

January, 2011

## INTRODUCTION

Almost ten years after initial discussions, Canada and the European Union launched negotiations towards a comprehensive trade agreement in May, 2009. The elimination of barriers to trade in services and investment and duty-free access to industrial products of each other's markets is expected to boost trade flows between Canada and European Union. Other areas such as intellectual property were addressed during the negotiations.

This simulation was based on the current agenda for Canada and EU negotiations. For the purposes of the simulation, course participants were divided between two teams, one representing Canada and the other European Union. The goal was for the participants to draft and agree on a negotiating text of a bilateral Free Trade Agreement setting out approaches to the principle issues in the negotiations (Trade in Goods, including Agriculture; Services, Investment, and TRIPs).

Each team was assigned a coach who advised the team on preparation, substantive issues and strategies. The team consulted their coach in advance of and throughout the sessions, but the coaches were not allowed to intervene in the negotiating sessions themselves.

An instructor was assigned for each principal negotiating issue. The instructor opened negotiations in his/her area with a set of questions/parameters for the negotiators to consider. The instructors was also available throughout the negotiations as independent technical advisers to both teams.

Individuals interested in participating in future negotiation simulations should contact Monique Moreau at [monique\\_moreau@carleton.ca](mailto:monique_moreau@carleton.ca).

CTPL appreciates the financial contribution from the European Commission to this simulation and to the CTPL Canada-EU Comprehensive Economic and Trade Agreement Research and Public Outreach program

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### *A Note About the Text*

The text that follows is the agreed negotiating text. The text in brackets (e.g. [trade]) or highlighted in yellow (e.g. [trade]) indicates text that has not received final approval from both parties.

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**CANADA – EUROPEAN UNION  
COMPREHENSIVE ECONOMIC TRADE AGREEMENT**

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## **Preamble**

The Government of Canada and the European Union, including its Member States:

RESOLVED to strengthen the special bonds of friendship and co-operation among their nations;

REAFFIRMING their commitment to the *United Nations Charter* and the *Universal Declaration of Human Rights* and the WTO Agreement on Trade-related Aspects of Intellectual Property Rights;

DESIRING to contribute to the harmonious development and expansion of world trade and provide a catalyst to broader international and transatlantic co-operation;

DETERMINED to create an expanded and secure market for the goods produced in their territories;

WISHING to establish a free trade area through the removal of trade barriers, **with particular emphasis on trade in services;**

COMMITTED to reduce distortions of trade;

RESOLVED to establish clear and mutually advantageous rules governing their trade;

INTENDING to enhance the competitiveness of their firms in global markets;

AIMING to create new employment opportunities and improve working conditions and living standards in their respective territories;

DETERMINED to ensure that the gains from trade liberalisation are not offset by the erection of private, anti-competitive barriers;

BUILDING on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994 (hereinafter referred to as the “WTO Agreement”), the other agreements negotiated thereunder and other multilateral and bilateral instruments of co-operation;

RECOGNISING the importance of trade facilitation in promoting efficient and transparent procedures to reduce costs and ensure predictability for the Parties’ respective trading communities;

COMMITTED to co-operate in promoting recognition that States must maintain the ability to preserve, develop and implement their cultural policies for the purpose of strengthening cultural diversity;

RECOGNISING the need for mutually supportive trade and environmental policies in order to achieve the objective of sustainable development;

AFFIRMING their commitment to economic and social development and the respect for the fundamental rights of workers and the principles set out in the International Labour Organization's *Declaration on Fundamental Principles and Rights at Work*; and

DECLARING their readiness to examine the possibility of developing and deepening their economic relations in order to extend them to fields not covered by this Agreement;

HAVE AGREED as follows:

## **CHAPTER I - INITIAL PROVISIONS AND GENERAL DEFINITIONS**

### **I. INITIAL PROVISIONS**

#### **Article 1: Establishment of the Free Trade Area**

The Parties to this Agreement, consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the *General Agreement on Trade in Services*, hereby establish a free trade area.

#### **Article 2: Relation to Other Agreements**

1. The Parties affirm their existing rights and obligations with respect to each other under the *Marrakesh Agreement Establishing the World Trade Organization* and other agreements to which the Parties are party.
2. In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

#### **Article 3: Relation to Multilateral Environmental Agreements**

In the event of any inconsistency between this Agreement and the specific trade obligations set out in the Multilateral Environmental Agreements referred to in Annex 103, such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

#### **Article 4: Extent of Obligations**

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure observance of the provisions of

this Agreement by the provincial, territorial and local governments and authorities within its territory.

### **Article 5: Reference to Other Agreements**

Where this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, such references include related footnotes, interpretative and explanatory notes.

## **II. GENERAL DEFINITIONS**

**Agricultural goods** means goods of Chapters 1 to 24 of the Harmonized System.

**Parties** means Canada and the European Union.

**Party units**, for Canada, means its provinces and territories and for the European Union, means the Member States of the European Union.

**Customs Valuation Agreement** means the WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;

**days** means calendar days, including weekends and holidays;

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

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

**GATS** means the WTO *General Agreement on Trade in Services*;

**GATT 1994** means the WTO *General Agreement on Tariffs and Trade 1994*;

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

**Harmonized System** (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading notes;

**heading** means any four-digit number, or the first four digits of any number, used in the nomenclature of the Harmonized System;

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

**national** means a natural person who is a citizen or permanent resident of a Party;

**originating** means qualifying under the rules of origin set out in Chapter III (Rules of Origin);

**person** means a natural person or an enterprise;

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

**preferential tariff treatment** means the application of the respective duty rate under this Agreement to an originating good pursuant to the Tariff Elimination Schedule;

**sanitary or phytosanitary measure** means any measure referred to in the SPS Agreement;

**SPS Agreement** means the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;

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

**subheading** means any six-digit number, or the first six digits of any number, used in the nomenclature of the Harmonized System;

**tariff classification** means the classification of a good or material under a chapter, heading or subheading of the Harmonized System;

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

## CHAPTER II - GOODS

### I. OBJECTIVES AND SCOPE

#### Article 6: Objectives

1. The Parties hereby establish a free trade area in accordance with this Agreement.
2. The objectives of this Agreement are:
  - (a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between Canada and the European Union and thus to foster in Canada and in the European Union the advancement of economic activity;
  - (b) to provide fair conditions of competition affecting trade between the Parties; and
  - (c) to establish a framework for further co-operation between Canada and the European Union in the light of developments in international economic relations, in particular

with the aim of liberalising trade in goods, services and investment, except as otherwise provided in this Agreement.

