with foreign equity not exceeding 51 per cent In the case of Actuarial and Advisory Services, formal certification by Actuarial Society of India would be required. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Banking and other financial services (excluding insurance)</p> <p>Acceptance of deposits and other repayable funds from the public 5(a)(v)</p> <p>Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions Ex. 5(a)(vi)</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) In each of the services given below in which commitments are being undertaken for banking and non-banking financial services companies, access is subject to fulfillment of minimum capitalization norms. For all activities listed in this section of the Schedule excluding factoring and venture capital</p> <p>(i) Through branch operations and as a wholly owned subsidiary of a foreign bank licensed and supervised as a bank in its home country and subject to regulations of the Reserve Bank of India.</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) For all activities listed in this section of the Schedule excluding factoring and venture capital</p> <p>(i) Public sector enterprises can invest surplus funds in term deposits only with scheduled commercial banks (including Wholly Owned Subsidiaries) incorporated in India; their investment of surplus funds in term deposits with Wholly Owned Subsidiaries would be subject to guidelines by Reserve Bank of India.</p> <p>(ii) Unbound except for entities established in accordance with the limitations specified in the market access column</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
All payment and money transmission services including credit, charge and debit cards, travellers cheques and bankers' drafts 5(a)(viii)	(ii) India shall give favorable consideration ⁴ to the application for establishment of branches by Korean banks, provided that they meet India's requirement relating to the establishment of bank branches. The favorable consideration shall be given up to ten applications over four years. (iii) Banks are allowed to install ATMs at branches and at other places identified by them. Installation of ATM at a place other than in licensed branches is treated as a new place of business and requires a licence. Licences issued for ATMs installed by foreign banks will not be included in the ceiling of ten licences referred to in item (ii) above.		
Guarantees and commitments 5(a)(ix) Trading for own account of the following: Money market instruments (including cheques, bills certificates of deposits) foreign exchange transferable securities Ex. 5(a)(x)(A) (B) (E)	(iv) Investments in other financial services companies by branches of foreign banks licensed to do banking business in India individually not to exceed 10 per cent of owned funds or 30 per cent of the invested company's capital whichever is lower. (v) Licences for new foreign banks may be denied when the maximum share of assets in India both on and off balance sheet of foreign banks to total assets both on and off balance sheet of the banking system exceeds 15 per cent.		

⁴ For greater certainty, "favorable consideration" does not impose a legal obligation to grant a permission

