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CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A: Initial Provisions

Article 1.1: Establishment of a Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area in accordance with the provisions of this Agreement.

Article 1.2: Relation to Other Agreements

1. Recognizing the Parties' intention for this Agreement to coexist with their existing international agreements, each Party affirms,

- (a) in relation to existing international agreements to which all Parties are party, including the WTO Agreement, its existing rights and obligations with respect to each other; and
- (b) in relation to existing international agreements to which that Party and at least one other Party are party, its existing rights and obligations with respect to such other Party or Parties, as the case may be.

2. If a Party believes that a provision of this Agreement is inconsistent with a provision of another agreement to which it and at least one other Party are party, upon request, the relevant Parties to the other agreement shall consult with a view to reaching a mutually satisfactory solution. This paragraph is without prejudice to a Party's rights and obligations under Chapter 28 (Dispute Settlement).¹

¹ For the purpose of application of this Agreement, the Parties agree that the fact that an agreement provides more favorable treatment of goods, services, investments, or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.

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Section B: General Definitions

Article 1.3: General Definitions

For the purposes of this Agreement, unless otherwise specified:

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

Agreement means the Trans-Pacific Partnership Agreement;

APEC means Asia-Pacific Economic Cooperation;

central level of government has for each Party the meaning set out at Annex 1-A (Party-Specific Definitions).

Commission means the Trans-Pacific Partnership Commission established under Article 27.1 (Establishment of the Trans-Pacific Partnership Commission);

covered investment means, with respect to a Party, an investment in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

customs administration means the competent authority that is responsible under the laws of a Party for the administration of customs laws, regulations and, where applicable, policies, and has for each Party the meaning set out at Annex 1-A (Party-Specific Definitions)

customs duty includes any duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
- (b) fee or other charge in connection with the importation commensurate with the cost of services rendered; and
- (c) antidumping or countervailing duty.

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

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days means calendar days;

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

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

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

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

goods of a Party means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of a Party;

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

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes and Subheading Notes as adopted and implemented by the Parties in their respective laws;

heading means the first four digits in the tariff classification number under the Harmonized System;

measure includes any law, regulation, procedure, requirement, or practice;

national means a natural person who has the nationality of a Party according to Annex 1-A (Party-Specific Definition) or a permanent resident of a Party;

originating means qualifying under the rules of origin set out in Chapter 3 (Rules of Origin and Origin Procedures) or Chapter 4 (Textiles and Apparel);

Party means any State or separate customs territory for which this Agreement is in force;

person means a natural person or an enterprise;

person of a Party means a national or an enterprise of a Party;

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preferential tariff treatment means the customs duty rate applicable to an originating good, pursuant to each Party's Tariff Elimination Schedule set out in Annex 2-D (Tariff Elimination);

recovered material means a material in the form of one or more individual parts that results from:

- (a) the disassembly of a used good into individual parts; and
- (b) the cleaning, inspecting, testing or other processing of those parts as necessary for improvement to sound working condition;

remanufactured good means a good classified in HS Chapters 84 through 90 or under heading 94.02 except goods classified under HS headings 84.18, 85.09, 85.10, and 85.16, 87.03 or subheadings 8414.51, 8450.11, 8450.12, 8508.11, and 8517.11, that is entirely or partially composed of recovered materials and:

- (a) has a similar life expectancy and performs the same as or similar to such a good when new; and
- (b) has a factory warranty similar to that applicable to such a good when new;

regional level of government has for each Party the meaning set out at Annex 1-A (Party-Specific Definitions):

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

sanitary or phytosanitary measure means any measure referred to in paragraph 1 of Annex A of the SPS Agreement;

SCM Agreement means the *Agreement on Subsidies and Countervailing Measures*, contained in Annex 1A to the WTO Agreement;

SME means a small and medium-sized enterprise, including a micro-sized enterprise;

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

state enterprise means an enterprise that is owned, or controlled through ownership interests, by a Party;

subheading means the first six digits in the tariff classification number under the Harmonized System;

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territory has for each party the meaning set out at Annex 1-A (Party-Specific Definitions);

textile or apparel good means a good listed in Annex 4-A (Textiles and Apparel Product - Specific Rules of Origin);

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement;²

WTO means the World Trade Organization; and

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

² For greater certainty, “TRIPS Agreement” includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

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Annex 1-A

Party-Specific Definitions

Further to Article 1.3, for the purposes of this Agreement, unless otherwise specified:

central level of government means:

- (a) for Australia, the Commonwealth government;
- (b) for Brunei Darussalam, the national level of government;
- (c) for Canada, the Government of Canada;
- (d) for Chile, the national level of government;
- (e) for Japan, the Government of Japan;
- (f) for Malaysia, the federal level of government;
- (g) for Mexico, the federal level of government;
- (h) for New Zealand, the national level of government;
- (i) for Peru, the national level of government;
- (j) for Singapore, the national level of government;
- (k) for the United States, the federal level of government; and
- (l) for Viet Nam, the national level of government ;

customs administration means:

- (a) in relation to Australia means the Australian Customs and Border Protection Service;
- (b) in relation to Brunei Darussalam means the Royal Customs and Excise Department;
- (c) in relation to Canada means the Canada Border Services Agency;
- (d) in relation to Chile means the National Customs Service of Chile;

