

**PREFERENTIAL TRADE AGREEMENT**

**BETWEEN**

**THE REPUBLIC OF CHILE**

**AND**

**THE REPUBLIC OF INDIA**

## **Preamble**

The Government of the Republic of India and the Government of the Republic of Chile, (hereinafter referred to as the "Parties");

CONSIDERING that the expansion of their domestic markets, through economic integration, is a vital prerequisite for accelerating their processes of economic development;

BEARING in mind the desire to promote mutually beneficial bilateral trade;

CONVINCED of the need to establish and promote free trade for strengthening intra-regional economic cooperation and the development of national economies;

FURTHER RECOGNISING that progressive reductions and elimination of obstacles to bilateral trade through a bilateral preferential trading arrangement (hereinafter referred to as "The Agreement") would contribute to the expansion of world trade; and

FURTHER ACKNOWLEDGING the creation of the Joint Study Group, in accordance with the Framework Agreement signed by the two Parties in January 2005, to study the feasibility of moving towards a Free Trade Agreement/Comprehensive Economic Cooperation Agreement between Chile and India, and due consideration that should be given to its recommendations,

HAVE agreed as follows:

## **Article I Objectives**

1. The Parties agree to establish a Preferential Trade Agreement in accordance with the provisions of this Agreement and in conformity with the relevant Agreements of the World Trade Organization (WTO).
2. The objectives of this Agreement are to:
  - (a) promote through the expansion of trade the harmonious development of the economic relations between India and Chile;
  - (b) provide fair conditions of competition for trade between India and Chile;
  - (c) pay due regard to the principle of reciprocity in the implementation of this Agreement; and
  - (d) contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

## **Article II Definitions**

For the purpose of this Agreement:

**goods of a Party** means an originating goods as defined in Article 2 of Annex C;

**measure** includes any law, regulation, procedure, requirement or practice which may be applied to originating goods;

**preferential treatment** means any concession or privilege granted under this Agreement by a Party through the progressive reduction and/or elimination of tariffs on the movement of goods;

**tariffs** means any customs or import duty and a 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 the *General Agreement on Tariffs and Trade 1994* (GATT 1994); in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) antidumping or countervailing duty; and
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered.

**the Committee** means the Joint Administration Committee referred to in Article XVII.

### **Article III Scope and Coverage**

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

### **Article IV Elimination of Tariffs**

1. The Parties hereby agree to establish a Preferential Trade Agreement for the purpose of free movement of goods between their countries through elimination or reduction of tariffs on the movement of goods in accordance with the provisions of Annexes A & B.
2. On the request of either Party, the Parties shall consult to consider accelerating the elimination or reduction of tariffs set out in their Schedules to Annex A & B or to include new products to these Annexes. An agreement between the Parties to accelerate the elimination or reduction of a tariff on a good or to include new products for elimination of tariffs shall supercede any duty rate or staging category determined pursuant to their Schedules to Annex A & B for such good when approved by each Party in accordance with Article XVII and its applicable legal procedures.

### **Article V National Treatment**

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994.

### **Article VI State Trading Enterprises**

1. Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise, as understood in Article XVII of GATT 1994.
2. Each Party shall ensure that any state enterprise that it maintains or establishes acts in a manner that is not inconsistent with the obligations of the Parties, under this Agreement and accords non-discriminatory treatment in the import from and export to the other Party.

### **Article VII Rules of Origin**

Goods covered by the provisions of this Agreement shall be eligible for preferential treatment provided they satisfy the Rules of Origin as set out in Annex C.

### **Article VIII Import and Export Restrictions**

Except as otherwise provided in this Agreement and in accordance with Article XI of GATT 1994, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party.

### **Article IX Agricultural Export Subsidies**

The Parties share the long term objective of establishing a fair and market oriented agriculture trading system under the aegis of the WTO. They agree to work towards the conclusion of the agriculture negotiations to secure elimination by a credible date of export subsidies, substantial reduction in all forms of trade distorting domestic support and substantial improvements in market access with operationally effective special and differential treatment for developing countries which is integral to all aspects of the negotiations and their outcome consistent with the WTO Doha Ministerial Declaration (WT/MIN(01)/DEC1) and the Decision adopted by the WTO General Council on 1 August 2004 (WT/L/579).

### **Article X Global Safeguards**

1. The Parties shall retain their rights and obligations to apply safeguard measures consistent with Article XIX of GATT 1994 and the WTO Agreement on Safeguards.
2. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the WTO Safeguards Agreement.

### **Article XI Preferential Safeguard Measures**

The Parties can apply preferential safeguard measures under this Agreement subject to the provisions established in the Annex D.

### **Article XII Technical Barriers to Trade**

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement on Technical Barriers to Trade (TBT Agreement).
2. The Parties shall strengthen their co-operation in the field of standards, technical regulations and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.
3. The bilateral cooperation shall include opportunities to promote technical cooperation between regulatory agencies such as, information sharing, training programme to improve and update technical knowledge of the concerned personnel of both the Parties, facilitate the acceptance of technical regulations and conformity assessment procedures in the most efficient way possible, including mechanisms such as Mutual Recognition Agreements in mutually agreed areas.
4. The Parties agree to hold consultations where one of the Parties considers that the other Party has taken measures which are likely to create or have created an obstacle to trade, in order to find an appropriate solution.
5. Activities referred to in the above paragraphs shall be carried out by the Director of the Foreign Trade Department of the Ministry of Economy, for the Chilean side and the Joint Secretary, Latin America Division, Department of Commerce for the Indian side. The activities shall be reported to the Committee.

### **Article XIII** **Sanitary and Phytosanitary Measures**

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement).
2. The Parties agree to facilitate the cooperation in the field of the SPS Agreement between them and to promote and develop trade of animals, animal products, plants, plant products, and food products, preventing the introduction or spread of pest or disease, and to enhance plant and animal and food safety.
3. The Parties agree to exchange information on the application of sanitary and phytosanitary measures; to exchange regulations, standards, procedures, model of certification and technologies related to animal and plant quarantine, food safety, biosecurity, risk management and international standards. Both Parties agree to exchange information and experiences on the implementation of the SPS Agreement and the international standards, guidelines and recommendations developed by *the International Office of Epizootics, the International Plan Protection Convention* and the *Codex Alimentarius*.
4. The Parties agree to hold consultations where one of the Parties considers that the other Party has taken measures which are likely to create or have created an obstacle to trade in order

to find an appropriate solution. Any matters on which it has not been possible to find a satisfactory solution, shall be referred to the Committee through a notification.

5. Activities referred to in paragraphs 2, 3 and 4 shall be carried out by the Director of Bilateral Economic Relations, DIRECON, Ministry of Foreign Affairs, for the Chilean side and the Joint Secretary, Latin America Division, Department of Commerce for the Indian side. The activities shall be reported to the Committee.

6. The Parties shall also try and explore the possibilities of Mutual Recognition Agreements (MRA) in mutually agreed areas.

#### **Article XIV Customs Valuation**

On matters related to Customs Valuation, the Parties shall be governed by Article VII of GATT 1994 and the WTO Agreement on the Implementation of Article VII of GATT 1994.

#### **Article XV Customs Cooperation**

In order to facilitate cooperation in customs matters, including compliance issues, the Parties agree to establish a Working Group on Customs, which would negotiate a mechanism/protocol for customs cooperation within a period of six months from the date of entry into force of this Agreement. The Working Group shall meet as often as required and shall report to the Committee.

#### **Article XVI Anti-Dumping and Countervailing Duty Matters**

1. The Parties maintain their rights and obligations under Article VI of GATT 1994, the Agreement on Implementation of Article VI of GATT ("Agreement on Antidumping") and the Agreement on Subsidies and Countervailing Measures, which are part of the WTO Agreement.

2. Antidumping actions taken pursuant to Article VI of GATT 1994 and the Agreement on Antidumping, or countervailing actions taken pursuant to Article VI of GATT 1994 and the Agreement on Subsidies and Countervailing Measures shall not be subject to Article XVIII.

#### **Article XVII Joint Administration Committee**

1. A Joint Administration Committee shall be established at Secretary or equivalent level. The Committee shall meet at least once a year to review the progress made in the implementation of this Agreement and to ensure that benefits of trade expansion emanating

from this Agreement accrue to the Parties equitably. The Committee may set up Sub-Committees and/or Working Groups as considered necessary.

2. The Committee shall accord adequate opportunities for consultation on representations made by either Party with respect to any matter affecting the implementation of the Agreement. The Committee shall adopt appropriate measures for settling any matter arising from such representations within six months of the representation being made. Each Party shall implement such measures immediately.

### **Article XVIII Settlement of Disputes**

Any dispute that may arise in connection with the interpretation, application or non-compliance with the provisions of this Agreement, shall be submitted to the procedure established in Annex E.

### **Article XIX General Exceptions**

Nothing in this Agreement shall prevent any Party from adopting measures according to Article XX and Article XXI of the GATT 1994.

### **Article XX Amendments**

1. The Agreement may be modified or amended through mutual agreement of the Parties. Proposals for such modifications or amendments shall be submitted to the Committee by either Party and upon acceptance by the Committee, shall be approved in accordance with the applicable legal procedures of each Party<sup>1</sup>. Such modifications or amendments shall become effective when confirmed through an exchange of diplomatic notes and shall constitute an integral part of the Agreement.

2. Provided however that in emergency situations, proposals for modifications may be considered by the Parties and if agreed, given effect to through an exchange of diplomatic notes.

### **Article XXI Annexes**

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<sup>1</sup> Chile shall implement the actions of the Committee, regarding any modification of the list of items covered under Annexes A and B and the Rules of Origin under Annex C, in accordance with article 54 of the *Constitución Política de la República de Chile*.

The list of items covered under preferential tariff by the Government of Chile is at Annex A and the list of items covered under preferential tariff by the Government of India is at Annex B. Annexes A, B, C, D and E, as well as the footnotes therein are integral parts of this Agreement.

**Article XXII**  
**Duration and Termination of Agreement**

This Agreement shall remain in force until either Party terminates this Agreement by giving six months written notice to the other of its intention to terminate this Agreement.

**Article XXIII**  
**Entry into Force**

1. The Agreement shall enter into force on the day after the Parties hereto have notified each other that their respective constitutional requirements and procedures have been completed.
2. In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.
3. Signed at \_\_\_\_\_ on the day \_\_\_\_\_ of 200\_ in three originals each in Hindi, Spanish and English languages, all of them being equally authentic. In case of any divergence in interpretation, the English Text shall prevail.