### **Article 7: National Treatment**

1. Each Party shall accord national treatment to the goods of another Party in accordance with Article III of the *General Agreement on Tariffs and Trade* (GATT), including its interpretative notes, and to this end Article III of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this Agreement.
2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a Member State or province, treatment no less favourable than the most favourable treatment accorded by such Member State or province to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part.

## **II. TRADE IN GOODS**

### **Article 8: Coverage**

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

### **Article 9: Rules of origin**

In this Agreement:

(a) “**goods of a Party**” means domestic products as these are understood in the *General Agreement on Tariffs and Trade 1994* (hereinafter referred to as the “GATT 1994”), or such goods as the Parties may agree, and includes originating products of that Party;

(b) “**originating products of a Party**” means goods of a Party that contain non-originating materials that have undergone substantive transformation in the Party’s territory resulting in a change of tariff classification.

### **Article 10: Tariff Elimination**

1. No party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.
2. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods in accordance with its Schedules to **Annex I**.
3. Each Party shall give preferential access to the other Party for the commodities listed in **Annex II**.

## **Article 11: Technical regulations and Other Agreements**

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the *WTO Agreement on Technical Barriers to Trade* (hereinafter referred to as the “WTO TBT Agreement”).
2. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures*.
3. The Parties affirm with respect to each other their existing rights and obligations relating to international agreements, including environmental and conservation agreements, to which the Parties are a signatory.
4. Without reducing the level of safety or of protection of human, animal or plant life or health, the environment or consumers, without prejudice to the rights of any Party under this heading, and taking into account international standardization activities, the Parties shall, to the greatest extent practicable, make compatible their respective standards-related measures, so as to facilitate trade in good between the Parties.
5. The Parties agree to establish the necessary mechanisms to promote the compatibility of their respective standards and conformity assessment procedures.

## **III. AGRICULTURE**

### **Article 12: Scope and Coverage**

1. This Section applies to the measures adopted or maintained by either Party relating to agricultural goods.
2. For agricultural goods, in the event of any inconsistency between the provisions of this Section and the provisions of any other Section or Chapter of this Agreement, the provisions of this Section shall prevail to the extent of the inconsistency.

### **Article 13: Agricultural Export Subsidies**

The Parties share the objective of the multilateral elimination of agricultural export subsidies and shall work together toward an agreement in the WTO to eliminate those subsidies and avoid their reintroduction in any form.

### **Article 14: Domestic Support Measures for Agricultural Goods**

The Parties agree to cooperate in the WTO agricultural negotiations in order to achieve a substantial reduction of the production and trade-distorting domestic support measures.

### **Article 15: Sensitive Agriculture**

The Parties shall establish a working group on sensitive agriculture, reporting directly to the responsible ministers of the two Parties, to examine the most sensitive issues in inter-party agricultural trade with the purpose of working towards trade liberalization in these areas. The working group on sensitive agriculture will begin its work within thirty (30) days of the signing of this Agreement and complete it within twelve (12) months.

## **CHAPTER III - GOVERNMENT PROCUREMENT**

### **Article 16: General**

The parties agree to a WTO GPA Plus arrangement wherein the spirit of the WTO GPA will guide this agreement.

### **Article 17: Affirmation of WTO Obligations**

The Parties agree that the provisions of the WTO Agreement on Government Procurement, and its successors agreements pertaining to scope and coverage, valuation of contracts, national treatment and non discrimination, rules of origin, prohibitions of offset, technical specifications, tendering procedures, submission, receipt and opening of tenders, awarding of contracts, bid challenge and provision of information will govern their activities pertaining to government procurement under this agreement.

### **Article 18: Most Favoured Nation**

Notwithstanding Article 16, with regards to measures covered by this chapter, each Party shall accord to goods of the other Party, to the suppliers of such goods, treatment no less favourable than the most favourable treatment that that Party accords to any non-party pursuant to any international agreement signed after the entry into force of this present agreement.

### **Article 19: Coverage**

1. The Parties agree that this Chapter will govern purchasing of all goods, services and construction services by the Parties. [EU: central, sub-central and government entities.]
2. For additional clarity, Canada agrees to the removal of its exclusions and the EU to the removal of its reciprocal exclusions under the WTO GPA for the following goods:
  - a) goods of a military nature
  - b) goods related to international aid and joint projects
  - c) [Goods purchased by Canada's Crown Corporations (federal and provincial) (Canada), (EU: all federal and sub-federal government entities)]
3. For the purposes of this Chapter, the following are excluded from coverage:

- a) goods below the thresholds set out in the GPA (EU, Canada)
  - b) goods purchased by sub-federal entities (Canada)
  - c) communications equipment (Canada)
  - d) information technology equipment (Canada)
4. A negative list approach will be employed for the enumeration of sub-national entities not covered under this agreement. The negative list is found in **Annex III** of this agreement.

## **CHAPTER IV – SERVICES AND INVESTMENT**

### **Article 20: National Treatment**

1. Each **Party** shall accord to all services and service providers of the other party, including at the sub-national level, treatment no less favourable than that it accords, in like circumstances, to its own services and service providers. **With respect to a Party's units, each **Party** shall accord to all services and service providers of the other party, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that Party's units to all services and service providers of the Party of which it forms a part.**
2. Nothing in this Chapter shall be construed to prevent a Party from providing a service or performing a function such as law enforcement, correctional services, income security or insurance, social security or insurance, social welfare, public education, public training, health and child care, in a manner that is not inconsistent with this Chapter.
3. Each Party shall accord to investors and the investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments.
4. **Treatment accorded by a Party under subparagraph (3) means, with respect to a Party's units, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that Party's units to investors, and to investments of investors, of the Party of which it forms a part.**

### **Article 21: Scope and Coverage of Services and Investment**

1. This Chapter applies to measures adopted or maintained by a Party relating to:
  - a. Investors of another party
  - b. Investments of investors of another Party in the territory of the Party
  - c. Services and service providers of another Party

2. A Party has the right to perform exclusively the economic activities set out in **Annex IV** and to refuse to permit the establishment of investment and service providers of the other Party in such activities.