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- (e) in relation to Japan means the Ministry of Finance;
- (f) in relation to Malaysia means the Royal Malaysian Customs Department;
- (g) in relation to Mexico means The Ministry of Finance and Public Credit;
- (h) in relation to New Zealand means the New Zealand Customs Service;
- (i) in relation to Peru means the National Superintendence of Customs and Tax Administration;
- (j) in relation to Singapore means the Singapore Customs;
- (k) in relation to the United States of America means U.S. Customs and Border Protection; and, with respect to provisions that concern enforcement, information sharing and investigations, this also means U.S. Immigration and Customs Enforcement, as applicable; and
- (l) in relation to Viet Nam means the General Department of Viet Nam Customs;

or any successor of such customs administration.

natural person who has the nationality of a Party means:

- (a) with respect to Australia, a natural person who is an Australian citizen as defined in the Australian Citizenship Act 2007 as amended from time to time, or any successor legislation;
- (b) with respect to Brunei Darussalam, a subject of His Majesty the Sultan and Yang Di-Pertuan in accordance with the laws of Brunei Darussalam;
- (c) with respect to Canada, a natural person who is a citizen of Canada under Canadian legislation;
- (d) with respect to Chile, a Chilean as defined in Article 10 of the Political Constitution of the Republic of Chile;
- (e) with respect to Japan, a natural person who has the nationality of Japan under its laws;
- (f) with respect to Malaysia, a natural person who is a citizen of Malaysia in accordance with its laws and regulations;

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- (g) with respect to Mexico, a person who has the nationality of Mexico in accordance with its applicable laws;
- (h) with respect to New Zealand, a natural person who is a citizen as defined in the Citizenship Act 1977, as amended from time to time, or any successor legislation;
- (i) with respect to Peru, a natural person who has the nationality of Peru by birth, naturalization or option in accordance with the Political Constitution of Peru (Constitución Política del Peru) and other relevant domestic legislation;
- (j) with respect to Singapore, any person who is a citizen of Singapore within the meaning of its Constitution and its domestic laws;
- (k) with respect to the United States, “national of the United States” as defined in the Immigration and Nationality Act; and
- (l) with respect to Viet Nam, any person who is a citizen of Viet Nam within the meaning of its Constitution and its domestic laws;

regional level of government means:

- (a) for Australia, means a state of Australia, the Australian Capital Territory, or the Northern Territory;
- (b) for Brunei Darussalam, the term regional level of government is not applicable;
- (c) for Canada, means a provincial or territorial government;
- (d) for Chile, as a unitary Republic, the term regional level of government is not applicable;
- (e) for Japan, the term regional level of government is not applicable;
- (f) for Malaysia, means a State of the Federation of Malaysia in accordance with the Federal Constitution of Malaysia;
- (g) for Mexico, means a state of the United Mexican States;
- (h) for New Zealand, the term regional level of government is not applicable;
- (i) for Peru, means regional government in accordance with the Political Constitution of Peru (Constitución Política del Perú) and other applicable legislation;

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- (j) for Singapore, the term regional level of government is not applicable;
- (k) for the United States, means a state of the United States, the District of Columbia, or Puerto Rico; and
- (l) for Viet Nam, the term regional level of government is not applicable; and

territory means:

- (a) with respect to Australia, the territory of Australia:
 - (i) excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and
 - (ii) including Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereign rights or jurisdiction in accordance with international law;
- (b) with respect to Brunei Darussalam, the territory of Brunei Darussalam including its territorial sea, extending to the airspace above such territory, over which it exercises sovereignty, and the maritime area beyond its territorial sea, including sea-bed and subsoil, which has been or may hereafter be designated under the laws of Brunei Darussalam as an area over which it exercises rights and jurisdiction in accordance with international law;
- (c) with respect to Canada:
 - (i) the land territory, air space, internal waters and territorial seas of Canada;
 - (ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the *United Nations Convention on the Law of the Sea* done at Montego Bay on 10 December 1982 (UNCLOS); and
 - (iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS;
- (d) with respect to 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;

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- (e) with respect to Japan, the territory of Japan, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan exercises sovereign rights or jurisdiction in accordance with international law including the United Nations Convention on the Law of the Sea (UNCLOS) and the laws and regulations of Japan;
- (f) with respect to Malaysia, its land, territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Malaysia may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;
- (g) with respect to Mexico,
 - (i) the States of the Federation and the Federal District;
 - (ii) the islands, including the reefs and keys, in the adjacent seas;
 - (iii) the islands of Guadalupe and Revillagigedo, situated in the Pacific Ocean;
 - (iv) the continental shelf and the submarine shelf of such islands, keys and reefs;
 - (v) the waters of the territorial seas in accordance with international law and its interior maritime waters;
 - (vi) the space located above the national territory, in accordance with international law; and
 - (vii) any areas beyond the territorial seas of Mexico within which, in accordance with international law, including the United Nations Convention on the Law of the Sea, as may be amended, and its domestic law, Mexico may exercise rights with respect to the seabed and sub-soil and their natural resources;
- (h) with respect to New Zealand, the territory of New Zealand and the exclusive economic zone, seabed and subsoil over which it exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau;
- (i) with respect to Peru, the mainland territory, the islands, the maritime areas, and

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the air space above them, under sovereignty or sovereign rights and jurisdiction of Peru, in accordance with the provisions of the Political Constitution of Peru (Constitución Política del Perú) and other relevant domestic law and international law;

- (j) with respect to Singapore, its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;
- (k) with respect to the United States,
 - (i) the customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;
 - (ii) the foreign trade zones located in the United States and Puerto Rico; and
 - (iii) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise sovereign rights with respect to the seabed and subsoil and their natural resources; and
- (l) with respect to Viet Nam, the land territory, islands, internal waters, territorial sea, and airspace above them, the maritime areas beyond territorial sea including seabed, subsoil and natural resources thereof over which Viet Nam exercises its sovereignty, sovereign rights or jurisdiction in accordance with its domestic laws and international law.