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Clearing services for other banks for cheques, drafts and other instruments Ex. 5(a)(xiv)</p> <p>For transferable securities [5 (a) (x) (E)]</p>	<p>(vi) Foreign banks are subject to non-discriminatory resource allocation requirements.</p> <p>(vii) In addition, foreign banks are permitted to invest in private sector banks through the FDI route subject to foreign equity ceiling of 49% per cent</p> <p>(viii) In addition to the above, through establishment of locally incorporated joint venture company with foreign equity not exceeding 74 per cent. The foreign equity participation will be limited to recognized foreign stock broking companies.</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>4) Unbound except as indicated in the horizontal section</p>	
<p>3. Factoring Ex 5(a) (vi)</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) Allowed for foreign financial services companies (including banks) through incorporation.</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) Unbound except for entities established in accordance with the limitations specified in the market access column.</p> <p>4) Unbound except as indicated in the horizontal section</p>	
<p>4. Venture Capital</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) (i) Allowed for foreign financial services companies (including banks) through incorporation.</p> <p>(ii) Funding has to be entirely out of equity.</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) Unbound except for entities established in accordance with the limitations specified in the market access column</p> <p>4) Unbound except as indicated in the horizontal section</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Financial leasing 5(a)(vii)	1) Unbound 2) Unbound 3) Allowed for foreign financial services companies (including banks) through incorporation. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	
Asset Management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services 5(a)(xiii)	1) Unbound 2) Unbound 3) None except establishment would be through incorporation with foreign equity not exceeding 26 per cent. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	
Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues 5(a)(xi)	1) Unbound 2) Unbound 3) (i) Allowed for foreign bank branches licensed to do banking business in India. (ii) Allowed for foreign financial services companies (excluding banks) through incorporation with foreign equity not exceeding 74 per cent. Allowed for banks through incorporation with foreign equity not exceeding 51 per cent 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) Unbound except for entities established in accordance with the limitations specified in the market access column. 4) Unbound except as indicated in the horizontal section	
Money Broking 5(a)(xii)	1) 2) and 3) Unbound 4) Unbound except as indicated in the horizontal section	1) 2) and 3) Unbound 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services 5 (a) (xv)	1) and 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) and 2) None 3) None 4) Unbound except as indicated in the horizontal section	
Financial consultancy services, i.e. financial advisory services provided by financial advisers, etc. to customers on financial matters, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy Ex. 5(a)(xvi)	1) Unbound 2) Unbound 3) (i) Allowed for foreign bank branches licensed to do banking business in India. (ii) Allowed for foreign financial services companies (including banks)through incorporation. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
8. HEALTH RELATED AND SOCIAL SERVICES A. Hospital Services (CPC 9311)	1) None for provision of services on provider to provider basis such that the transaction is between two established medical institutions, covering the areas of second opinion to help in diagnosis of cases or in the field of research. 2) None 3) None except that foreign equity ceiling of 74 per cent and subject to the condition that the latest technology for treatment will be brought in. Publicly funded services may be available only to Indian citizens or may be supplied at differential prices to persons other than Indian citizens. 4) Unbound except as indicated in the horizontal section. None for charitable purposes.	1) None. 2) None 3) None 4) Unbound except as indicated in the horizontal section	
9. TOURISM AND TRAVEL RELATED SERVICES			
A. Hotels and other lodging services (CPC Ex. 641)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	
B. Travel Agency and Tour Operator Services (CPC 7471)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
C. Tourist Guides Services (CPC 7472)	1) Unbound* 2) None 3) Numerical ceiling in relation to the number of tourist guides for the India-Korea CEPA will be in accordance with the India's Revised Offer number TN/S/O/IND Rev.1* dated 24 August 2005 under the WTO General Agreement on Trade in Services ⁵ . The current limit is 500 guides. 4) Numerical ceiling in relation to the number of tourist guides for the India-Korea CEPA will be in accordance with the India's Revised Offer number TN/S/O/IND Rev.1* dated 24 August 2005 under the WTO General Agreement on Trade in Services ⁶ . The current limit is 500 guides. For others: Unbound except as indicated in horizontal Commitments.	1) Unbound* 2) None 3) None 4) Unbound except as indicated in the horizontal section	

⁵ India's commitment will be as per its schedule to the GATS with no special dispensation to the Republic of Korea.

⁶ India's commitment will be as per its schedule to the GATS with no special dispensation to the Republic of Korea.

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
10. Recreational, Cultural and Sporting services (other than Audio-visual services)			
A. Entertainment Services (including Theatre, Live bands and circus services (CPC 9619)	1) Unbound 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) Unbound 2) None 3) None 4) Unbound except as indicated in the horizontal section	
D. Sporting and other recreational services (CPC 964**) (excluding lottery, gambling and betting services)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section and subject to reciprocity	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
11. TRANSPORT SERVICES A Transport Services			
<p>The commitments in Maritime Transport are made in accordance with the General Agreement on Trade in Services. All commitments are subject to domestic laws, entry requirements, rules and regulations and the terms and conditions of the Directorate General of Shipping, Reserve Bank of India and any other competent authority in India. For supply of Maritime Auxiliary Services through commercial presence under Mode 3, it will be only by through establishing Indian a company registered company under any Central Act or State Act in India and having its principal place of business in India and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p>			
International Transport (Freight and Passengers excluding cabotage and offshore transport as defined in Annex 'A')	1)(a) Liner Shipping: None, except <ul style="list-style-type: none"> - At least 40 per cent of cargo carried by liner shipping companies must be reserved for Indian Flag ships. - Preference will be given to Indian Flag vessels for government cargoes; and Government owned/ controlled cargo - Government policy on FOB/ FAS imports and export will hold good. - Indian flag vessels will have the first right of refusal for carrying such cargo and only thereafter can foreign flag ships be allowed to be in-chartered/ taken on international rental basis. 	1)(a) Liner Shipping: None, except that in liner trade (Not restricted to liner conference trade) between India and such countries which are contracting parties to the UN Convention on code of conduct for liner conferences, the provisions of the said convention will apply.	Access to and use of Port Facilities No measures shall be applied to the following services which deny reasonable and non-discriminatory access to international maritime suppliers: <ol style="list-style-type: none"> 1. Pilotage 2. Towing, Tug assistance & pushing, 3. Provisioning, fuelling & watering, 4. Garbage collecting & ballast waste disposal