#### **Article 22: Investment Protection**

1. Investments or returns of investors of either Contracting Party shall at all times be accorded treatment in accordance with the customary international law minimum standard of treatment of aliens, including fair and equitable treatment and full protection and security.
2. The concepts of “fair and equitable treatment” and “full protection and security” in paragraph 1 do not require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment of aliens.
3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

#### **Article 23: Foreign Ownership and Control**

4. Except as provided in **Annex IV** or otherwise in this Agreement, the Parties undertake to eliminate foreign ownership restrictions with respect to the investments of investors of the other Party no later than five years after the coming into effect of this Agreement. It is to be understood that such elimination shall occur in consultation with the Parties' competition authorities.
5. A Party may require that a portion of members of the board of directors, or any committee thereof, of a federally incorporated enterprise of that Party, that is an investment of an investor of the other Party, be of a particular nationality, or resident in the territory of the Party, provided that portion does not exceed one quarter of the total membership.
6. With regards to telecommunication services, the Parties undertake to effect a gradual reduction in nationality requirements of investors of the Parties with respect to GATS Mode 3 within their respective territories.

#### **Article 24: Denial of Benefits**

Subject to prior notification, a Party may deny the benefits of this Chapter to an investor of another Party that is an enterprise of such Party and to investments of such investors if investors of a non-Party own or control the enterprise and the enterprise has no substantial business activities in the territory of the Part under whose law it is constituted or organized.

#### **Article 25: Transfers**

Each Party agrees to adopt the NAFTA model of Article 1109 for all transfers relating to an investment of an investor of the other Party in the territory of the Party, subject to any necessary modifications.

### **Article 26: Expropriation**

1. No **[Party or its units]** may directly or indirectly nationalize or expropriate an investment of an investor of another Party in its territory or take a measure tantamount to nationalization or expropriation of such an investment ("expropriation"), except:

- (a) for a public purpose;
- (b) on a non-discriminatory basis;
- (c) in accordance with due process of law; and
- (d) on payment of compensation in accordance with paragraphs 2 through 6.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

3. Compensation shall be paid without delay and be fully realizable.

4. On payment, compensation shall be freely transferable as provided in Article 25.

5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the Chapter on Intellectual Property.

6. For purposes of this Article and for greater certainty, a non-discriminatory measure of general application shall not be considered a measure tantamount to an expropriation of a debt security or loan covered by this Chapter solely on the ground that the measure imposes costs on the debtor that cause it to default on the debt.

### **Article 27: Temporary Entry**

1. Recognizing the value of labour mobility between their respective markets, each Party shall grant temporary entry to the persons identified in **Annex V** to this Chapter, provided they meet applicable standards related to public health, safety and national security, without requiring additional labour certification procedures or measures of similar effect, including any numerical restriction.

2. Employment authorization issued pursuant to subparagraph (1) shall be valid for a term not exceeding six months less a day, with provision for reasonable extension.

3. For unskilled labour, the employment authorization shall be valid upon a showing of need by an employer located in the territory of that Party pursuant to the terms of the Temporary Foreign Worker Program, for a period not exceeding that provided for in subparagraph (2).
4. For greater certainty, nothing in this Chapter shall restrict the Parties from imposing visa requirements.

#### **Article 28: Recognition of Foreign Credentials**

1. The Parties recognize the jurisdiction of sub-federally regulated and semi-autonomous bodies in regulating professional qualifications and practices in both Parties.
2. Notwithstanding subparagraph (1), the Parties undertake to establish a Party-wide standardization of professional qualifications of such professionals as are included in Annex VI(a), within 12 months of this Agreement coming into force.
3. To that end, the Parties further undertake to establish respective Working Groups mandated with establishing a report on the implementation of measures seeking recognition of the qualifications of such professionals as are included in Annex VI(b) within three years from this Agreement coming into force.

#### **Article 29: Financial Services and Investment**

1. The Parties affirm their existing rights and obligations with respect to each other under the financial services provisions of the GATS Agreement to which the Parties are party.
2. The Parties undertake to encourage and provide their good offices and reasonable material support to its Member States or Provinces to develop arrangements providing for the harmonization of existing State or Provincial securities market structures into a singular regulatory regime spanning the Party's territory.

#### **Article 30: Settlement of Disputes between an Investor and the Host Contracting Party**

1. Any dispute between one Contracting Party and an investor of the other Contracting Party relating to the effects of a measure taken by the former Contracting Party on the management, use, enjoyment or disposal of an investment made by the investor, and in particular, but not exclusively, relating to expropriation of this Agreement or to the transfer of funds of this Agreement, shall, to the extent possible, be settled amicably between them. Annex VII Settlement of Disputes between an Investor and the Host Contracting Party shall apply to proceedings under this Article.
2. If the dispute has not been settled amicably within a period of six months from the date on which the dispute was initiated, it may be submitted by the investor to arbitration.

3. In that case, the dispute shall then be settled in conformity with either:
  - (a) the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), as adopted in Resolution 31/98 of the United Nations General Assembly on 15 December 1976;
  - (b) the rules of the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States*, done at Washington on 18 March 1965 (hereinafter referred to as the “ICSID Convention”), when both Contracting Parties are bound by it; or
  - (c) the Additional Facility Rules of the International Centre for Settlement of Investment Disputes, provided that either the disputing Contracting Party or the Contracting Party of the investor, but not both, is a party to the ICSID Convention.
4. With respect to:
  - (a) financial institutions of a Contracting Party; and
  - (b) investors of a Contracting Party, and investments of such investors, in financial institutions in the other Contracting Party’s territory,

this Article applies only in respect of claims that the other Contracting Party has breached an obligation under Article 25 (Transfer of Funds) or Article 26 (Expropriation).

5. An investor may submit a dispute under this Article to arbitration only if:
  - (a) the investor; and
  - (b) where the claim is for loss or damage to an interest in an enterprise that is a juridical person which the investor owns or controls directly or indirectly, the enterprise,

waive their right to initiate or continue before any administrative tribunal or court under the law of any Contracting Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Contracting Party that is alleged to be a breach referred to in paragraph 1 of this Article, except for procedures for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Contracting Party.