GOVERNMENT OF THE  
REPUBLIC OF INDIA

GOVERNMENT OF THE  
REPUBLIC OF CHILE

## Annex A

### India's List of Products for Chile

SI No.	HS Code	Description	Margin of Preference (MOP)
1	0203.2100	--Carcasses and half-carcasses	15%
2	0203.2200	--Hams, shoulders and cuts thereof, with bone in	15%
3	0203.2900	--Other	15%
4	0206.2100	--Tongues	15%
5	0206.2200	--Livers	15%
6	0206.2900	--Other	15%
7	0206.4100	--Livers	15%
8	0206.4900	--Other	15%
9	0207.1400	--Cuts and offal, frozen :	15%
10	0207.2700	--Cuts and offal, frozen :	15%
11	0210.1100	--Hams, shoulders and cuts thereof, with bone in	15%
12	0210.1200	--Bellies (streaky) and cuts thereof	15%
13	0210.1900	--Other	15%
14	0210.2000	-Meat of bovine animals	15%
15	0302.1100	--Trout (Salmo trutta, Oncorhynchus mykiss, Oncorhynchus clarki, Oncorhynchus aguabonita, Oncorhynchus gilae, Oncorhynchus apache and Oncorhynchus chrysogaster) :	20%
16	0302.1200	--Pacific Salmon ( Oncorhynchus nerka, Oncorhynchus gorbuscha, Oncorhynchus keta,	20%
17	0302.6990	--- Other	20%
18	0303.1100	--Sockeye salmon (red salmon) (Oncorhynchus nerka)	20%
19	0303.1900	--Other	20%
20	0303.2100	--Trout (Salmo trutta, Oncorhynchus mykiss, Oncorhynchus clarki, Oncorhynchus aguabonita,	20%
21	0303.2200	--Atlantic salmon (Salmo salar) and Danube salmon (Hucho hucho)	20%
22	0303.7100	--Sardines (Sardina pilchardus, Sardinops spp.), sardinella (Sardinella spp.), brisling or sprats (Sprattus sprattus)	20%
23	0303.7400	--Mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus)	20%
24	0303.7700	Sea bass (Dicentrarchus labrax, Dicentrarchus punctatus)	20%
25	0303.7800	--Hake (Merluccius spp., Urophycis spp.) :	20%
26	0303.7910	--- Hilsa	20%
27	0303.7920	--- Dara	20%
28	0303.7930	--- Ribbon fish	20%
29	0303.7940	--- Seer	20%
30	0303.7950	--- Pomfret (white or silver or black)	20%
31	0303.7960	--- Ghole	20%
32	0303.7970	--- Threadfin	20%
33	0303.7980	--- Croacker, Grouper, Hounder	20%
34	0303.7991	---- Edible fishmaws of wild life	20%

35	0303.7992	---- Edible shark fins of wild life	20%
36	0303.7999	---- Other	20%
37	0303.8010	--- Egg or egg yolk of fish including shrimps	20%
38	0303.8090	--- Other	20%
39	0304.1000	-Fresh or chilled	20%
40	0304.2010	Hilsa	20%
41	0304.2020	Shark	20%
42	0304.2030	Seer	20%
43	0304.2040	Tuna	20%
44	0304.2050	Cuttlefish	20%
45	0304.2090	Other	20%
46	0304.9000	-Other	20%
47	0305.2000	-Livers and roes of fish, dried, smoked, salted or in brine	20%
48	0305.3000	-Fish fillets, dried, salted or in brine, but not smoked	20%
49	0305.4100	--Pacific salmon ( <i>Oncorhynchus nerka</i> , <i>Oncorhynchus gorbuscha</i> , <i>Oncorhynchus keta</i> , <i>Oncorhynchus tshawytscha</i> , <i>Oncorhynchus kisutch</i> , <i>Oncorhynchus masou</i> and <i>Oncorhynchus rhodurus</i> Atlantic salmon ( <i>Salmo salar</i> ) and Danube salmon ( <i>Hucho hucho</i> )	20%
50	0305.4900	--Other	20%
51	0305.5900	---Other	20%
52	0305.6990	---Other	20%
53	0306.1311	---- AFD Shrimp	20%
54	0306.1319	---- Other	20%
55	0306.1320	--- Prawns	20%
56	0306.1400	--Crabs	20%
57	0307.2100	--Live, fresh or chilled	20%
58	0307.2900	--Other	20%
59	0307.3910	--- Clams, clam meat (bivalves- <i>Victorita</i> , spp., <i>Mertrix</i> spp. and <i>Katalysia</i> spp.)	20%
60	0307.3990	--- Other	20%
61	0307.5900	--Other	20%
62	0307.9100	--Live, fresh or chilled	20%
63	0307.9990	--- Other	20%
64	0710.3000	-Spinach, New Zealand spinach and orache spinach (garden spinach)	20%
65	1601.0000	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	15%
66	1602.1000	-Homogenized preparations	15%
67	1602.3100	--Of turkeys	15%
68	1602.3200	--Of fowls of the species <i>Gallus domesticus</i> :	15%
69	1602.3900	--Other	15%
70	1602.4100	--Hams and cuts thereof	15%
71	1602.4900	--Other, including mixtures	15%
72	1602.5000	-Of bovine animals	15%
73	1604.1100	--Salmon:	20%
74	1604.1310	--- Sardines, sardinella and brisling	20%
75	1604.1320	--- Sprats	20%
76	1604.1500	--Mackerel	20%
77	1604.1600	--Anchovies:	20%
78	1604.1900	--Other:	20%
79	1604.2000	-Other prepared or preserved fish	20%
80	1605.1000	-Crab	20%
81	1605.2000	- Shrimps and prawns	20%

82	1605.9010	--- Clams	20%
83	1605.9020	--- Squid, octopus and cuttlefish	20%
84	1605.9030	--- Oysters	20%
85	1605.9090	--- Other	20%
86	2005.7000	-Olives	20%
87	2301.2011	In powder form	20%
88	2309.1000	-Dog or cat food, put up for retail sale	15%
89	2501.0020	Rock salt	20%
90	2603.0000	Copper ores and concentrates	10%
91	2801.2000	-Iodine	20%
92	2827.6020	--Potassium iodide	20%
93	2829.9030	Iodates and periodates	20%
94	2836.9100	--Lithium carbonates	20%
95	2839.1900	--Other	20%
96	2841.7020	Sodium molybdate	20%
97	2848.0090	--- Other	20%
98	2906.1400	--Terpineols	20%
99	2915.3920	Bornyl acetate and iso bornyl acetate	20%
100	2915.3930	Linalyl acetate	20%
101	2915.3950	Phenyl propyl acetate	20%
102	2915.3960	Terpinyl acetate	20%
103	2915.7030	Glycerol monostearate	20%
104	3104.3000	-Potassium sulphate	20%
105	3105.9010	Mineral or chemical fertilisers containing two fertilising elements namely nitrogen and potassium	20%
106	3105.9090	Other	20%
107	3402.9011	Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic surface active agents except laundry soap	20%
108	3402.9012	Cleaning or degreasing preparations not having a basis of soap or other organic surface active agents except laundry soap	20%
109	3402.9019	Other except laundry soap	20%
110	3402.9041	Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic surface active agents except laundry soap	20%
111	3402.9042	Cleaning or degreasing preparations not having a basis of soap or other organic surface active agents except laundry soap	20%
112	3402.9049	Other except laundry soap	20%
113	3402.9051	Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic surface active agents except laundry soap	20%
114	3402.9052	Cleaning or degreasing preparations not having a basis of soap or other organic surface active agents except laundry soap	20%
115	3402.9059	Other except laundry soap	20%

116	3402.9091	Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic surface active agents except laundry soap	20%
117	3402.9092	Cleaning or degreasing preparations not having a basis of soap or other organic surface active agents except laundry soap	20%
118	3402.9099	Other except laundry soap	20%
119	4104.1100	--Full grains, unsplit; grain splits	50%
120	4104.1900	--Other	50%
121	4104.4100	--Full grains, unsplit; grain splits	50%
122	4104.4900	--Other	50%
123	4107.9200	--Grains split	50%
124	4303.1020	Of animals covered under Convention on CITES), other than those of Tariff Item 4303 10 10	50%
125	4303.1090	Other	50%
126	4408.1010	---- Sheets for plywood	20%
127	4408.1020	---- Oak wood veneer	20%
128	4408.1030	---- Veneer sheets, for match boxes and match splints	20%
129	4410.3110	---- Plain particle boards	20%
130	4410.3120	---- Insulation board and hardboard	20%
131	4410.3130	---- Veneered particle board, not having decorative veneers on any face	20%
132	4410.3190	Other	20%
133	4410.3210	---- Plain particle boards	20%
134	4410.3220	---- Insulation board and hardboard	20%
135	4410.3230	---- Veneered particle board, not having decorative veneers on any face	20%
136	4410.3290	Other	20%
137	4411.1110	---- Hardboard	20%
138	4411.1190	Other	20%
139	4411.1910	---- Hardboard	20%
140	4411.1990	Other	20%
141	4411.2110	---- Insulation board	20%
142	4411.2190	Other	20%
143	4411.2910	---- Insulation board	20%
144	4411.2990	Other	20%
145	4411.3110	---- Insulation board	20%
146	4411.3190	Other	20%
147	4411.3910	---- Insulation board	20%
148	4411.3990	Other	20%
149	4412.1910	---- Decorative plywood	20%
150	4412.1930	---- Marine and aircraft plywood	20%
151	4412.1940	---- Cuttings and trimmings of plywood of width not exceeding 5 cm	20%
152	4412.1990	Other	20%
153	4415.2000	-Pallets, box pallets and other load boards; pallet collars:	20%
154	4418.1000	-Windows, french windows and their frames	20%
155	4418.2010	---- Flush doors	20%
156	4418.2020	---- Frames and thresholds of flush doors	20%
157	4418.2090	Other	20%

158	4421.9011	----For cotton machinery	20%
159	4421.9012	----For jute machinery	20%
160	4421.9013	----For silk regenerated and synthetic fibres machinery	20%
161	4421.9014	----For other machinery	20%
162	4421.9019	Other	20%
163	4421.9020	----Wood paving blocks	20%
164	4421.9050	----Parts of wood, namely oars, paddles and rudders for ships, boats and other similar floating structures	20%
165	4421.9070	---Articles of densified wood not elsewhere included or specified	20%
166	47032100	coniferous	20%
167	47032900	non-Coniferous	20%
168	48010010	glazed	20%
169	48010090	other	20%
170	4823.9013	Packing and wrapping paper	20%
171	4823.9014	Paper for cigarette filter tips	20%
172	4823.9016	Patterns made of papers for leather footwear, leather garments and goods	20%
173	4823.9019	Decorative laminates	20%
174	5101.1100	Shorn wool	25%
175	5103.1010	Noils of wool	25%
176	5103.1090	Other	25%
177	7204.2190	Other	20%
178	8904.0000	Tugs and pusher craft.	20%