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
			5. Port Captain services, 6. Navigation aids, 7. Shore based operational services essential to ship operations, including communications, water and electrical supplies, 8. Emergency repair facilities, 9. Anchorage, berth and berthing services
	1)(b) Bulk Shipping: None, Except (i) Dry, Liquid and Gas other than LNG: - Preference will be given to Indian Flag vessels for government cargoes; and Government. Owned/ controlled cargo. - Government policy on FOB/ FAS imports and export will hold good. - Indian flag vessels will have the first right of refusal for carrying such cargo and only thereafter can foreign flag ships be allowed to be in-chartered/ taken on international rental basis.	1)(b) Bulk Shipping: None, Except (i) Preference will be given to Indian Flag Vessels. - Preference will be given to Indian Flag vessels for government cargoes; and Government owned/ controlled cargo. - Government policy on FOB/ FAS imports and export will hold good. - Indian flag vessels will have the first right of refusal for carrying such cargo and only thereafter can foreign flag ships be allowed to be in-chartered/ taken on international rental basis.	

Modes of supply: 1)Cross-border supply 2) Consumption abroad 3) Commercial presence 4)Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	(ii) LNG: Unbound 1)(c) Passenger: None	(ii) LNG: Unbound 1)(c) Passenger: None	
	2) None 3)(a) None, but condition that for operating a ship under the Indian flag, a registered company, or a cooperative society under any Central Act or State Act having its principal place of business in India, must be established. 3)(b) Other forms of commercial presence for the supply of International Maritime Transport Services (as per definitions): Unbound 4)(a) Ships crews: Unbound 4)(b) key shore personnel: Unbound	2) None 3)(a) None 3)(b) Unbound 4)(a) Ships crews: Unbound 4)(b) key shore personnel: Unbound	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
MARITIME AUXILIARY SERVICES			
Maritime Cargo Handling services	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule. 4) None	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	
Storage and Warehousing services in Ports	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule. 4) None	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	
Customs Clearance Services	1) Unbound* 2) None 3) Unbound 4) Unbound	1) Unbound* 2) None 3) Unbound 4) Unbound	
Container Station and Depot Services	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule. 4) None	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	
Maritime Agency Services	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule. 4) None	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	
Maritime Freight Forwarding Services	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule. 4) None	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
International rental/ charter of vessels with crew or on bareboat basis (excluding cabotage and offshore transport)	1) Unbound 2) None except obtaining permission from Director General (Shipping) for chartering a foreign flag vessel in the absence of availability of a suitable Indian vessel. 3) Unbound 4) Unbound	1) Unbound 2) None, except vessels rented by Indian nationals are considered as foreign vessels. 3) Unbound 4) Unbound	
Maintenance and repairs of sea going vessels	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule. 4) None	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	
Ship Broking Service (CPC 748**)	1) Unbound 2) None 3) None, except as indicated in the head Note. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) None 3) None, except as indicated in the Horizontal commitment / head Note to this Schedule. 4) Unbound except as indicated in horizontal commitments	
11 C. Air Transport Services (d) Maintenance and repair of aircraft (CPC 8868**)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	

(*) Unbound due to lack of technical feasibility

published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.

- (g) Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application relating to the supply of financial services.
- (h) Each Party's regulatory authorities shall make available to interested persons the requirements, including any documentation required, for completing applications relating to the supply of financial services.
- (i) On the request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.
- (j) Unless any specified period for an administrative decision is provided for in the applicable laws or regulations, a Party's regulatory authority shall make an administrative decision on a completed application of an applicant relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, or the period specified under the applicable laws or regulations, as the case may be, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time thereafter.
- (k) On the request of an unsuccessful applicant, a regulatory authority that has denied an application, to the extent practicable, inform the applicant of the reasons for denial of the application.