6. An interpretation of this Agreement agreed between the Contracting Parties shall be binding on a Tribunal established under this Article.

### **Article 31: Performance Requirements on Investment**

1. No Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory:
  - (a) to export a given level or percentage of goods or services;
  - (b) to achieve a given level or percentage of domestic content;
  - (c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;
  - (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;
  - (e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
  - (f) to transfer technology, a production process or other proprietary knowledge to a person in its territory, except when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement; or
  - (g) to act as the exclusive supplier of the goods it produces or services it provides to a specific region or world market.
2. A measure that requires an investment to use a technology to meet generally applicable health, safety or environmental requirements shall not be construed to be inconsistent with paragraph 1(f). For greater certainty, **the national treatment obligation** applies to the measure.
3. No Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:
  - (a) to achieve a given level or percentage of domestic content;
  - (b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;
  - (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or
  - (d) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.
4. Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with a requirement, **of a portion not exceeding one third of the projected cost of investment**, to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

5. Paragraphs 1 and 3 do not apply to any requirement other than the requirements set out in those paragraphs.
6. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in paragraph 1(b) or (c) or 3(a) or (b) shall be construed to prevent any Party from adopting or maintaining measures, including environmental measures:
  - (a) necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;
  - (b) necessary to protect human, animal or plant life or health; or
  - (c) necessary for the conservation of living or non-living exhaustible natural resources.

### **Article 32: Right to Establishment**

Each party commits to establishing comprehensive, transparent and objective investment application and review mechanisms within a year of this Agreement coming into force.

## **CHAPTER V – INTELLECTUAL PROPERTY**

### **I. GENERAL PROVISIONS AND BASIC PRINCIPLES**

#### **Article 33: Objectives**

The objectives of this Chapter are to:

- (a) Reduce distortions and impediments to international trade and taking into account the need to promote effective and adequate protection of intellectual property rights and to ensure measures and procedures to enforce intellectual property right do not themselves become barriers to legitimate trade.
- (b) Facilitate the production and commercialization of innovative and creative products between the Parties

#### **Article 34: Definition**

For the purpose of this Agreement, intellectual property rights shall refer to those rights mentioned in the TRIPS Agreement and other international treaties in the field of intellectual property to which they are parties, including at least: copyright, including copyright in computer programs and in databases and rights related to copyright; rights related to patents: trademarks and related geographical indications; designs; layout-designs (topographies) of integrated circuits; geographical indications including designations of origin; plant varieties, protection of undisclosed information and the protection against unfair competition.

#### **Article 35: Principles**

This agreement incorporates fundamental principles embodied in the TRIPS Agreement.

## **II. COPYRIGHT AND RELATED RIGHTS**

### **Article 36: Protection Granted**

Both Parties shall make continuous efforts to harmonize their respective copyright regimes with current international standards, including those stipulated in the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), collectively referred to as the WIPO Internet Treaties. Both Parties agree to work towards establishing a resale right and a distribution or a making-available right to copyright owners; extend the reproduction right to performers and broadcasters; extend the communications right for performers, phonogram producers, film producers, and broadcasters.

### **Article 37: Copyright Terms**

Both Parties agree to maintain the term of copyright to life of the author to no less than 50 years; and the term of related rights to no less than 50 years.

### **Article 38: Protection of Technological Measures**

The Parties shall provide effective legal protection against the circumvention of technological measures as well as the enabling or facilitation of the circumvention of technological measures by the manufacture, import, distribution, sale, and any other exploitation or possession for commercial purposes of circumvention devices.

## **III. GEOGRAPHICAL INDICATIONS**

### **Article 39: Recognition of Geographical Indications**

1. Both Parties shall implement their obligations under Article 22, 23, 24 of the TRIPS Agreement and ensure in their national laws adequate and effective means to protect geographical indications.
2. Both parties shall have a register listing geographical indications protected in the territory and an administrative process verifying the geographical indications identify a good as originating in a territory, region or locality of one of the parties, where a given quality, reputation or other characteristics of a good is essentially attributable to its geographical origins.
3. The registration of a term shall be treated as prima facie evidence that it should be protected in the country unless successfully challenged otherwise.
4. A registered geographical indication shall not become generic in the territories of the Parties.
5. The Canadian GIs in **Annex VIII (A)** and EU GIs in **Annex VIII (B)** will be protected directly at the entry into force of this agreement at the level provided in Article 23 TRIPS Agreement.

## **Article 40: Scope of Protection of Geographical Indications**

Both parties shall protect a registered name against:

- (a) any direct or indirect commercial use of a registered name in respect of products not covered by the registration in so far as those products are comparable to the products registered under that name or in so far as using the name exploits the reputation of the protected name;
- (b) any misuse, imitation or evocation, even if the true origin of the product is indicated or if the protected name is translated or accompanied by an expression such as “style”, “type”, “method”, “as produced in”, “imitation” or “similar”;
- (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;
- (d) any other practice liable to mislead the consumer as to the true origin of the product.

## **Article 41: Monitor and Enforcement of Geographical Indications**

Both Parties agree to set up a Joint Committee consisting of representatives of the European Union and Canada with the purpose of monitoring the development of the Article and of intensifying their co-operation and dialogue on the rules of geographical indications between the Parties. The Joint Committee will make recommendations and adopt decisions with respect to adding or modifying geographical indications in **Annex VIII (A)** and **Annex VIII (B)**.

## **IV. PATENTS**

### **Article 42: Patent Term Restoration**

Both Parties recognize that pharmaceutical and plant protection products (pesticides and herbicides) may be subject to an administrative authorization procedure before they can be put on a market. They recognize the necessity of providing for an extended period of protection for a pharmaceutical or plant protection patent in order to compensate the erosion of patent term. Canada agrees to provide further protection for pharmaceutical and plant protection through the making available a restoration of the patent term.

### **Article 43: Data Protection for Pharmaceutical Patents**

Both Parties agree to provide additional protection for pharmaceutical data that is submitted to regulatory authorities for the purpose of obtaining an authorization to put a pharmaceutical product on the market. Canada agrees to extend the data protection period for pharmaceutical data to 7 years starting from the date of first authorization in Canada.