## Annex B

### Chile's List of Products for India

Serial No.	HS 2002	Description	Margin of Preference
1	0306.13.19	---Other	20%
2	0712.20.00	-Onions	20%
3	0902.40.00	-Other black tea (fermented) and other partly fermented tea	20%
4	0909.30.00	-Seeds of cumin	20%
5	1207.40.00	-Sesamum seeds	20%
6	1301.90.00	-Other	20%
7	1302.19.90	---Other	20%
8	1302.32.00	--Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	20%
9	2513.20.00	-Emery, natural corundum, natural garnet and other natural abrasives	20%
10	2828.10.00	-Commercial calcium hypochlorite and other calcium hypochlorites	50%
11	2833.29.10	---Of cobalt	50%
12	2833.29.90	---Other	50%
13	2903.49.10	---Chlorodifluoromethane	50%
14	2905.17.00	--Dodecan-1-ol (lauryl alcohol), hexadecan-1-ol (cetyl alcohol) and octadecan-1-ol (stearyl alcohol)	50%
15	2905.45.00	--Glycerol	50%
16	2905.59.90	---Other	50%
17	2909.44.00	--Other monoalkylethers of ethylene glycol or of diethylene glycol	50%
18	2909.50.00	-Ether-phenols, ether-alcohol-phenols and their halogenated, sulphonated, nitrated or nitrosated derivatives	50%
19	2916.39.00	--Other	50%
20	2917.19.00	--Other	50%
21	2918.14.00	--Citric acid	50%
22	2919.00.00	Phosphoric esters and their salts, including lactophosphates; their halogenated, sulphonated, nitrated or nitrosated derivatives	50%
23	2921.49.00	--Other	50%
24	2922.19.90	---Other	50%
25	2922.49.90	---Other	50%
26	2922.50.00	-Amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function	50%
27	2924.29.90	---Other	50%
28	2925.20.00	-Imines and their derivatives; salts thereof	50%
29	2926.90.00	-Other	50%
30	2930.90.99	---Other	50%
31	2932.19.00	--Other	50%
32	2932.29.00	--Other lactones	50%
33	2932.99.90	---Other	50%
34	2933.21.00	--Hydantoin and its derivatives	50%
35	2933.29.00	--Other	50%
36	2933.39.99	----Other	50%
37	2933.49.00	--Other	50%
38	2933.59.00	--Other	50%
39	2933.69.00	--Other	50%
40	2933.99.90	---Other	50%
41	2934.10.00	-Compounds containing an unfused thiazole ring (whether or not hydrogenated) in the structure	50%

42	2934.99.40	---Oxolinic acid	50%
43	2934.99.90	---Other	50%
44	2935.00.00	Sulphonamides	50%
45	2936.29.00	--Other vitamins and their derivatives	50%
46	2937.22.00	--Halogenated derivatives of corticosteroidal hormones	50%
47	2938.90.00	-Other	50%
48	2939.11.90	---Other	50%
49	2939.42.00	--Pseudoephedrine (INN) and its salts	50%
50	2939.99.90	---Other	50%
51	2941.10.00	-Penicillins and their derivatives with a penicillanic acid structure; salts thereof	50%
52	2941.50.00	-Erythromycin and its derivatives; salts thereof	50%
53	2941.90.90	--Other	50%
54	3003.20.10	--For human use	20%
55	3003.90.10	--For human use	20%
56	3004.10.10	--For human use	20%
57	3004.20.10	--For human use	20%
58	3004.20.20	--For veterinary use	20%
59	3004.32.10	---For human use	20%
60	3004.39.10	---For human use	20%
61	3004.40.10	--For human use	20%
62	3004.90.10	--For human use	20%
63	3204.12.00	--Acid dyes, whether or not premetallised, and preparations based thereon; mordant dyes and preparations based thereon	20%
64	3204.16.00	--Reactive dyes and preparations based thereon	20%
65	3215.11.40	---Lithographic offset printing ink	20%
66	3215.19.40	---Lithographic offset printing ink	20%
67	3302.10.00	-Of a kind used in the food or drink industries	20%
68	3307.41.00	--"Agarbatti" and other odoriferous preparations which operate by burning	20%
69	3307.49.00	--Other	20%
70	3816.00.10	-Refractory cements	20%
71	3920.49.00	--Other :	20%
72	3920.62.90	---Other	20%
73	4009.21.00	--Without fittings	20%
74	4010.12.00	--Reinforced only with textile materials	20%
75	4010.32.00	--Endless transmission belts of trapezoidal cross-section (V-belts), other than V-ribbed, of an outside circumference exceeding 60 cm but not exceeding 180 cm	20%
76	4010.39.00	--Other	20%
77	4011.20.00	-Of a kind used on buses or lorries	20%
78	4011.99.10	---Of a kind used on vans	20%
79	4013.20.00	-Of a kind used on bicycles	20%
80	4014.10.00	-Sheath contraceptives	20%
81	4014.90.00	-Other	100%
82	4015.19.90	---Other	20%
83	4016.99.90	---Other	20%
84	4104.19.00	--Other	20%
85	4106.22.00	--In the dry state (crust)	20%
86	4107.99.00	--Other	20%
87	4114.10.00	-Chamois (including combination chamois) leather	20%
88	4202.21.00	--With outer surface of leather, of composition leather or of patent leather	20%
89	4202.22.20	---Of textile materials	20%

90	4202.31.00	--With outer surface of leather, of composition leather or of patent leather	20%
91	4203.10.10	--Jackets, car coats and sports jackets	20%
92	4203.10.90	--Other	20%
93	4203.29.00	--Other	20%
94	4203.40.00	-Other clothing accessories	20%
95	4205.00.00	Other articles of leather or of composition leather.	20%
96	4419.00.00	Tableware and kitchenware, of wood.	20%
97	4420.10.00	-Statuettes and other ornaments, of wood	20%
98	4420.90.00	-Other	20%
99	5007.20.00	-Other fabrics, containing 85 % or more by weight of silk or of silk waste other than noil silk	20%
100	5007.90.00	-Other fabrics	20%
101	5112.11.10	---Of wool	20%
102	5202.91.00	--Garnetted stock	20%
103	5204.11.00	--Containing 85 % or more by weight of cotton	20%
104	5205.12.00	--Measuring less than 714,29 decitex but not less than 232,56 decitex (exceeding 14 metric number but not exceeding 43 metric number)	20%
105	5205.13.00	--Measuring less than 232,56 decitex but not less than 192,31 decitex (exceeding 43 metric number but not exceeding 52 metric number)	20%
106	5205.22.00	--Measuring less than 714,29 decitex but not less than 232,56 decitex (exceeding 14 metric number but not exceeding 43 metric number)	20%
107	5205.23.00	--Measuring less than 232,56 decitex but not less than 192,31 decitex (exceeding 43 metric number but not exceeding 52 metric number)	20%
108	5206.12.00	--Measuring less than 714,29 decitex but not less than 232,56 decitex (exceeding 14 metric number but not exceeding 43 metric number)	20%
109	5206.22.00	--Measuring less than 714,29 decitex but not less than 232,56 decitex (exceeding 14 metric number but not exceeding 43 metric number)	20%
110	5206.25.00	--Measuring less than 125 decitex (exceeding 80 metric number)	20%
111	5207.10.00	-Containing 85 % or more by weight of cotton	20%
112	5208.12.00	--Plain weave, weighing more than 100 g/m <sup>2</sup>	20%
113	5208.22.00	--Plain weave, weighing more than 100 g/m <sup>2</sup>	20%
114	5310.10.00	-Unbleached	20%
115	5310.90.00	-Other	20%
116	5402.33.00	--Of polyesters	15%
117	5509.21.00	--Single yarn	15%
118	5509.22.00	--Multiple (folded) or cabled yarn	15%
119	5509.51.00	--Mixed mainly or solely with artificial staple fibres	15%
120	5509.53.10	---Measuring more than 416,67 decitex (but not exceeding 24 metric number)	15%
121	5509.53.30	---Measuring less than 333,33 decitex (exceeding 30 metric number)	15%
122	5509.59.00	--Other	15%
123	5509.62.00	--Mixed mainly or solely with cotton	15%
124	5511.10.10	--Of polyester	15%
125	5511.20.10	--Of polyester	15%
126	5512.19.10	---Dyed	15%
127	5515.11.40	---Printed	15%
128	5607.41.00	--Binder or baler twine	15%
129	5607.49.00	--Other	15%
130	5701.10.00	-Of wool or fine animal hair	15%
131	5702.10.00	-'Kelem', 'Schumacks', 'Karamanie' and similar hand-woven rugs	15%
132	5702.20.00	-Floor coverings of coconut fibres (coir)	15%
133	5702.42.10	---Of polypropylene	15%
134	5702.49.00	--Of other textile materials	15%
135	5702.99.00	--Of other textile materials	15%

136	5703.90.00	-Of other textile materials	15%
137	5704.90.00	-Other	15%
138	5705.00.00	Other carpets and other textile floor coverings, whether or not made-up.	15%
139	5808.90.00	-Other	15%
140	6105.10.11	---For men	10%
141	6105.10.12	---For boys	10%
142	6106.10.00	-Of cotton	10%
143	6107.11.00	--Of cotton	10%
144	6107.21.10	---For men	10%
145	6107.21.20	---For boys	10%
146	6108.21.20	---For girls	10%
147	6108.31.10	---For women	10%
148	6108.31.20	---For girls	10%
149	6109.10.11	---For men and women	10%
150	6109.10.12	---For boys and girls	10%
151	6109.90.31	---For men and women	10%
152	6110.30.90	--Other	10%
153	6111.20.00	-Of cotton	10%
154	6114.30.10	--Of synthetic fibres	10%
155	6117.10.30	--Of man-made fibres	10%
156	6203.42.91	----Trousers	10%
157	6203.42.99	----Shorts	10%
158	6203.43.11	----Trousers	10%
159	6204.42.00	--Of cotton	10%
160	6204.43.00	--Of synthetic fibres	10%
161	6204.44.00	--Of artificial fibres	10%
162	6204.49.00	--Of other textile materials	10%
163	6204.52.00	--Of cotton	10%
164	6204.53.00	--Of synthetic fibres	10%
165	6204.59.10	---Of artificial fibres	10%
166	6204.62.91	----Trousers	10%
167	6205.20.10	--For men	10%
168	6206.30.00	-Of cotton	10%
169	6206.40.11	---For women	10%
170	6206.40.21	---For women	10%
171	6207.11.00	--Of cotton	10%
172	6207.21.00	--Of cotton	10%
173	6208.21.00	--Of cotton	10%
174	6208.22.00	--Of man-made fibres	10%
175	6208.91.00	--Of cotton	10%
176	6209.20.00	-Of cotton	10%
177	6211.33.00	--Of man-made fibres	10%
178	6211.42.00	--Of cotton	10%
179	6211.43.00	--Of man-made fibres	10%
180	6214.10.00	-Of silk or silk waste	10%
181	6214.30.00	-Of synthetic fibres	10%
182	6214.40.00	-Of artificial fibres	10%
183	6214.90.00	-Of other textile materials	10%
184	6217.10.00	-Garments or clothing accessories	10%
185	6301.30.00	-Blankets (other than electric blankets) and travelling rugs, of cotton	10%
186	6302.21.10	---Sheets and pillowcases	10%
187	6302.21.90	---Other	10%
188	6302.22.10	---Sheets and pillowcases	10%