5. Treatment of Certain Information

Nothing in this Annex requires a Party to furnish or allow access to:

- (a) information related to the financial affairs and accounts of individual customers of financial service suppliers;
- (b) any confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises; or
- (c) any confidential or proprietary information in the possession of public entities.

6. New Financial Services

- (a) A "new financial service" is a financial service that is not supplied by any financial service supplier in the territory of a Party but which is supplied

within the territory of the other Party and includes financial products or the manner in which a financial product or service is delivered.¹²

- (b) Each Party shall permit a financial institution of the other Party¹³ to supply any new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party. Notwithstanding Article 6.4.2(e), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where a Party requires a financial institution to obtain authorisation to supply a new financial service, the Party shall decide within a reasonable time whether to issue the authorisation and the authorisation may be refused only for prudential reasons.

7. Dispute Settlement

Arbitral tribunals agreed between or appointed by the Parties under Chapter Fourteen (Dispute Settlement) for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

8. Definitions

For the purposes of this Annex:

Financial service is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

- (a) Direct insurance (including co-insurance):
 - (i) life,
 - (ii) non-life;
- (b) Reinsurance and retrocession;
- (c) Insurance intermediation, such as brokerage and agency;
- (d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

¹² The Parties understand that new financial services include financial services and products that are existing and may be developed in future within the territory of only one Party.

¹³ Financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party.

Banking and other financial services (excluding insurance)

- (e) Acceptance of deposits and other repayable funds from the public;
- (f) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (g) Financial leasing;
- (h) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (i) Guarantees and commitments;
- (j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (i) money market instruments (including cheques, bills, certificates of deposits);
 - (ii) foreign exchange;
 - (iii) derivative products including, but not limited to, futures and options;
 - (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (v) transferable securities; or
 - (vi) other negotiable instruments and financial assets, including bullion;
- (k) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (l) Money broking;
- (m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
- (p) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference

and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

Financial service supplier means any natural or juridical person of a Party wishing to supply or supplying financial services but the term “financial service supplier” does not include a public entity;

Public entity means:

- (a) a government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
- (b) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions; and

Self-regulatory organisation means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions, by statute or delegation from central, regional or local governments or authorities.

CHAPTER SEVEN
TELECOMMUNICATIONS

ARTICLE 7.1: DEFINITIONS

For the purposes of this Chapter:

Cost-oriented rates means rates based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

End-user means a final consumer of, or subscriber to, a public telecommunications transport service, including a service supplier but excluding a supplier of public telecommunications transport services;

Essential facilities means facilities of a public telecommunications transport network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service;

Interconnection means linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

Leased circuits means telecommunications facilities between two or more designated points which are set aside for the dedicated use of, or availability to, a particular customer or other users;

Major supplier means a supplier of public telecommunications transport networks or services which has the ability to materially affect the terms of participation having regard to price and supply in the relevant market for public telecommunications transport networks or services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market;

Non-discriminatory means treatment no less favourable than that accorded to any other users of like public telecommunications transport networks or services in like circumstances;

Public telecommunications transport network means telecommunications infrastructure which permits telecommunications between and among defined network termination points;

Public telecommunications transport service¹ means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally. Such services may include, *inter alia*, telegraph, telephone, telex, and data transmission typically involving the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information;

Supplier of public telecommunications transport services of the other Party means any supplier of public telecommunications transport services owned or controlled by persons of the other Party with commercial presence in the territory of a Party, including those who provide such services to other suppliers of public telecommunications transport services;

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

Telecommunications regulatory body means a central level body responsible for the regulation of telecommunications; and

Users means a service consumer or a service supplier.

ARTICLE 7.2: SCOPE AND COVERAGE

1. This Chapter applies to measures affecting trade in telecommunications services.
2. This Chapter shall apply, subject to rules, regulations and licence conditions as applicable within the territory of each Party, under the framework of Chapter Six (Trade in Services).
3. This Chapter does not apply to measures adopted or maintained by a Party relating to cable or broadcast distribution of radio or television programming.
4. Nothing in this Chapter shall be construed to:
 - (a) require a Party to authorise a service supplier of the other Party to establish, construct, acquire, lease, operate, or supply telecommunications transport networks or services; or

¹ With respect to Korea, telecommunications services as defined in Article 4.4 of *Telecommunication Business Act* are not considered public telecommunications transport services for the purposes of this Agreement.