### **Article 44: Data Protection for Plant Protection Products**

Both Parties agree to provide additional protection for test data that is necessary for the marketing authorization of the plant protection product. Canada agrees to extend the data protection period for plant protection products to 13 years starting from the date of first authorization in Canada.

## **V. Enforcement**

### **Article 45: Enforcement Principles**

To ensure fair, equitable and effective enforcement of intellectual property rights, both Parties shall give their administrative and judicial authorities the power to seize allegedly infringing goods at border; to preserve evidence; to order injunctive relief; to order alleged infringers to disclose information; to mandate disclosure of banking information in commercial infringement cases; to recall from the channels of commerce; to destroy infringing goods, and to use criminal proceedings to prosecute commercial infringers.

Both parties also commit to introduce regulatory changes in compliance with ongoing ACTA negotiations over the stringent boarder measures and Internet distribution.

Both parties are committed to strong international cooperation and sharing of information between respective law enforcement authorities including customs.

## **CHAPTER VI – DISPUTE SETTLEMENT**

### **Article 46: Cooperation**

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

### **Article 47: Choice of forum**

1. Subject to paragraph 2 and except as otherwise provided elsewhere in this Agreement, any dispute regarding any matter arising under both this Agreement and the WTO Agreement may be settled in either forum at the discretion of the complaining Party.

2. Before Canada initiates against an EU Member State or an EU Member State initiates against Canada a dispute settlement proceeding in the WTO on grounds that are substantially equivalent to those available to that Party under this Agreement, that Party shall notify the other Parties of its intention. If an EU Member State initiates a dispute settlement proceeding against Canada and another EU Member State wishes also to have recourse to dispute settlement procedures against Canada as a complainant under this Agreement regarding the same matter, it shall inform promptly the notifying Party and those Parties shall consult with a view to agreeing on a single forum. If those Parties cannot agree, the dispute shall be settled under this Agreement.

3. Once dispute settlement procedures have been initiated under this Agreement or dispute settlement proceedings have been initiated under the WTO Agreement, the forum selected shall

be used to the exclusion of the other.

4. For purposes of this Article, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel, such as under Article 6 of the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

#### **Article 48: Consultations**

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

2. Canada may request in writing consultations with any EU Member State, and any EU Member State may request in writing consultations with Canada, regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement. The Party requesting consultations shall at the same time notify the other Parties in writing thereof and supply all relevant information. Where an EU Member State has requested consultations with Canada, any other EU Member State may join in such a request as a co-complainant.

3. If any other Party so requests within ten days from the receipt of the notification referred to in paragraph 2, such Party shall be entitled to participate in the consultations.

4. The consultations shall commence within 30 days from the date of receipt of the request for consultations.

#### **Article 49: Arbitration**

1. Any dispute arising between Parties under this Agreement which has not been settled through consultations within 90 days from the date of the receipt of the request for consultation, may be referred to arbitration by one or more Parties to the dispute by means of a written notification addressed to the Party complained against. A copy of this notification shall be communicated to all Parties to this Agreement. Where more than one Party requests the submission to an arbitral tribunal of a dispute with the same Party relating to the same question, a single arbitral tribunal should be established to consider such disputes whenever feasible.

2. The establishment and functioning of the arbitral tribunal are governed by Annex IX

3. Unless the Parties otherwise agree within 30 days from the date of the receipt of the notification referring the dispute to arbitration, the terms of reference shall be:

“To examine, in the light of the relevant provisions of this Agreement, the matter referred to arbitration (as described in the notification referred to in paragraph 1) and to make such findings, determinations and recommendations as provided in paragraph 5 of Article 49 of this Agreement.”

4. The arbitral tribunal shall interpret this Agreement in accordance with customary rules of interpretation of public international law.

5. The arbitral tribunal, in its award, shall set out:

(a) its findings of law and fact, together with the reasons therefor;

(b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment of benefits within the meaning of paragraph 4, or any other determination requested in the terms of reference; and

(c) its recommendations, if any, for the resolution of the dispute and the implementation of the arbitral award.

6. The parts of the award of the arbitral tribunal referred to in sub-paragraphs (a) and (b) of paragraph 5 shall be final and binding upon the Parties to the dispute.

#### **Article 50: Implementation of the arbitral award**

1. On receipt of the arbitral award, the disputing Parties shall seek to agree on the implementation of the arbitral award, which, unless they decide otherwise by common accord, shall conform with the determinations and any recommendations of the arbitral tribunal. The disputing Parties shall notify the other Parties of any agreed resolution of the dispute.

2. Wherever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or causing nullification or impairment of benefit or, failing such a resolution, compensation.

#### **Article 51: Non-implementation - suspension of benefits**

1. In case of disagreement as to the existence or consistency of a measure implementing the arbitral award with the determinations and any recommendations of the arbitral tribunal, such dispute shall be decided by the same arbitral tribunal before compensation can be sought or suspension of benefits can be applied in accordance with paragraphs 3 through 5. If one or more members of the original arbitral tribunal are not available, a new arbitral tribunal shall be established in accordance with Annex K, to make this determination.

2. The complaining Party may not initiate arbitration under the preceding paragraph before a period of 12 months has expired following the rendering of the award pursuant to paragraph 5 of Article 49. The award of the tribunal referred to in the preceding paragraph shall normally be rendered within three months of the request for arbitration.

3. If the arbitral tribunal, in accordance with paragraph 1 has determined that an implementing measure is inconsistent with the determinations and any recommendations of the original arbitral tribunal, or that no implementing measures have been taken, and the Party complained against has not reached agreement with a complaining Party on a mutually satisfactory resolution within 30 days of receiving this award, the complaining Party may, until such time as the disputing Parties have reached agreement on a resolution of the dispute:

- (a) seek compensation through an agreement with the Party complained against; or
- (b) suspend the application to the Party complained against of benefits of equivalent effect.

4. Upon written request of any disputing Party delivered to the other Party or Parties, the same arbitral tribunal shall be reconvened to determine whether the level of benefits suspended by a Party pursuant to paragraph 3 is of equivalent effect. If one or more members of the original arbitral tribunal are not available, a new arbitral tribunal shall be established in accordance with Annex K, to make this determination.