189	6302.31.10	---Sheets and pillowcases	10%
190	6302.31.90	---Other	10%
191	6302.40.00	-Table linen, knitted or crocheted	10%
192	6302.51.00	--Of cotton	10%
193	6302.53.00	--Of man-made fibres	10%
194	6302.60.14	---Towels measuring more than 60 cm, but not more than 160 cm	10%
195	6302.60.91	---Kitchen linen	10%
196	6302.91.10	---Kitchen linen	10%
197	6302.91.90	---Other	10%
198	6303.11.00	--Of cotton	10%
199	6303.91.00	--Of cotton	10%
200	6304.11.00	--Knitted or crocheted	10%
201	6304.19.00	--Other	10%
202	6304.91.00	--Knitted or crocheted	10%
203	6304.92.00	--Not knitted or crocheted, of cotton	10%
204	6307.90.00	-Other	10%
205	6401.10.00	-Footwear incorporating a protective metal toe-cap	20%
206	6403.59.11	----With in-soles of a length of less than 24 cm	20%
207	6403.59.12	----For men, with in-soles of a length of 24 cm or more	20%
208	6403.59.92	----For men, with in-soles of a length of 24 cm or more	20%
209	6403.99.11	----With in-soles of a length of less than 24 cm	20%
210	6403.99.12	----For men, with in-soles of a length of 24 cm or more	20%
211	6403.99.13	----For women, with in-soles of a length of 24 cm or more	20%
212	6403.99.92	----For men, with in-soles of a length of 24 cm or more	20%
213	6403.99.93	----For women, with in-soles of a length of 24 cm or more	20%
214	6406.10.00	-Uppers and parts thereof, other than stiffeners	50%
215	6902.10.00	-Containing by weight, singly or together, more than 50% of the elements Mg, Ca or Cr, expressed as MgO (Magnesium Oxide), CaO (Calcium Oxide) or Cr <sub>2</sub> O <sub>3</sub> (Chromium Oxide)	20%
216	6902.90.00	-Other	20%
217	7113.11.00	--Of silver, whether or not plated or clad with other precious metal	20%
218	7117.19.90	---Other	20%
219	7117.90.00	-Other	20%
220	7202.30.00	-Ferro-silico-manganese	20%
221	7208.39.00	--Of a thickness of less than 3 mm	20%
222	7210.49.00	--Other	20%
223	7222.11.00	--Of circular cross-section	20%
224	7222.20.00	-Bars and rods, not further worked than cold-formed or cold-finished	20%
225	7222.30.00	-Other bars and rods	20%
226	7222.40.00	-Angles, shapes and sections	20%
227	7223.00.00	Wire of stainless steel	20%
228	7228.50.00	-Other bars and rods, not further worked than cold-formed or cold-finished	20%
229	7307.29.00	--Other	20%
230	7307.91.00	--Flanges	20%
231	7308.40.00	-Equipment for scaffolding, shuttering, propping or pitpropping	20%
232	7315.89.10	---For transmission	20%
233	7323.93.00	--Of stainless steel	20%
234	7323.99.00	--Other	20%
235	7609.00.00	Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	20%
236	7615.19.00	--Other	20%
237	8204.11.00	--Non-adjustable	20%
238	8205.59.90	---Other	20%

239	8207.40.00	-Tools for tapping or threading	20%
240	8207.50.90	--Other	20%
241	8212.10.10	--Disposable razors	20%
242	8215.99.00	--Other	20%
243	8302.10.00	-Hinges	20%
244	8306.21.00	--Plated with precious metal	20%
245	8306.29.00	--Other	20%
246	8307.10.00	-Of iron or steel	20%
247	8309.90.90	--Other	20%
248	8409.99.90	---Other	20%
249	8415.82.00	--Other, incorporating a refrigerating unit	20%
250	8419.40.00	-Distilling or rectifying plant	20%
251	8421.19.00	--Other	20%
252	8430.49.90	---Other	20%
253	8445.40.00	-Textile winding (including weft-winding) or reeling machines	20%
254	8447.11.00	--With cylinder diameter not exceeding 165 mm	20%
255	8479.89.10	---For chemical or pharmaceutical industry	20%
256	8481.90.00	-Parts	20%
257	8482.20.10	--Single-row taper roller bearings	20%
258	8504.23.20	---Having a power handling capacity exceeding 37.500 kVA but not exceeding 75.000 kVA	20%
259	8512.20.30	--For the vehicles of heading 87.03	20%
260	8517.19.90	---Other	20%
261	8523.13.00	--Of a width exceeding 6,5 mm	20%
262	8523.20.19	---Other	20%
263	8523.90.00	-Other	20%
264	8524.39.10	---For reproducing representations of instructions, data, sound, and image, recorded in a machine readable binary form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data processing machine; proprietary fo	20%
265	8538.90.90	--Other	20%
266	8539.29.11	----Incandescence lamps and electrical tubes	20%
267	8545.11.00	--Of a kind used for furnaces	20%
268	8701.90.11	---Agricultural	20%
269	8701.90.19	---Other	20%
270	8703.21.91	----Motor cars	20%
271	8708.39.90	---Other	20%
272	8708.93.90	---Parts	20%
273	8708.99.90	---Other	20%
274	8711.20.10	--Motor cars	20%
275	8711.20.20	--All terrain vehicles	20%
276	8714.99.90	---Other	20%
277	9001.40.00	-Spectacle lenses of glass	20%
278	9006.53.90	---Other	20%
279	9006.59.00	--Other	20%
280	9018.11.10	---Electro-cardiographs	20%
281	9018.32.00	--Tubular metal needles and needles for sutures	100%
282	9018.39.10	---Catheters	100%
283	9018.39.90	---Others	100%
284	9018.90.80	--Other instruments and apparatus	20%
285	9020.00.11	--Autonomous	20%
286	9207.90.00	-Other	20%
287	9403.60.90	--Other	20%
288	9404.90.10	--Eiderdowns	20%

289	9404.90.20	--Cushions and pillows	20%
290	9404.90.90	--Other	20%
291	9405.50.00	-Non-electrical lamps and lighting fittings	20%
292	9506.62.10	---Football and soccer balls	20%
293	9506.62.20	---Basketballs	20%
294	9506.62.90	---Other	20%
295	9602.00.00	Worked vegetable or mineral carving material and articles of these materials; moulded or carved articles of wax, of stearin, of natural gums or natural resins or of modelling pastes, and other moulded or carved articles, not elsewhere specified or include	20%
296	9603.21.00	--Tooth brushes, including dental-plate brushes	20%

## **Annex C**

### **Rules of Origin**

#### **Section I General Provisions**

##### **Article 1 Definitions**

For the purpose of this Annex:

**chapters, headings and subheadings** mean the chapters, the headings and the subheadings (two, four and six digit codes respectively) used in the nomenclature which makes up the Harmonized System or HS;

**CIF** means the value of the good imported that includes the cost of freight and insurance up to the port or place of entry in the country of importation;

**classification** refers to the classification of a product or material under a particular heading of the HS;

**customs value** means the value as determined in accordance with the Article VII and the Agreement on Implementation of Article VII of GATT 1994 (WTO Agreement on Customs Valuation);

**factory ship** means any vessels, as defined, used for processing and/or making on board products exclusively from those products referred to in Clause (f) and (g) of Article 4;

**FOB** means the value of the good free on board, independent of the means of transportation, at the port or site of final shipment abroad;

**goods** means both materials and products;

**Harmonized System** means the nomenclature which makes up the Harmonized Commodity Description and Coding System including the chapters and the corresponding number codes, section notes and chapter notes, as well as the General Rules for their interpretation;

**manufacture** means any kind of working or processing including assembly or specific operations;

**material** means raw materials, ingredients, parts, components, subassembly and/or goods that are physically incorporated into another good or are subject to a process in the production of another good;

**product** means the product being manufactured, even if it is intended for later use in another manufacturing operation;

**territory** means:

- (a) in the case of India, including its territorial waters and the air space above its territorial waters and the other maritime zones including the Exclusive Economic Zone and Continental Shelf over which Republic of 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) in the case of Chile, the land, maritime, and air space under its sovereignty, and the Exclusive Economic Zone and the Continental Shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law; and

**vessel** means any ship engaged in commercial fishing or commercial exploitation of marine products (on High Seas) registered with a Party and flying its flag and at least 50% of equity is owned by citizen/s, corporation or government of the Party.

## **Section II**

### **Criteria for Originating Goods**

#### **Article 2      General requirements**

1. For the purpose of implementing this Agreement, the following goods shall be considered as originating from a Party:

- (a) the goods wholly produced or obtained in the territory of the Party as defined in Article 4 of this Annex; and
- (b) the goods not wholly produced in the territory of the Party, provided that the said products are eligible under Article 5 read with Article 6 and/or Article 3 of this Annex.

#### **Article 3      Cumulation of origin**

Goods originating in any of the Party when used as an input for a finished product in another Party shall be considered originating in the latter.

#### **Article 4      Wholly produced or obtained products**

The following shall be considered as wholly produced or obtained in the territory of any Party:

- (a) mineral products extracted from the soil or subsoil of any of the Parties, including its territorial seas, continental shelf or exclusive economic zone;
- (b) plants<sup>2</sup> and plant products grown, harvested, picked or gathered there including in its territorial seas, continental shelf or exclusive economic zone;
- (c) live animals born, and raised there, including by aquaculture;
- (d) products from animals as in (c) above;<sup>3</sup>
- (e) animals and products thereof obtained by hunting, trapping, collecting, fishing or and capturing there; including its inland waters, territorial seas, continental shelf or in the exclusive economic zone;
- (f) products of seafishing and other marine products taken from the high seas by its vessels as defined in Article 1;
- (g) goods processed and/or made on board its factory ships as defined in Article 1 exclusively from the products mentioned in subparagraphs (e) and (f);
- (h) waste and scrap resulting from utilisation, consuming or manufacturing operations conducted in the territory of any of the Parties, provided they are fit only for the recovery of raw materials; and
- (i) goods produced in any of the Parties exclusively from the products specified in subparagraphs (a) to (h) above.

#### **Article 5 Not wholly produced or obtained products**

1. For the purpose of Article 2(b), products worked on or processed as a result of which the total value of non originating materials, or of undetermined origin used does not exceed 60% of the FOB value of the products produced or obtained and the final process of manufacture is performed within the territory of exporting Party shall be eligible for preferential treatment subject to the provisions of Article 6.

2. To qualify for preferences the non-originating materials shall be considered to be sufficiently worked or processed if the product obtained is classified in a heading, at the four digit level, of the Harmonized System different from those in which all the non-originating materials used in its manufacture are classified.

3. The customs value of the non-originating materials, parts or produce shall be:

- (a) the CIF value at the time of importation of the materials, parts or produce where this can be proven; or

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<sup>2</sup> Plants refers to all plant life, including forestry products, fruits, flowers, vegetables, trees, sea weeds and fungi.