- (b) require a Party (or to require a Party to oblige service suppliers in its territory) to establish, construct, acquire, lease, operate or supply telecommunications transport networks or services not offered to the public generally.

Section A: Access to and Use of Public Telecommunications Transport Networks and Services

ARTICLE 7.3: ACCESS AND USE

1. Each Party shall ensure that service suppliers of the other Party is accorded access to and use of public telecommunications transport networks and services, on reasonable and non-discriminatory terms and conditions, for the supply of a service included in its Schedule. This obligation shall be applied, *inter alia*, under paragraphs 2 through 6.

2. Each Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications transport networks and services offered in its territory, through its licenced suppliers of public telecommunications transport networks or services, within or across the border of that Party, including private leased circuits, and to this end shall ensure, subject to paragraphs 5 and 6, that such service suppliers are permitted to:

- (a) purchase or lease and attach terminal or other equipment which interfaces with the public telecommunications transport networks and which is necessary to supply a service supplier's services;
- (b) interconnect private leased or owned circuits with public telecommunications transport networks and services or with circuits leased or owned by another service supplier²;
- (c) perform switching, signalling and processing functions;
- (d) use operating protocols of the service supplier's choice in the supply of any service, other than as necessary to ensure the availability of telecommunications transport networks and services to the public generally; and

² In India, interconnection of private networks to public telecommunications transport networks is not permitted under its current laws and regulations. However, India will permit interconnection as and when it changes its relevant laws and regulations

- (e) provide services to individual or multiple end-users over any leased or owned circuit(s) to the extent that the scope and type of such services are consistent with its laws and regulations.
3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications transport networks and services for the movement of information within its territory or across borders, including for intra-corporate communications of such service suppliers, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of the Party.
 4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure
. . .
the security and confidentiality of messages, or to protect the privacy of personal data of end-users subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.
 5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications transport networks and services other than as necessary to:
 - (a) safeguard the public service responsibilities of suppliers of public telecommunications transport networks or services, in particular their ability to make their networks or services available to the public generally;
 - (b) protect the technical integrity of public telecommunications transport networks or services;
 - (c) ensure that service suppliers of the other Party do not supply services unless permitted pursuant to commitments in its Schedule; or
 - (d) ensure that such access to and use of telecommunications transport networks and services should not become a security or safety hazard and is not in contravention of any statute, rule or regulation and public policy of the Party which are publicly available and applied without discrimination on the suppliers and users of services of similar categories.
 6. Provided that the Parties satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications transport networks and services may include:
 - (a) restrictions on resale or shared use of such services;

- (b) a requirement to use specified technical interfaces, including interface protocols, for the interconnection with such networks and services;
- (c) requirements, where necessary, for the inter-operability of such services;
- (d) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks;
- (e) restrictions on interconnection of private leased or owned circuits with such networks or services or with circuits leased or owned by another service supplier; or
- (f) notification, registration and licencing.

7. Notwithstanding the preceding paragraphs, each Party may, consistent with its level of development, place reasonable conditions on access to and use of public telecommunications transport networks and services necessary to strengthen its domestic telecommunications infrastructure and service capacity and to increase its participation in international trade in telecommunications services. Such conditions shall be specified in each Party's Schedule.

Section B: Conduct of Major Suppliers³

ARTICLE 7.4: TREATMENT BY MAJOR SUPPLIERS

1. Each Party shall ensure that any major supplier in its territory accords suppliers of public telecommunications transport networks or services of the other Party treatment no less favourable than such major supplier accords to its subsidiaries, its affiliates, or any non-affiliated service supplier regarding:

- (a) the availability, provisioning, rates, or quality of like public telecommunications transport networks or services; and
- (b) the availability of technical interfaces necessary for interconnection.

2. A Party shall assess such treatment on the basis of whether such suppliers of public telecommunications transport networks or services, subsidiaries, affiliate, and non-affiliated service suppliers are in like circumstances.

³ For greater clarity, the obligations imposed under this Section only apply with respect to those public telecommunications transport networks or services that result in a supplier of public telecommunications transport networks or services being a major supplier, in accordance with laws and regulations of the Parties.