5. The proceedings of the arbitral tribunal reconvened or established under paragraph 4 shall be conducted in accordance with paragraph 3 of Annex K. The arbitral tribunal shall present its determination within 60 days after the date of the request referred to in paragraph 4, or such other period as the disputing Parties may agree.

## **CHAPTER VI - FINAL PROVISIONS**

### **Article 52: Evolutionary clause**

Without prejudice to the obligation to review specific Articles of this Agreement, the Parties undertake to review this Agreement in the light of further developments in international economic relations, including in the framework of the WTO, and to examine in this context and in the light of any relevant factors, the possibility of further developing and deepening the co-operation under this Agreement and to extend it to areas not covered therein. The Parties may examine this possibility through the Joint Committee and, where appropriate, open negotiations.

### **Article 53: Trade and economic relations governed by this Agreement**

The provisions of this Agreement apply to the trade and economic relations between, on the one side, Canada and, on the other side, the individual EU Member State, but not to the trade relations between individual EU Member States, unless otherwise provided in this Agreement.

### **Article 54: Sub-national entities**

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take any measure necessary to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory.

### **Article 55: Annexes**

The Annexes to this Agreement constitute an integral part of it.

### **Article 56: Transparency**

1. The Parties shall publish, or otherwise make publicly available, their laws, regulations, procedures and administrative rulings and judicial decisions of general application as well as the international agreements which may affect the operation of this Agreement.

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

**Article 57: Additional Parties**

The Parties may invite any State to become a Party to this Agreement. The terms and conditions of the participation by the additional Party shall be the subject of an agreement between the Parties and the invited State.

**Article 58: Entry into force**

1. This Agreement is subject to ratification, acceptance or approval.

2. This Agreement shall enter into force on the first day of the third month following the deposit by Canada and the EU of their respective instruments of ratification, acceptance or approval.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

## ANNEXES

### **Annex I: Tariff Exceptions**

Except as otherwise provided in a Party's tariff schedule:

- a) Canada shall apply the staging categories set out in Section A in eliminating customs duties pursuant to Article 5 (2); and
- b) The EU shall apply the staging categories set out in Section B in eliminating customs duties pursuant to Article 5 (2).

#### **Section A**

##### *Staging Categories*

1. The base rate of customs duty shall be the most-favoured-nation customs duty applied on the date preceding the entry into force of this Agreement.
2. Duties on originating goods provided for in the items in staging Category A shall be eliminated entirely and such goods shall be duty-free on the date this Agreement enters into force.
3. Duties on originating goods provided for in the items in staging Category B shall be reduced to free in five (5) annual stages beginning on the date this Agreement enters into force.
4. Duties on originating goods provided for in the items in staging Category C shall be reduced to free in ten (10) equal annual stages beginning on the date this Agreement enters into force.
5. Duties on originating goods provided for in the items in staging Category D are to be addressed by the working group on sensitive agriculture as identified in Article 10 (1).

##### *Staging Category A*

- i) Goods in Chapters 1 to 99 of the Harmonized System with the exception of goods listed in Staging Categories B, C, and D.

##### *Staging Category B*

- i) Household electrical appliances of Chapter 85
- ii) Textiles (Chapters 50 to 63)
- iii) Footwear (Chapters 64 to 67)
- iv) Shipbuilding (Chapter 75)

##### *Staging Category C*

- i) Automobiles (Chapters 87.03 and 87.04)

### ***Staging Category D***

- i) Poultry (Chapters 02.07 and 02.09)
- ii) Eggs (Chapters 04.07 and 04.08)
- iii) Beef (Chapter 02.01 and 02.02)
- iv) Margarine products (Chapter 15.17)
- v) Dairy products (Chapter 4)

### **Section B**

#### ***Staging Categories***

1. The base rate of customs duty shall be the most-favoured-nation customs duty rate applied on the date preceding the entry into force of the Agreement.
2. Duties on originating goods provided for in the items in staging Category A shall be eliminated entirely and such goods shall be duty-free on the date this Agreement enters into force.
3. Duties on originating goods provided for in the items in staging Category B shall be reduced to free in five (5) equal annual stages beginning on the date this Agreement enters into force.
4. Duties on originating goods provided for in the items in staging Category C shall increase the quota ten (10) equal annual stages beginning on the date this Agreement enters into force.
5. Duties on originating goods provided for in the items in staging Category D are to be further addressed by the working group on sensitive agriculture as identified in Article 10 (1).

#### ***Staging Category A***

- i) Goods in Chapters 1 to 99 with the exception of goods listed in Staging Categories B, C and D.

#### ***Staging Category B***

- i) Woods and wood products (Chapters 44 to 49)
- ii) Aluminum Products (Chapter 76)
- iii) Automobiles (Chapters 8703 and 8704)
- iv) Automobiles Parts (Chapter 8708)
- v) Processed food (Chapters 020120, 020130, 020230, 020312, 020329 and 040630)

#### ***Staging Category C***

- i) Textiles (Chapters 50 to 63)
- ii) Footwear (Chapters 64 to 67)

#### ***Staging Category D***

- i) Fruits, vegetables (Chapters 7 and 8)
- ii) Wheat (Chapter 10.01)

- iii) Oats (Chapter 10.04)

## **Annex II: Preferential Access**

The Parties have agreed to grant each other preferential access in the following areas:

- a) Canada will increase EU share of the following tariff rated quota as provided in Section A by five (5) percent annually for the five (5) subsequent years beginning on the date this Agreement enters into force. The resulting increase in the existing tariff rate quota will be without prejudice to the existing tariff rate quota.
- b) The European Union will grant Canada preferential access for the commodities listed in Section B equivalent to five (5) percent of the existing tariff rate quota for these commodities. In subsequent years, the access granted to Canada will increase by five (5) percent of the tariff rate quota in force at the time of this Agreement for the five (5) subsequent years beginning on the date this Agreement enters into force.
- c) As regards to Canada's guaranteed access for beef and pork as described in Section B, it is understood that the beef and the pork will be in full conformity with the EU's standards and labelled accordingly.