<sup>3</sup> Animals referred to in paragraph (c), (d) and (e) covers all animal life, including mammals, birds, fish, crustaceans, molluscs and reptiles.

- (b) the earliest ascertained price paid for the materials, parts or produce in the territory of the Party where the working or processing of the final goods takes place.

4. The value of the materials, parts or produce of undetermined origin shall be the earliest ascertained price paid for them in the territory of the Party where the working or processing of the final goods takes place.

5. The formula for 40% value added is as follows:

$$\frac{\text{Customs value of Non-originating materials, Parts or Produce} + \text{Value of Undetermined Origin Materials, Parts or Produce}}{\text{FOB value of the final product}} \times 100\% < 60\%$$

**Article 6 Processes or operations considered as insufficient to confer originating status**

In the case of the products which have non-originating materials, the following operations, inter alia, shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 5 are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage such as aeration, drying, refrigeration, immersion in salty or sulphured water or in water added with other substances, extraction of damaged parts and similar operations;
- (b) dilution in water or in any other substance which does not substantially alter the product characteristics;
- (c) simple operations such as removal of dust, sifting, screening, sorting, classifying, grading, matching, washing, painting, husking, stoning of seeds, slicing and cutting;
- (d) simple change of package and breaking-up and assembly of packages;
- (e) simple packing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (f) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (g) simple cleaning, including removal of oxide, oil, paint or other coverings;
- (h) simple assembly of parts to constitute a complete article or, disassembly of products into parts, in accordance with General Rule 2a of the Harmonised System;

- (i) slaughter of animals;
- (j) simple mixing of products, provided the characteristics of the obtained product are not essentially different from those of the mixed products;
- (k) oil application; and
- (l) a combination of two or more of the above operations.

#### **Article 7 Accessories, spare parts and tools**

1. Accessories, spare parts and tools despatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be considered as originating if the good is originating 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, notwithstanding they are detailed separately in the invoice; and
- (b) the quantities and value of the accessories, spare parts or tools are customary for the goods.

2. Each Party shall provide that if a good is subject to a regional value content requirement, the value of 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 8 Fungible Materials**

1. Where identical and interchangeable originating and non-originating materials including materials of undetermined origin 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 including materials of undetermined origin 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 must:

- (a) permit a clear distinction to be made between originating and non originating materials including materials of undetermined origin 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.

4. The producer using this facilitation shall furnish a sworn declaration for the quantity of products considered as originating and keep all documentary evidence of origin of the materials. At the request of the competent authorities of the exporting Party, the producer shall provide satisfactory information on how the stocks have been managed.

5. The competent authority may require from its exporters that the application of the method for managing stocks as provided for in this Article will be subject to prior authorisation.

#### **Article 9 Sets**

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non originating goods, the set as a whole shall be regarded as originating, provided that the CIF value of the non originating goods utilized in the composition of the set does not exceed 15% per cent of the FOB price of the set.

#### **Article 10 Packages and packing materials for retail sale**

1. The packages and packing materials for retail sale, when classified together with the packaged product, according to General Rule 5 (b) of the Harmonised System, shall not be taken into account for considering whether all non-originating materials used in the manufacture of a product fulfil the criterion corresponding to a change of tariff classification of the said product.

2. If the product is subject to an ad valorem percentage criterion, the value of the packages and packing materials for retail sale shall be taken into account in its origin assessment, in case they are treated as being one for customs purposes with the goods in question.

#### **Article 11 Containers and packing materials for transport**

The containers and packing materials exclusively used for the transport of a product shall not be taken into account for determining the origin of any good, in accordance with General Rule 5 (b) of the Harmonized System.

#### **Article 12 Neutral elements or indirect materials**

1. "Neutral elements" or "Indirect materials" means goods used in the production, testing or inspection of goods but not physically incorporated into the goods, or goods used in the maintenance of buildings or the operation of equipment associated with the production of goods, including:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) tools, dies, machines and moulds;
- (d) parts and materials used in the maintenance of plant, equipment and buildings;

- (e) goods which do not enter into the final composition of the product;
- (f) gloves, glasses, footwear, clothing, safety equipment, and supplies; and
- (g) equipment, devices, and supplies used for testing or inspecting the goods.

2. Each Party shall provide that an indirect material shall be considered to be an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the export product.

### **Article 13 Direct transport, Transit and Trans-shipment**

In order for the originating goods or products to benefit from the preferential treatment provided for under this Agreement, they shall be transported directly between the Parties. The goods or products are transported directly provided:

- (a) they are transported through the territory of one or both Parties;
- (b) they are in transit through one or more territories of non-Parties, with or without trans-shipment or temporary warehousing in such territories, under the surveillance of the customs authorities therein, provided that:
  - (i) the transit entry is justified for geographical reasons or by consideration related exclusively to transport requirements;
  - (ii) they are not intended for trade, consumption, use or employment in the country of transit; or
  - (iii) they do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition; and
- (c) the period of such transit shall not exceed six months and goods under such transit shall bear the proof of having been under customs surveillance through necessary endorsements in the relevant customs document(s).

## **Section III Proof of Origin**

### **Article 14 Certification of Origin**

1. The Certificate of Origin is the document that certifies that goods fulfil the origin requirements as set out in this Annex so that they can benefit from the preferential tariff treatment as foreseen in this Agreement. The said Certificate is valid for only one importing operation concerning one or more goods and its original or in exceptional cases a copy of the,

original of which has to be submitted within 30 days from the date of clearance of goods in the importing Party and shall be included in the documentation to be presented at the customs authorities of the importing Party.

2. The issue of Certificates of Origin and its control, shall be under the responsibility of a Government office in each Party. The Certificates of Origin shall be directly issued by those authorities or through delegation as referred to in paragraph 3 and shall be in English..

3. The Certificate of Origin shall be signed and issued by Government offices to be indicated by the Parties who may delegate the signing and issuing of origin certificates to other Government offices or representative corporate body.

4. The Certificate mentioned in the preceding paragraph shall be issued in the form agreed upon by the Parties and upon a sworn declaration by the final producer of the goods and the respective commercial invoice.

5. In all cases, the number and date of the commercial invoice shall be indicated in the box reserved for this purpose in the Certificate of Origin.

6. When a good to be traded is invoiced by a non-Party operator, the producer or exporter of the originating Party shall inform, in the field titled "observations" of the respective Certificate of Origin, that the goods subject to declaration shall be invoiced from that non-Party operator, reproducing the following data from the commercial invoice issued by this operator: name, address, country, number and date. Value addition carried out only in the territory of a Party shall be taken into account for calculation of local value addition.

## **Article 15 Issue of Certificates of Origin**

1. For the issue of an Certificate of Origin, the final producer or exporter of the good shall present the corresponding commercial invoice and a request containing a sworn declaration by the final producer certifying that the goods fulfil the origin criteria of this Annex, as well as the necessary documents supporting such a declaration.

The said sworn declaration shall contain at least the following data:

- (a) individual's name or company name;
- (b) address;
- (c) description of the good to be exported and its tariff classification;
- (d) FOB value of the goods to be exported; and
- (e) information relating to the good to be exported, which must indicate:
  - (i) materials, components and/or parts originating from the exporting Party and the Customs tariff heading, wherever possible,

- (ii) materials, components and/or parts originating from the other Party indicating:
  - origin,
  - tariff classification (at least 6 level digit),
  - CIF value, in United States of America dollars, and
  - percentage on the total value of the final product.
- (iii) non-originating materials, components and/or parts indicating:
  - exporting Country,
  - tariff classification (at least 6 level digit),
  - CIF value, in United States of America dollars, and
  - percentage on the total value of the final product; and
- (iv) description of the manufacturing process.

2. The description of the good in the sworn origin declaration, which certifies the fulfilment of the origin requirements set out in this Annex, shall correspond to the respective tariff classification, as well as with the description of the good in the commercial invoice and in the Certificate of Origin.

3. If the goods are regularly exported and their manufacturing process, as well as their materials are not modified, the Sworn Declaration of the Producer may be valid for a period of up to one year counted from the date of the issue of the certificate.

4. The Origin Certificate shall be issued not later than five (5) working days after the request presentation and it shall be valid for a period of one year from the date of its issue.

5. The origin certificates shall not be issued before the date of the issue of the commercial invoice relating to the consignment, but in the same date or within the following sixty (60) days.

6. The requesting party and the certifying offices or authorized institutions shall keep the documents supporting the origin certificates for a period no less than five (5) years, from the date of its issue. The certifying offices or the said institutions shall enumerate the certificates issued by them in sequential order.

7. The certifying offices or authorized institutions shall keep a permanent record of all issued origin certificates, which shall contain at least the certificate number, the requesting entity's name and the date of its issue.

## **Section IV**

### **Control and Verification of Certificates of Origin**

#### **Article 16**

1. Regardless of the presentation of an origin certificate in accordance with the Rules of Origin under this Annex, the customs authorities of the importing Party may, in the cases of reasonable doubt, request the relevant government authorities of the exporting Party any additional information necessary for the verification of the authenticity of a certificate, as well as the veracity of the information contained therein. This shall not preclude the application of the respective national legislation relating to breach of customs law.
2. Compliance with the request for additional information according to this Article shall only be made with reference to the registers and documents available in Government offices or institutions authorized to issue origin certificates. Copies of the documentation necessary for the issuing of origin certificates can be made available.
3. This Article, however, does not restrain the conclusion of Customs Cooperation Agreements between the Parties.
4. The reasons for the doubts concerning the authenticity of the certificate or the veracity of its data shall be put forward in a clear and concrete way. For this purpose, the consultations thereon shall be carried out by a specific office of the customs authorities designated by each Party.
5. The customs authorities of the importing Party shall not suspend the importation operations of the goods. However, they may deny preferential tariff treatment, request a guarantee in any of its modalities or may take any action necessary in order to preserve fiscal interests, as a pre-condition for the completion of the importation operations.
6. If a guarantee is required, its amount shall not be higher than the value of the applicable custom duties concerning the importation of the product from third countries, according to the legislation of the importing country.

#### **Article 17**

The competent authorities from the exporting Party shall provide the requested information according to Article 16 within thirty (30) days, from the date of the receipt of the request. Such period can be extended through mutual consultation for a period no more than thirty (30) days in justified cases. If this information is satisfactory, the said authorities shall release the importer from the guarantee referred to in Article 16 within thirty (30) days or shall promptly refund the duty paid in excess, in accordance with domestic laws of the Parties.

#### **Article 18**

The information obtained under the conditions of this Annex shall be confidential in character, in accordance with its law, and shall protect such information from disclosure that

could prejudice the competitive position of the persons providing the information. It shall be utilized with a view to clarifying the matter under investigation by the competent authorities of the importing Party as well as during the investigation and legal proceedings.