3. Nothing in this Article shall prevent either Party to take such measures as are necessary to protect the security of their networks subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

ARTICLE 7.5: ACCESS TO MAJOR SUPPLIERS' INFRASTRUCTURE

1. Each Party shall endeavour to require the major suppliers in its territory to provide suppliers of public telecommunications transport networks or services of the other Party:

- (a) access to the major suppliers' unbundled network elements for interconnection or for the provision of public telecommunications transport networks or services;
- (b) physical co-location of equipment necessary for interconnection or access to unbundled network elements, at premises owned or controlled by the major suppliers; and
- (c) access to poles, ducts, conduits or any other structures deemed necessary by the Party, which are owned or controlled by such major suppliers;

on terms, conditions, and at rates that are reasonable, transparent and non-discriminatory, subject to mutually agreed terms and conditions within the overall policy framework of that Party.

2. Implementation of paragraph 1 shall be determined by each Party in accordance with its laws and regulations.

3. Nothing in this Article shall prevent either Party to take such measures as are necessary to protect the security of their networks subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

ARTICLE 7.6: COMPETITIVE SAFEGUARDS

Prevention of anti-competitive practice in telecommunications

1. Each Party shall, through the relevant authority, maintain appropriate measures for the purpose of preventing suppliers of public telecommunications transport networks or services who, alone or together, are a major supplier in its territory, from engaging in or continuing anti-competitive practices.

Safeguards

2. For the purposes of paragraph 1, anti-competitive practices shall include:
 - (a) using information obtained from competitors for anti-competitive results; and
 - (b) not making available, on a timely basis, to suppliers of public telecommunications transport networks or services, technical information about essential facilities and commercially relevant information which are necessary for them to provide public telecommunications transport networks or services.

ARTICLE 7.7: INTERCONNECTION

Interconnection with Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides interconnection at any specified technically feasible point in the network as per mutual agreement subject to regulations by regulatory body. Such interconnection is provided:
 - (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates⁴ and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for like services of its subsidiaries or other affiliates;
 - (b) in a timely manner⁵, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent and reasonable, having regard to economic feasibility, so that the supplier need not pay for network components or facilities that it does not require for the services to be provided; and
 - (c) upon request, at points in addition to the network termination points offered to the majority of suppliers of public telecommunications transport networks or services, subject to charges that reflect the cost of construction of necessary additional facilities, technical feasibility and mutually agreed terms and conditions.

⁴ The Parties understand that interconnection rates are commercially negotiated between suppliers of public telecommunications transport networks or services.

⁵ The Parties understand that timeliness may vary from case to case, depending upon the complexity of each interconnection negotiation, which may be affected by a range of factors. However, interconnection may not be delayed without justifiable reason.

have caused nullification or impairment; and/or

- (b) the complaining Party may suspend benefits in other sectors, if it considers that it is not practicable or effective to suspend benefits in the same sector.

5. The suspension of benefits shall be temporary and shall only be applied until such time as the measure found to be inconsistent with this Agreement, or to have caused nullification or impairment, has been removed, or a mutually satisfactory solution is reached.

6. If the responding Party considers that:

- (a) the level of benefits that the complaining Party has proposed to be suspended is manifestly excessive; or
- (b) it has eliminated the non-conformity, nullification or impairment that the arbitral panel has found;

it may request the original arbitral panel to determine the matter. The original arbitral panel shall present its determination to the Parties within 30 days after it is reconvened.

7. Where there is disagreement as to the existence, or consistency with this Agreement, of measures taken to comply with the determinations or recommendations of the arbitral panel, such dispute shall be decided through recourse to the dispute settlement procedures under this Chapter, including, wherever possible resort to the original arbitral panel. The arbitral panel shall provide its report to the Parties within 60 days after the date of referral of the matter to it.

8. If the arbitral panel cannot be reconvened with its original members, the procedures for appointment of the arbitral panel set out in Article 14.7 shall be applied.

ARTICLE 14.15: OFFICIAL LANGUAGE

1. All proceedings and all documents submitted to the arbitral panel shall be in the English language.

2. When an original document submitted to the arbitral panel by a Party is not in English, that Party shall translate it into English and submit it together with the original document.