### **Section A**

- i) Cheese (Chapter 0406)
- ii) Wheat (Chapter 1001)
- iii) Barley (Chapter 1003)

### **Section B**

- i) Pork (Chapter 0203)
- ii) Beef (Chapters 0201 and 0202)
- iii) Cheese (Chapter 0406)
- iv) Fish (Chapter 3)

## **Annex III: Entities Excluded From Government Procurement Obligations**

For projects whose estimated total cost is five million dollars (\$5 000 000 CDN) or less:

1. Municipalities
2. Universities
3. Schools
4. Hospitals

#### **Annex IV: Foreign Ownership Exceptions**

1. Energy
2. Financial Services
3. Air and marine transportation.
4. Radio, television, and internet services providers and related forms of broadcasting.

#### **Annex V: Temporary Entry**

1. Business visitors, as defined in NAFTA;
2. Traders and investors, as defined in NAFTA;
3. Spouses or common law partners of business visitors, or traders or investors;
4. Tertiary students
5. Unskilled labour
6. Professionals, except those engaged in the following sectors:
  - a. Cultural industries; or
  - b. Agricultural services

#### **Annex VI(a): Recognition of Foreign Qualifications**

1. Medical/Dental professionals
2. Architects
3. Engineers

NB: (This list is not exhaustive)

#### **Annex VI(b): Recognition of Foreign Qualifications for future implementation**

1. Lawyers/Legal Professionals
2. Accountants
3. Financial Services Brokers, including but not limited to Insurance Brokers, Mortgage Brokers, Securities Brokers and etc.

#### **Annex VII: Settlement of Disputes between an Investor and the Host Contracting Party**

##### **I. Public Access to Hearings and Documents**

1. Hearings held under Article X (Settlement of Disputes between an Investor and the Host Contracting Party) shall be open to the public. To the extent necessary to ensure the protection of confidential information, the Tribunal may hold portions of hearings in camera.

2. The Tribunal shall establish procedures for the protection of confidential information and appropriate logistical arrangements for open hearings, in consultation with the disputing parties.
3. All documents submitted to, or issued by, the Tribunal shall be publicly available, unless the disputing parties otherwise agree, subject to the redaction of confidential information.
4. Notwithstanding paragraph 3, any Tribunal award under this Agreement shall be publicly available, subject to the redaction of confidential information.
5. A disputing party may disclose to other persons in connection with the arbitral proceedings such unredacted documents as it considers necessary for the preparation of its case, but it shall ensure that those persons protect the confidential information in such documents.
6. The Contracting Parties may share with officials of their respective sub-national governments all relevant unredacted documents in the course of dispute settlement under this Agreement, but they shall ensure that those persons protect any confidential information in such documents.
7. The Tribunal shall not require a Contracting Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Contracting Party's law protecting Cabinet confidences, personal privacy or the financial affairs and accounts of individual customers of financial institutions, or which it determines to be contrary to its essential security.
8. To the extent that a Tribunal's confidentiality order designates information as confidential and a Contracting Party's law on access to information requires public access to that information, the Contracting Party's law on access to information shall prevail. However, a Contracting Party should endeavour to apply its law on access to information so as to protect information designated confidential by the Tribunal.

## **II. Participation by the Non-Disputing Contracting Party**

1. The non-disputing Contracting Party shall be entitled, at its cost, to receive from the disputing Contracting Party a copy of:
  - (a) the evidence that has been tendered to the Tribunal;
  - (b) copies of all pleadings filed in the arbitration; and
  - (c) the written argument of the disputing parties.
2. The non-disputing Contracting Party receiving information pursuant to paragraph 1 shall treat the information as if it were a disputing Contracting Party.
3. On written notice to the disputing parties, the non-disputing Contracting Party may make written submissions to a Tribunal on a question of interpretation of this Agreement.

The non-disputing Contracting Party shall have the right to attend any hearings held under this Agreement, whether or not it makes submissions to the Tribunal.

### **III. Submissions by a Non-Disputing Party**

1. Any non-disputing party that is a person of a Contracting Party, or has a significant presence in the territory of a Contracting Party, that wishes to file a written submission with the Tribunal (the “applicant”) shall apply for leave from the Tribunal to file such a submission, in accordance with the applicable Guidelines set out in Part IV of this Annex. The applicant shall attach the submission to the application.
2. The applicant shall serve the application for leave to file a non-disputing party submission and the submission on all disputing parties and the Tribunal.
3. The Tribunal shall set an appropriate date for the disputing parties to comment on the application for leave to file a non-disputing party submission.
4. In determining whether to grant leave to file a non-disputing party submission, the Tribunal shall consider, among other things, the extent to which:
  - (a) the non-disputing party submission would assist the Tribunal in the determination of a factual or legal issue related to the arbitration by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;
  - (b) the non-disputing party submission would address a matter within the scope of the dispute;
  - (c) the non-disputing party has a significant interest in the arbitration; and
  - (d) there is a public interest in the subject-matter of the arbitration.
5. The Tribunal shall ensure that:
  - (a) any non-disputing party submission avoids disrupting the proceedings; and
  - (b) neither disputing party is unduly burdened or unfairly prejudiced by such submissions
6. The Tribunal shall decide whether to grant leave to file a non-disputing party submission. If leave to file a non-disputing party submission is granted, the Tribunal shall set an appropriate date for the disputing parties to respond in writing to the non-disputing party submission. By that date, the non-disputing Contracting Party may, pursuant to the provisions of Part II of this Annex (*Participation by the Non-Disputing Contracting Party*), address any issues of interpretation of this Agreement presented in the non-disputing party submission.
7. A Tribunal that grants leave to file a non-disputing party submission is not required to address the submission at any point in the arbitration, nor is the non-disputing party that files the submission entitled to make further submissions in the arbitration.