#### **Article 19**

In the cases in which the information requested under Article 16 is not provided within the deadline established in Article 17 or is insufficient to clarify any doubt concerning the origin of the good, the competent authorities of the importing Party may initiate an investigation on the matter within sixty (60) days, from the date of the request for the information.

#### **Article 20**

1. During the period of investigation, the customs authorities of the importing Party shall not suspend new importing operations relating to identical goods from the same exporter or producer. However, they may deny preferential tariff treatment, request a guarantee in any of its modalities or may take any action necessary in order to preserve fiscal interests, as a pre-condition for the completion of new importation operations.

2. The guarantee amount, whenever it is requested, shall be established according to Article 16(6).

#### **Article 21**

The customs authorities of the importing Party shall immediately notify the importer and the competent authorities of the exporting Party of the initiation of the origin investigation, in accordance with the procedures established in Article 22.

#### **Article 22**

1. During the investigation proceedings, the competent authorities of the importing Party may:

- (a) request, through the competent authorities of the exporting Party, new information, as well as any copy of the documentation in possession of the certifying offices or authorized institutions which issued the origin certificate under investigation, according to Article 16, which may be deemed necessary for verifying the authenticity of the said certificates and the veracity of the information contained therein. In such a request, the number and the date of the issue of the origin certificate under investigation shall be indicated;
- (b) for the purposes of verification of the contents of the local or regional added value, the producer or exporter shall facilitate the access to any information or documentation necessary for establishing the CIF value of the non-originating goods used in the production of the goods under investigation;

- (c) for the purposes of verification of the characteristics of certain production processes, the exporter or producer shall facilitate the access to any information and documentation that allow the confirmation of such processes;
- (d) send to the competent authorities of the exporting Party a written questionnaire to be passed on to the exporter or producer, indicating the origin certificate under investigation;
- (e) request to the competent authorities of the exporting Parties to facilitate visits to the premises of the producer, with a view to examining the production processes, as well as the equipment and tools utilized in the manufacture of the product under investigation;
- (f) the competent authorities of the exporting Party shall accompany the authorities of the importing Party in their above-mentioned visit, which may include the participation of specialists who shall act as observers. Each Party could designate specialists, who shall be neutral and have no interest whatsoever in the investigation. Each Party may deny the participation of such specialists whenever the latter represent the interests of the companies or institutions involved in the investigation;
- (g) once the visit is concluded, the participants shall subscribe the minutes of it, in which it shall be indicated that it was carried out according to the conditions established in this Annex. The said minutes shall contain, in addition, the following information: date and place of the carrying out of the visit; identification of the origin certificates which led to the investigation; identification of the goods under investigation; identification of the participants, including indications of the organs and institutions to which they belong; a visit report;
- (h) the exporting Party may request the postponement of a verification visit for a period not more than thirty (30) days; and
- (i) carry out other actions as agreed upon between the Parties involved in the case under investigation.

### **Article 23**

The competent authorities of the exporting Party shall provide the information and documentation requested according to Article 22, (a) and (d), within thirty (30) days from the date of the receipt of the request.

### **Article 24**

Regarding the proceedings as foreseen in Article 22, the competent authorities of the importing Party may request the competent authority of the exporting Party the participation or advice of specialists concerning the matter under investigation.

## **Article 25**

In the cases in which the information or documentation requested to the competent authorities of the exporting Party is not produced within the stipulated deadline, or if the answer does not contain enough information or documentation for determining origin, the authenticity or veracity of the origin certificate under investigation, or still, if the producers do not agree to the visit, the competent authorities of the importing Party may consider that the products under investigation do not fulfil the origin requirements, and may, as a result deny preferential tariff treatment to the products mentioned in the origin certificate under investigation according to Article 19, and thus conclude such investigation.

## **Article 26**

1. The competent authorities of the importing Party shall engage to conclude the investigation in a period not more than ninety (90) days, from the date of the receipt of all the information requested in accordance with Article 22.

2. If it is considered that new investigative actions or the presentation of more information are necessary, the competent authorities of the importing Party shall communicate the fact to the competent authorities of the exporting Party. The term for the execution of such new actions or for the presentation of additional information shall be not more than ninety (90) days, from the date of the receipt of all the additional information, according to Article 22.

3. If the investigation is not concluded within ninety (90) days after all the information has been provided, the importer shall be released from the payment of the guarantee, regardless of the continuation of the investigation. Duties paid in excess shall be promptly refunded in accordance with the domestic legislation of the Parties.

## **Article 27**

1. The customs authorities of the importing Party shall inform the importers and the competent authorities of the exporting Party of the conclusion of the investigation process, as well as the reasons that led to its decision.

2. The customs authority of the importing Party shall grant the competent authority of the exporting Party, access to the investigation files, in accordance with its domestic legislation.

## **Article 28**

During the investigation process, occasional modifications in the manufacturing conditions made by the companies under investigation shall be taken into account for future shipments.

## **Article 29**

Once the investigation for the qualification of the origin concludes with a determination in favour of the importer, the importer shall be released from the guarantees requested in

Articles 16 and 20, within no more than thirty (30) days or shall be promptly refunded the duties paid in excess in accordance with the domestic legislation of the Parties.

### **Article 30**

1. Once the investigation establishes the non-qualification of the origin criterion of the goods contained in the origin certificate, the duties shall be levied as if the goods were imported from third countries and the sanctions foreseen in this Agreement and/or the ones foreseen in the domestic legislation in force in each Party shall be applied.
2. In such a case, the competent authorities of the importing Party may deny preferential tariff treatment to new imports relating to identical good from the same producer, until it is clearly demonstrated that the manufacturing conditions were modified so as to fulfil the origin requirements of the Rules of Origin of this Annex.
3. Once the competent authorities of the exporting Party has sent the information demonstrating that the manufacturing conditions were modified and goods fulfil the origin criterion, the competent authorities of the importing Party shall have forty five (45) days, from the date of the receipt of the said information, to communicate its decision there upon, or a maximum of ninety (90) days if a new verification visit to the producer's premises, according to Article 22(e), is deemed necessary.
4. If the competent authorities of the importing and the exporting Parties fail to agree on the demonstration of the modification of the manufacturing conditions, they may make use of the Dispute Settlement Procedure established as per Article XVIII.

### **Article 31**

1. A Party may request to the other Party to investigate the origin of a good imported by the latter from other Party, whenever there are well-founded reasons for suspecting that its products undergo competition from imported products with preferential tariff treatment which do not fulfil the Origin Rules of this Agreement.
2. For such purposes, the competent authorities of the Party requesting the investigation shall bring to the notice of the authorities of the importing Party the relevant information within forty five (45) days, from the date of the request. Once this information is received, the importing Party may initiate the proceedings established in this Annex, giving notice of this to the Party that requested the initiation of the investigation.

### **Article 32**

The proceedings of verification and control of origin as foreseen in this Annex may also apply to the goods already cleared for home consumption.

### **Article 33**

1. Within sixty (60) days, from the receipt of the communication as provided in Article 27 or in the third paragraph of Article 30, in case the measure is inconsistent, the exporting Party

may request for consultation to the Committee, stating the technical and legal reasons that would indicate that the measure adopted by the competent authorities of the importing Party are not consistent with this Annex; and/or request a technical advice with the aim of establishing whether the goods under investigation fulfil the origin rules of this Agreement.

#### **Article 34**

The time periods set in this Annex shall be calculated on a consecutive day basis as from the day following the fact or event which they refer to.

#### **Article 35 Penalties**

Each Party shall adopt or maintain measures that provide for the imposition of civil, administrative, and, where appropriate, criminal sanctions for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, rules of origin, and the entitlement to preferential tariff treatment under this Agreement.

## **Appendix C Certificate of Origin**

### *Printing instructions*

1. Each form shall measure 210 x 297 mm; a tolerance of up to minus 5 mm or plus 8 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25 g/m<sup>2</sup>.
2. The competent governmental authorities of Chile and India may reserve the right to print the forms themselves or may have them printed by approved printers. In the latter case, each form must include a reference to such approval. Each form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

### *Procedure for completion*

The exporter shall fill out both the certificate of origin and the sworn declaration. These forms shall be completed in English in which this Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting country. If they are hand-written, they shall be completed in ink in printed characters.

### *Notes*

1. The certificate must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialed by the person who completed the certificate and endorsed by the competent governmental authority of the issuing country.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

## **Certificate of Origin**

		Serial Number:		
1. Exporter (name, full address, Country)  ID No.		2. Producer ( name, full address, Country)  ID No		
3. Importer (name, full address, country)		4. Observations		
6. Port of Shipment		5. Country of origin		
7. Description of Goods (1); Marks and numbers; Number and kind of packages (2).	[8. HS Number (Six Digit Code)]	9. Gross mass (kg) or other measure (litres, m <sup>3</sup> , etc.)	10. Origin Criterion (3)	11. Invoices (N° and date and Value)
12. COMPETENT GOVERNMENTAL AUTHORITY ENDORSEMENT  Declaration certified  Competent governmental office: ..... Issuing country: .....  Stamp.  Place and date .....  ..... (Signature)		13. DECLARATION BY THE EXPORTER  I certify that: <ul style="list-style-type: none"> <li>The information on this document is true and accurate and I assume the responsibility for providing such representations. I understand that I am liable for any false statements or material omission made on or in connection with this document.</li> <li>I agree to maintain and present upon request, documentation necessary to support this certificate, and to inform, in writing, all persons to whom the certificate was given of any changes that could affect the accuracy or validity of this certificate.</li> <li>The goods originated in the territory of the Parties, and comply with the origin requirements specified for those goods in Chile-India PREFERENTIAL TRADE AGREEMENT, and there has been no further production or any other operation outside the territories of the Parties in accordance with Section II Article 2 N<sup>o</sup> 1 of the Agreement.</li> </ul> Place and Date ..... ..... (Signature)		

- 1 The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
- 2 If goods are not packed, indicate number of articles or state "in bulk" as appropriate.
- 3 Origin Criteria (Section II Article 2 N° 1) for preference

The following goods shall be considered as originating from a Party:

- (a) The goods wholly produced or obtained in the territory of the Party as defined in Article 4 of this Annex;
- (b) The goods not wholly produced in the territory of the Party, provided that the said products are eligible under Article 5 read with Article 6 of this Annex.

## Annex D

### Preferential Safeguard Measures

#### *Definitions*

##### **Article 1**

For the purposes of this Annex:

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

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

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

#### *Conditions for Application of Preferential Safeguard Measures*

##### **Article 2**

1. The Parties can apply, safeguard measures under the conditions established in this Annex, when the imports of a product under preferential terms under this Agreement have increased in such quantities, absolute or relative to, domestic production of the importing Party under such conditions that the imports of the good from the exporting Party alone<sup>4</sup> constitute a substantial cause of serious injury, or threat thereof, to the importing Party's domestic industry.

2. Preferential safeguard measures shall be applied following an investigation by the competent authorities of the importing Party under the procedures established in this Annex. These measures may not be applied simultaneously for the same product with the application of Global Safeguards.