ARTICLE 14.16: EXPENSES

1. Unless the Parties otherwise agree, the costs of the arbitral panel and other expenses associated with the conduct of its proceedings shall be borne in equal parts by both Parties.

2. Each Party shall bear its own expenses and legal costs in the arbitral proceedings.

ANNEX 14-A
MODEL RULES OF PROCEDURE

Application

1. These Rules are established under Article 14.9 and shall apply to dispute settlement proceedings under this Chapter unless the Parties otherwise agree.

Definitions

2. For the purposes of this Annex:

Complaining Party means a Party that requests the establishment of a panel under Article 14.6;

Responding Party means a Party complained against; and

Arbitral panel means an arbitral panel established under Article 14.7.

3. Any reference made in these Rules to an Article, is a reference to the appropriate Article under this Chapter.

Terms of Reference for Panels

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

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral panel pursuant to Article 14.6, to make findings of fact and/or law together with the reasons thereof as well as recommendations, if any, on the means to resolve the dispute, and to deliver the written reports referred to in Articles 14.11 and 14.12."

5. The Parties shall promptly deliver the agreed terms of reference to the panel, upon the designation of the last member of the panel.

6. If the complaining Party argues that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

Written Submissions and Other Documents

7. Each Party shall deliver no less than four copies of its written submission to the panel and a copy to the other Party.

8. A complaining Party shall deliver its initial written submission to the responding Party no later than 15 days after the date on which the last panelist is

appointed. The responding Party shall deliver its written submission to the complaining Party no later than 30 days upon receipt of the initial written submission of the complaining Party.

9. In respect of a request, notice or other documents related to the panel proceedings that is not covered by paragraph 7 or 8, each Party shall deliver copies of the documents to the other Party by facsimile, email or other means of electronic transmission.

10. A Party may at any time correct minor errors of a clerical nature in any request, notice, written submission or other documents related to the panel proceedings by delivering a new document clearly indicating the changes.

Operation of Panels

11. The chair of the panel shall preside at all of its meetings. A panel may delegate to the chair authority to make administrative and procedural decisions.

12. Except as otherwise provided for in these Rules, the panel may conduct its business by any means, including by telephone, facsimile transmission and computer links.

13. Only members of the panel may take part in the deliberations of the panel, but the panel may in consultation with the Parties employ such number of assistants, interpreters or translators, or court reporters (designated note takers) as may be required for the proceedings and permit them to be present during such deliberations. The members of the panel and the persons employed by the panel shall maintain the confidentiality of the panel's proceedings unless such information is already made available to the public.

14. A panel may, in consultation with the Parties, modify any time period applicable in the panel proceedings and make other procedural or administrative adjustments as may be required in the proceedings.

Hearings

15. The chair of the panel shall fix the date and time of the hearing in consultation with the Parties and the other members of the panel, and then notify the Parties in writing of the date, time and location of the hearing.

16. The venue for the proceedings of the panel shall be decided by mutual agreement between the Parties. If there is no agreement, the venue shall alternate between the territories of the Parties with the venue of the first sitting to be in the territory of the complaining Party.

17. The hearing shall be conducted by the panel in a manner ensuring that the complaining Party and the responding Party are afforded equal time for arguments, replies and counter-replies.

Decisions of the Panel

18. The panel shall take its decisions by consensus, provided that where a panel is unable to reach consensus it may take its decisions by majority vote.

Availability of Information

19. A Party may designate specific information included in its written submissions, or that it has presented in the panel hearing, for confidential treatment, to the extent it considers strictly necessary to protect personal privacy or legitimate commercial interests of particular enterprises, public or private, or to address essential confidentiality concerns.

20. A Party shall treat as confidential any information submitted by the other Party to the panel that the latter Party has designated as confidential pursuant to paragraph 19.

21. Each Party shall take such reasonable steps as are necessary to ensure that its experts, interpreters, translators, court reporters (designated note takers) and other individuals involved in the panel proceedings maintain the confidentiality of the panel proceedings.

Remuneration and Payment of Expenses

22. The panel shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to their assistants, court reporters (designated note takers) or other individuals that it retains in a panel proceeding in consultation with the Parties.