8. Access to hearings and documents by non-disputing parties that file applications under these procedures shall be governed by the provisions of Part I of this Annex (*Public Access to Hearings and Documents*)

#### **IV. Guidelines for Submissions by a Non-Disputing Party**

1. The application for leave to file a non-disputing party submission shall:
  - a. be made in writing, dated and signed by the person filing the application, and include the address and other contact details of the applicant;
  - b. be no longer than five typed pages;
  - c. describe the applicant, including, where relevant, its membership and legal status (e.g., company, trade association or other non-governmental organization), its general objectives, the nature of its activities, and any parent organization (including any organization that directly or indirectly controls the applicant);
  - d. disclose whether or not the applicant has any affiliation, direct or indirect, with any disputing party;
  - e. identify any government, person or organization that has provided any financial or other assistance in preparing the submission;
  - f. specify the nature of the interest that the applicant has in the arbitration;
  - g. identify the specific issues of fact or law in the arbitration that the applicant has addressed in its written submission;
  - h. explain, by reference to the factors specified in paragraph 4 of Part III of this Annex (*Submissions by a Non-Disputing Party*), why the Tribunal should accept the submission; and
  - i. be made in a language of the arbitration.
2. The submission filed by a non-disputing party shall:
  - a. be dated and signed by the person filing the submission;
  - b. be concise, and in no case longer than twenty typed pages, including any appendices;
  - c. set out a precise statement supporting the applicant's position on the issues; and
  - d. only address matters within the scope of the dispute.

## **Annex VIII: Geographical Indications**

### Annex VIII (A) - Recognized Canadian Geographical Indications

(To be determined and subject to modification)

### Annex VIII (B) - Recognized EU Geographical Indications

B1: Agricultural Products and Foodstuffs Originating in the EU:

Tiroler Speck (Ham)

Steirischer Kren (Horseradish roots)

České pivo (Beer)

Budějovické pivo (Beer)

Budějovický měšťanský var (Beer)

Českobudějovické pivo (Beer)

Žatecký chmel (Hops)

Comté (Cheese)

Reblochon (Cheese)

Roquefort (Cheese)

Camembert de Normandie (Cheese)

Brie de Meaux (Cheese)

Emmental de Savoie (Cheese)

Pruneaux d'Agen / Pruneaux d'Agen mi-cuits (Dried cooked plums)

Huîtres de Marennes-Oléron (Oyster)

Canards à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy)  
(Duck fatty liver)

Jambon de Bayonne (Ham)

Huile d'olive de Haute-Provence (Olive Oil)

Huile essentielle de lavande de Haute-Provence (Lavender essential oil)

Bayerisches Bier (Beer)

Munchener Bier (Beer)

Elia Kalamatas (Olive)

Masticha Chiou (Gum)

Feta (Cheese)

Szegedi téliszalámi / Szegedi szalámi (Salami)

Aceto balsamico Tradizionale di Modena (Sauce-seasoning)

Cotechino Modena (Pork meat sausage)  
Zampone Modena (Pork meet)  
Mortadella bologna (Large pork meat sausage)  
Prosciutto di Parma (Ham)  
Prosciutto di S. Daniele (Ham)  
Prosciutto Toscano (Ham)  
Provolone Valpadana (Cheese)  
Taleggio (Cheese)  
Asiago (Cheese)  
Fontina (Cheese)  
Gorgonzola (Cheese)  
Grana Padano (Cheese)  
Mozzarella di Bufala (Cheese)  
Campana (Cheese)  
Parmigiano Reggia (Cheese)no  
Pecorino Romano (Cheese)  
Queijo de Sao Jorge (Cheese)  
Baena (Olive oil)  
Sierra Magina (Olive oil)  
Aceite del Baix-Ebre-Montsía /Oli del Baix Ebre-Montsià (Olive oil)  
Aceite del Bajo Aragon (Olive oil)  
Antequera (Olive oil)  
Priego de Cordoba (Olive oil)  
Sierra de Cadiz (Olive oil)  
Sierra de Segura (Olive oil)  
Guijuelo (Ham)  
Jamon de Huelva (Ham)  
Jamon de Teruel (Ham)  
Salchichón de Vic /Llonganissa de Vic (Sausage)  
Mahon-Menorca (Cheese)  
Queso Manchego (Cheese)  
Cítricos Valencianos /Cítrics Valencians (Citrus)  
Jijona (Nougat)  
Turrón de Alicante (Confectionary)

Azafran de la Mancha (Saffron)

B2: Wines and Spirits Originating in the European Union:

Wines and spirits GIs are governed by Canada-European Community Wines and Spirits Agreement.

### **Annex IX – Establishment and Functioning of the Arbitral Tribunal**

1. Each member of the arbitral tribunal shall:

- (a) have expertise or experience in international 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;
- (c) be independent of, and not be affiliated with or take instructions from, any Party, nor have dealt with the case in any capacity; and
- (d) comply with any code of conduct for dispute settlement.

2. The following procedures shall apply to the selection of the members of the arbitral tribunal:

- (a) the arbitral tribunal shall comprise three members;
- (b) in its written notification, the Party or Parties referring the dispute to arbitration shall designate one member of the arbitral tribunal, who meets the criteria of paragraph 1 of this Annex. Such member may be a national of the referring Party or Parties;
- (c) within 15 days from the receipt of the notification referred to in sub-paragraph 2(b), the Party or Parties to which it was addressed shall, in turn, designate one member, who meets the criteria of paragraph 1. Such member may be a national of the designating Party or Parties;
- (d) within 30 days from the receipt of the notification referred to in sub-paragraph 2(b), the Parties concerned shall agree on the designation of a third member, who meets the criteria of paragraph 1. The third member shall not be a national of any of the Parties to this Agreement, nor permanently reside in the territory of any such Party. The member thus designated shall be the President of the arbitral tribunal;
- (e) if any of the three members have not been designated within 30 days from the receipt of the notification referred to in sub-paragraph 2(b), the remaining designation or designations shall be made, at request of any Party to the dispute, by the Secretary-General of the Permanent Court of Arbitration, applying the criteria of sub-paragraphs 2(c) and 2(d). If the Secretary-General is unable to act under this paragraph or is a national of a Party to this Agreement, the designation or designations shall be effected by the Deputy Secretary-General of the Permanent Court of Arbitration.

3. Unless otherwise agreed between the Parties to the dispute, and subject to paragraphs 4

through 7, the *Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two States*, effective 20 October 1992, shall apply.

4. The arbitral tribunal shall take its decisions by majority vote.

5. A Party which is not a Party to the dispute, on delivery of a written notice to the disputing Parties, shall be entitled to make written submissions to the arbitral tribunal, to receive written submissions of the disputing Parties, attend all hearings and make oral submissions.

6. The arbitral award shall be rendered within six months of the date at which the President of the arbitral tribunal was appointed. This period can be extended by a maximum of three additional months, if the Parties to the dispute so agree.

7. The expenses of the arbitral tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.