##### **Article 3**

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<sup>4</sup> For purposes of certainty, the Parties understand that a Party is not prevented from initiating a preferential safeguard measure investigation in the event of a surge of imports from the territory of the other Party and of non-Parties. For further certainty the Parties understand that preferential safeguard measures can only be imposed on the other Party when the increase in the imports 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 product.

Preferential Safeguard measures may not be applied to any product in the first year after the tariff preferences negotiated under this Agreement come into force.

#### **Article 4**

1. The preferential safeguard measures adopted under this Annex shall consist of temporary suspension or reduction of the tariff preferences established in this Agreement for the product subjected to the measure.
2. Preferential safeguard measure, during the first year of its imposition, shall not apply to a quantity equal to that imported during the twelve (12) months prior to the period for which serious injury was determined plus 10%. The period of determination of serious injury would be twelve (12) months starting from the date of initiation of investigation.
3. For the second year of imposition of preferential safeguard measures, the quantity that shall be exempt from the measure will be the quantity as at paragraph 2 plus 10%.
4. In case quantities indicated at paragraphs 2 and 3 cannot be established on account of any reason, the Parties shall enter into mutual consultation to arrive at a satisfactory solution.

#### **Article 5**

The total period of application of a preferential safeguard measure shall not exceed two (2) years.

#### **Article 6**

No preferential safeguard measure shall be applied again to the import of a product under preferential terms which has been subject to such a measure, unless the period of non-application for the same product is at least one year or the duration of the earlier preferential safeguard measure, whichever is higher.

#### **Article 7**

The preferential safeguard measures applied in accordance with this Annex shall not affect the imports, which have been cleared by the customs of importing Party prior to the date of entry into force of the measure.

#### **Article 8**

The investigation to determine serious injury or threat thereof as a result of increased preferential imports of a certain product shall take into consideration all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry affected, particularly the following:

- (a) the amount and rate of the increase in preferential imports of the product concerned in absolute and relative terms;

- (b) the share of the domestic market taken by increased preferential imports;
- (c) the price of the preferential imports;
- (d) the consequent impact on the domestic industry of the like or directly competitive products, based on factors, including: production, productivity, capacity utilisation, stock, sales, market share, prices, profits, losses and employment;
- (e) the relationship between the preferential and non-preferential imports; as well as between the increase of one and the other; and
- (f) when factors other than increased preferential imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to the increased preferential imports.

### *Investigation and Transparency Procedures*

#### **Article 9**

A Party may initiate a safeguard investigation at the request of the domestic producers in the importing Party of the like or directly competitive product.

#### **Article 10**

The purpose of an investigation shall be:

- (a) to assess the quantities and conditions under which the product is being imported;
- (b) to determine the existence of serious injury or threat of serious injury to the domestic industry; and
- (c) to, determine the causal link between the increased imports of the product concerned and the serious injury or threat thereof to the domestic industry, in compliance with the provisions of this Annex.

#### **Article 11**

The period between the date of publication of the decision to initiate the investigation and the publication of the final decision shall not exceed one (1) year.

#### **Article 12**

Each Party shall establish or maintain transparent, effective and equitable procedures for the impartial and reasonable application of safeguard measures, in compliance with the provisions established in this Annex.

*Notification and Public Notice*

**Article 13**

1. The importing Party shall immediately notify the exporting Party upon:
  - (a) initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;
  - (b) making a finding of serious injury or threat thereof caused by increased imports; and
  - (c) taking a decision to apply a safeguard measure.
2. The importing Party shall notify the other Party within a period of seven days of the publication of public notice of the decision to apply a preferential safeguard measure which shall be accompanied by the appropriate public notice in accordance with Article 16.

**Article 14**

The public notice of the initiation of a safeguard investigation shall include the following information:

- (a) the name of the petitioner;
- (b) the complete description of the imported product under investigation, which is sufficient for customs purposes and its classification in accordance with the Harmonized System;
- (c) the deadline for the request for hearings and the venue where hearings shall be held;
- (d) the deadline for the submission of information, statements and other documents;
- (e) the address where request or other documents related to the investigation can be examined;
- (f) the name, address and telephone number of the institution which can provide further information; and
- (g) a summary of the facts upon which the initiation of the investigation was based, including data on imports that have supposedly increased in absolute or relative terms to total production.

## **Article 15**

1. A Party proposing to apply a preferential safeguard measure shall provide adequate opportunity for prior consultations to the exporting Party as far in advance of taking any such measure as practicable and in no case less than 30 days. With this objective, the Party shall notify the other Party as provided in Article 13(2).

2. The notification shall include:

- (a) evidence of the existence of serious injury or threat of serious injury to the domestic industry caused by the increased imports;
- (b) the complete description of the product subjected to the measure, which is sufficient for customs purposes, including its tariff classification under the Harmonised System;
- (c) description of the measure proposed;
- (d) the date of entry into force of the measure and its duration;
- (e) the period for consultations; and
- (f) the criteria employed or any objective information proving that the conditions established in this Annex for the application of a measure have been met.

## **Article 16**

The public notice of the decision to, apply a preferential safeguard measure shall include the following information:

- (a) the complete description of the product subjected to the safeguard measure sufficient for customs purposes, including its tariff classification under the Harmonized System;
- (b) information and evidence leading to, the decision, such as:
  - (i) the increasing or increased preferential imports,
  - (ii) the situation of the domestic industry, and
  - (iii) the fact that the increasing preferential imports that are causing or threatening to cause serious injury to the domestic industry,
- (c) other reasoned findings and conclusions on all relevant issues of fact and law;
- (d) description of the measure to be adopted; and

- (e) the date of entry into force of the measure and its duration.

#### **Article 17**

At any stage of the investigation, the notified Party may request consultations to the other Party or any additional information that it considers necessary.

#### *Competent Authorities*

#### **Article 18**

The competent investigating authorities referred to in the Article 2, paragraph 2 of this Annex will be:

- (a) in the case of India, to be notified by the time of entry into force of this Agreement; and
- (b) in the case of Chile, the National Commission in Charge of the Investigation of the Existence of Price Distortions in Imported Goods ("Comisión Nacional Encargada de Investigar la Existencia de Distorsiones en el Precio de las Mercaderías Importadas"), or its successor.

#### **Article 19**

After five (5) years from the entry into force of this Agreement, the Parties shall review the operation of this Annex with a view to determining whether there is a need to discontinue the preferential safeguard measures.

## **Annex E**

### **Dispute Settlement Procedures**

#### **Chapter I Scope**

##### **Article 1**

1. Any dispute that may arise in connection with the interpretation, application or non-compliance with the provisions of this Agreement, shall be submitted to this Dispute Settlement Procedure established in this Annex.
2. Any dispute regarding matters arising under this Agreement that are regulated also in the agreements negotiated at the WTO may be settled in accordance with this Annex or with the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO (DSU).
3. After the conclusion of consultations as established in Chapter II of this Annex, the Parties shall endeavor to reach an agreement on a single forum. If no agreement is reached on the forum, the complaining Party shall select the forum of dispute.
4. Once a dispute settlement procedure has been initiated under this Annex or under the WTO Agreement, the forum selected shall exclude the other for the same subject matter of the dispute. However, this provision may be reviewed by the Committee, within 5 years of implementation of this Agreement.
5. For the purpose of paragraph 4, a dispute settlement procedure shall be considered initiated under the WTO whenever the complaining Party requests for the establishment of a Panel under Article 6 of the DSU. Likewise, a dispute settlement procedure shall be considered initiated under this Annex whenever a Party requests for the establishment of an arbitral panel under Article 9.

#### **Chapter II Consultations**

##### **Article 2**

1. Parties shall make all reasonable efforts to settle the disputes referred to in Article 1 through consultations with a view to reaching a mutually satisfactory solution.
2. Consultations shall be conducted, in the case of Chile by the General Director, General Directorate for International Economic Affairs, and in the case of India, by the Secretary, Department of Commerce, or their representatives.

##### **Article 3**

The request for consultations shall be submitted to the other Party in writing and shall identify the measure(s), give the reasons of the request and a brief summary of the legal basis of the dispute. All requests for consultations shall be notified to the other Party, in conformity with Article 19.

#### **Article 4**

1. The Party to which the request is made shall reply within 10 days after the date of its receipt.
2. The Parties shall provide sufficient information as may be reasonably available in order to facilitate the consultations. Consultations shall be confidential.
3. Consultations shall last no more than thirty (30) days after the date of receipt of the request unless the Parties extend the consultations for a mutually agreed period in order to settle the dispute. Consultations on matters regarding perishable agricultural goods shall last no more than twenty (20) days of the date of receipt of the request.

### **Chapter III Intervention of the Committee**

#### **Article 5**

1. If consultations fail to settle a dispute within the period established in Article 4, the complaining Party may request in writing to the other Party, for convening a meeting of the Committee, with the specific purpose of dealing with the case.
2. The request shall identify any measure (s) at issue and shall state the facts and the legal basis of the dispute, indicating the applicable provisions of the Agreement.

#### **Article 6**

1. The Committee shall meet within thirty (30) days of the date of receipt of the request referred to in Article 5. In matters regarding perishable agricultural goods, the meeting of the Committee shall commence within twenty (20) days of the date of the receipt of the request.
2. For the purposes of determining the term mentioned in paragraph 1, the other Party shall notify immediately, and no later than 5 days of the receipt of the request.

#### **Article 7**

The Committee may, by consensus, examine jointly two or more requests under this Chapter only when, by their nature, they are related.

## **Article 8**

1. The Committee shall examine the dispute and give the opportunity to the Parties to present their positions and, if necessary, to give additional information in order to reach a mutually satisfactory solution.
2. The Committee shall issue its recommendations within thirty (30) days of the date of its first meeting. In matters regarding perishable agricultural goods the time period shall be twenty (20) days.

## **Chapter IV Arbitral Proceeding**

### **Article 9 Request for an Arbitral Panel**

If the consultations and the Committee procedures fail to settle a dispute within the timeframes established under Chapters II and III respectively of this Annex, the Party, which made the request for consultations, may make a written request for establishment of an arbitral panel to the other Party under this Article. The request shall identify the specific measure (s) at issue and provide brief statement of the legal basis. Unless the Parties otherwise agree, the arbitral panel shall be established and perform its functions in a manner consistent with the provisions of this Annex.

### **Article 10 Composition of Arbitral Panels**

1. The arbitral panel shall comprise three members.
2. In the written request pursuant to Article 9, the complaining Party requesting the establishment of an arbitral panel shall designate one member of that arbitral panel.
3. Within 15 days of the receipt of the request referred to in paragraph 2, the responding Party shall designate one member of the arbitral panel. If a party fails to appoint an arbitrator within 15 days, then the arbitrator appointed by the other Party shall act as the sole arbitrator of the arbitral panel.
4. The Parties shall by agreement appoint the third arbitrator within 15 days of the appointment of the second arbitrator. The arbitrator so appointed shall chair the arbitral panel. If the Parties are unable to agree on the chair of the arbitral panel within 15 days after the date on which the second arbitrator has been appointed, the chair shall be appointed in the presence of both Parties by a draw of lot from a list comprising three nominees of each Party, fulfilling the qualifications and criteria laid down in paragraph 6. If a Party fails to submit its list of three nominees within ten days of the other Party submitting its list, the Chair shall be appointed by a draw of lot from the list already submitted by the other Party.
5. Except in case of sole arbitrator established under paragraph 3, the Chair of the arbitral panel shall not be a national of either Party, nor have his or her usual place of residence in the territory of either Party, nor be employed by either Party, nor have dealt with the matter before the arbitral panel in any capacity.

6. All arbitrators shall:

- (a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
- (b) be chosen strictly on the basis of objectivity, reliability, and sound judgment; and
- (c) be independent of, and not to take instructions from, any Party.

7. If an arbitrator appointed under this Article resigns or becomes unable to act, a successor arbitrator shall be appointed within 15 days in accordance with the selection procedure as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator.

8. The date of establishment of the arbitral panel shall be the date on which the Chair is appointed, or in the case of sole arbitrator on the date of expiry of timeframe set out in paragraph 3.

#### **Article 11 Rules of Procedures**

1. Unless the Parties otherwise agree, the arbitral panel shall conduct its proceedings in accordance with the Rules of Procedure (Appendix E) and may, after consulting with the Parties, adopt additional procedural rules not inconsistent with this Annex.

2. The Committee may modify the Rules of Procedure.

3. Unless the Parties otherwise agree within 20 days from the date of the delivery of the request for the establishment of the arbitral 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 arbitral panel request and to make findings, determinations and recommendations as provided in Article 13 and to deliver the written reports referred to in Articles 13 and 14."

#### **Article 12 Experts and Technical Advice**

At the request of a Party to the arbitral panel proceedings or on its own initiative, the arbitral panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties to the arbitral panel proceedings so agree and subject to such terms and conditions as Parties may agree. The arbitral panel shall provide the Parties a copy of any information or technical advice submitted and an opportunity to provide comments.

### **Article 13 Initial Report**

1. Unless the Parties otherwise agree, the arbitral panel shall base its report on the relevant provisions of this Agreement, on the submissions and arguments of the Parties, and on any other information before it pursuant to Article 12.
2. Unless the Parties otherwise agree, the arbitral panel shall, within 90 days after establishment, present to the Parties an initial report containing:
  - (a) findings of fact, including any findings pursuant to the request under Article 9;
  - (b) its determination as to whether the measure at issue is inconsistent with the obligations of this Agreement; and
  - (c) recommendations to bring the measure in to compliance with the Agreement and the reasonable period of time within which to bring the measure into compliance.
3. The Parties may submit written comments on the initial report within 14 days of its presentation. The arbitral panel may, at the request of a Party, reconsider its report and make any further examination that it considers appropriate after considering such written comments. The final report shall include a discussion of any comment by the Parties.

### **Article 14 Final Report**

1. The arbitral panel shall present a final report to the Parties, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the Parties otherwise agree.
2. No arbitral panel may, either in its initial report or its final report, disclose which panellists are associated with the majority or minority of the opinions.
3. The final report of the arbitral panel shall be made publicly available within fifteen (15) days of its delivery to the Parties, unless the Parties agree otherwise.

### **Article 15 Implementation of Final Report**

1. The final report of an arbitral panel shall be binding on the Parties and shall not be subject to appeal. The Party concerned shall implement the decision contained in the final report of the arbitral panel in the manner and within the time-frame that it recommends, unless the Parties decide otherwise.
2. If, at any time up to thirty (30) days prior to the deadline for implementation determined under paragraph 1, the Party concerned considers that it will require further time to comply with the final report of the arbitral panel, it may inform the complaining Party of the extra period that it requires, and simultaneously shall enter into negotiations with a view to developing a mutually acceptable compensation for this additional period until it comes into compliance with the final report. The Parties may agree to extend the deadline for

implementation determined under paragraph 1, any time within twenty (20) days prior to the expiry of the deadline for implementation determined previously.

3. Notwithstanding paragraph 2, where the final report of the arbitral panel states that a measure is not in compliance with this Agreement, the responding Party shall bring its measure in conformity with the provisions of the Agreement.

4. Where there is disagreement as to the existence or consistency with this Agreement of measures taken within the reasonable period of time to comply with the decision of the arbitral panel, such dispute shall be decided through recourse to the dispute settlement procedures in this Annex, including wherever possible by resorting to the original arbitral panel.

5. The arbitral panel shall provide its report to the Parties within 60 days after the date of the referral of the matter to it. When the arbitral panel considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for such delay together with an estimate of the period within which it will submit its report. Any delay shall not exceed a further period of 30 days unless the Parties otherwise agree.

#### **Article 16 Non-Implementation - Suspension of Benefits**

1. If the arbitral panel established under Article 15 finds that the measure of the Party concerned is not in compliance with final report of the arbitral panel under Article 14, the Party concerned, if so requested by the complaining Party, shall immediately enter into negotiations with the complaining Party with a view to reaching a mutually acceptable compensation or solution. If no mutually acceptable compensation or solution has been reached within 15 days after the request of the complaining Party to enter into negotiations, the complaining Party may suspend the application of benefits of equivalent effect to the responding Party.

2. The suspension of benefits shall last until the responding Party implements the decision of the arbitral panel's final report or until the Parties reach a mutually satisfactory agreement on the dispute.

3. In considering what benefits to suspend pursuant to paragraph 1 the complaining Party may seek to suspend benefits in the same sector(s)<sup>5</sup> as that affected by the measure that the arbitral panel has found to be inconsistent with the obligations derived of this Agreement.

4. Upon written request of the Party concerned, the original arbitral panel shall determine whether the level of benefits proposed to be suspended by the complaining Party is not commensurate with equivalent effects pursuant to paragraph 1. If the arbitral panel cannot be established with its original members, the procedures set out in Article 10 shall be applied.

5. The arbitral panel shall present its determination within 60 days from the request made pursuant to paragraph 4. The ruling of the panel shall be final and binding. It shall be delivered to the Parties and be made publicly available.

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<sup>5</sup> The Parties agree that for the purposes of this Article, "sector" will have the same meaning as in provisions of article 22.3 (f) of the Dispute Settlement Understanding of WTO Agreement.

6. Any suspension of benefits shall be restricted to benefits accruing to the other Party under this Agreement.

#### **Article 17 Expenses**

Each Party shall bear the costs of its own member of the arbitral panel and of its representation in the arbitral proceedings; the costs related to the chairman and any other costs shall be borne equally by the Parties.

#### **Article 18 Private Rights**

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

### **Chapter V General Provisions**

#### **Article 19**

All communications between the Parties shall be transmitted in the case of Chile to the General Director, General Directorate for International Economic Affairs, and in the case of India, to the Secretary, Department of Commerce, or their representatives.

#### **Article 20**

The periods referred to in this Annex are expressed in consecutive days, including non-working days, and shall be calculated as from the day immediately following the relevant act or fact. If the period begins or ends on a non working day, the period shall be deemed to be starting or expiring on the following working day.

#### **Article 21**

Documents and acts related to the proceedings established in this Annex shall be confidential.

#### **Article 22**

1. At any time during the proceeding the complaining Party may abandon its claim or the Parties may reach an agreement. In either case the dispute shall be closed. The Committee shall be notified in order to take any necessary measures.

2. A Party is deemed to have abandoned its claim this Annex, if it does not pursue its claim under Article 9 within twelve (12) months of the conclusion of consultations under Chapter II.

**Article 23**

All timeframes stipulated in this Annex may be reduced, waived or extended by mutual agreement of the Parties.

## **Appendix E Rules of Procedures**

### **General provisions**

1. For the purposes of this Agreement and this Annex:

**arbitral panel** means an arbitral panel established pursuant to Article 9;

**complaining Party**” means a Party that requests the establishment of an arbitral panel under Article 9; and

**“responding Party”** means a Party that has been complained against pursuant to Article 9.

### **Notifications**

2. Any request, notice, written submissions or other document shall be delivered by either Party or the arbitral panel by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.

3. A Party shall provide a copy of each of its written submissions to the other Party and to each of the arbitrators. A copy of the document shall also be provided in electronic format.

4. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitral panel proceeding may be corrected by delivery of a new document clearly indicating the changes.

### **Initial submissions**

5. The complaining Party shall deliver its initial written submission no later than 20 days after the composition of the arbitral panel. The responding Party shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.

### **Operation of arbitral panels**

6. The chair of the arbitral panel shall preside all of its meetings.

7. Except as otherwise provided in these rules, the arbitral panel may conduct its own activities by any means, including telephone, facsimile transmissions or computer links.

8. The drafting of any report shall remain the exclusive responsibility of the arbitral panel. Only arbitrators may take part in the deliberations of the arbitral panel.

### **Hearings**

9. The arbitral panel shall fix the date and time of the hearing in consultation with the Parties. The Chair shall notify in writing to the Parties the date and time of the hearing.

10. Unless the Parties otherwise agree, the hearing shall be held in the responding Party's territory. The responding Party shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organization of hearings, unless otherwise agreed.

11. The arbitral panel may convene additional hearings if the Parties so agree.

12. All arbitrators shall be present at hearings. No later than five days before the date of a hearing, each Party shall deliver a list of the names of its representatives or advisers who will be attending the hearing. The hearings of the arbitral panels shall be held in closed session, unless the Parties decide otherwise. The arbitral panel shall conduct the hearing in the following manner: argument of the complaining Party; argument of the responding Party; rebuttal arguments of the Parties; the reply of the complaining Party; the counter-reply of the responding Party. The arbitral panel may set time limits for oral arguments to ensure that each Party is afforded equal time.

13. Within ten (10) days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing.

### **Questions in writing**

14. The arbitral panel may at any time during the proceedings address questions in writing to one or both Parties. The arbitral panel shall deliver the written questions to the Parties to whom the questions are addressed.

15. A Party to whom the arbitral panel addresses written questions shall deliver a copy of any written reply to the other Party and to the arbitral panel. Each Party shall be given the opportunity to provide written comments on the reply within five (5) days after the date of delivery.

### **Confidentiality**

16. Each Party shall treat as confidential the information submitted by the other Party to the arbitral panel which that Party has designated as confidential. Where a Party to a dispute submits a confidential version of its written submissions to the arbitral panel, it shall also, upon request of the other Party, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public. Nothing in these rules shall preclude a Party from disclosing statements of its own positions to the public.

### **Ex parte contacts**

17. The arbitral panel shall not meet or contact a Party in the absence of the other Party. No Party may contact any arbitrator in relation to the dispute in the absence of the other Party or other arbitrators. No arbitrator may discuss an aspect of the subject matter of the proceeding with a Party or both Parties in the absence of the other arbitrators.

**Working language**

18. The working language of the dispute settlement proceedings shall be English.