FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE STATE OF ISRAEL

PREAMBLE

The Government of the State of Israel and the Government of Canada:

DESIRING to strengthen their economic relations and to promote economic development;

WISHING to create a framework for promoting investment and cooperation;

RESOLVED to foster the development of their trade with due regard to fair conditions of competition;

RECALLING the mutual interest of the Government of the State of Israel and the Government of Canada in reinforcement of the multilateral trading system as reflected in the WTO;

RECALLING that the Government of Canada and the Government of the State of Israel entered into a Memorandum of Understanding on September 27, 1976 which established a Joint Economic Commission, which was continued under a Memorandum of Understanding on Economic Cooperation entered into on August 5, 1993;

WISHING to establish a free trade area between the two countries through the removal of trade barriers;

DECLARING their readiness to explore other possibilities for extending their economic relations to other fields not covered by this Agreement;

HAVE AGREED as follows:

PART ONE

GENERAL PART

Chapter One
Objectives

Article 1.1: Establishment of the Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994, as specified in Annex 1A of the Agreement Establishing the World Trade Organization, hereby establish a free trade area.

Article 1.2: Objective

1. The objective of this Agreement, as elaborated more specifically in its provisions, is to eliminate barriers to trade in, and facilitate the movement of, goods between the

territories of the Parties, and thereby to promote conditions of fair competition and increase substantially investment opportunities in the free trade area.

2. The Parties shall interpret and apply the provisions of this Agreement in the light of its objective set out in paragraph 1 and in accordance with applicable rules of international law.

3. Each Party shall administer in a consistent, impartial and reasonable manner all laws, regulations, decisions and rulings affecting matters covered by this Agreement.

Article 1.3: Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the Agreement Establishing the World Trade Organization, (hereinafter referred to as the WTO Agreement), including the General Agreement on Tariffs and Trade 1994, (hereinafter referred to as GATT 1994), and its successor agreements and other agreements to which both 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 1.4: Definitions of General Application

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

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;

good of a Party means a domestic good as this is understood in the GATT 1994 or such a good as the Parties may agree, and includes an originating good of that Party;

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

originating good or material means a good or material that qualifies as originating under Chapter Three;

person means a natural person or an enterprise; and

territory means:

(a) with respect to Canada the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic law, Canada may exercise rights with respect to the seabed and subsoil and their natural resources;

(b) with respect to Israel the territory where its customs laws are applied;

2. The rights and obligations of the Parties relating to the observance of this Agreement by regional and local governments shall be governed by Article XXIV:12 of the GATT 1994.

PART TWO

TRADE IN GOODS

Chapter Two
Tariff Elimination and Related Matters

TARIFF ELIMINATION

Article 2.1: Tariff Elimination

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any customs duty, or any charge of equivalent effect on an originating good to which paragraph 2 applies.

2. Except as otherwise provided in this Agreement, each Party shall,

(a) by January 1, 1997, eliminate its customs duties on originating goods listed in Chapters 25 to 97 of the Harmonized System with the exception of the tariff items listed in Annex 2.1.1 and

(b) in the case of originating goods listed in Chapters 1 to 24 of the Harmonized System eliminate or reduce duties on goods in accordance with Annex 2.1.2.

RELATED MATTERS

Article 2.2: Customs Duties: Repair and Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.

2. Neither Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

3. The Parties shall comply with the requirements set out in Annex 2.2.3, as amended by the Parties from time to time, to verify that the repair or alteration has been performed in the territory of one of the Parties.

Article 2.3: Definitions

For purposes of this Chapter:

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

(a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994 as specified in, or any equivalent provision of a successor agreement to which both Parties are party, 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 that is applied in accordance with the WTO Agreement, including the GATT 1994 pursuant to a Party's domestic law; and

(c) fee or other charge in connection with importation commensurate with the cost of services rendered.

existing customs duty means the rate of duty applicable to imports from the other Party on January 1, 1996.

repair or alteration does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good.

Chapter Three
Rules of Origin

Rules for Originating Goods:
Article 3.1: Basic Rules for Originating Goods

Except as otherwise provided in this Chapter, a good shall originate in the territory of a Party where:

(a) the good is wholly obtained or produced entirely in the territory of one or both of the Parties, as defined in Article 3.13;

(b) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification set out in the rule for that good in Annex 3.1, and the good satisfies any other applicable requirement set out in that rule, as a result of production occurring entirely in the territory of one or both of the Parties;

(c) the good satisfies, as a result of production occurring entirely in the territory of one or both of the Parties, the applicable requirements set out in the rule for the good in Annex 3.1 where no change in tariff classification is required in that rule;

(d) the good is produced entirely in the territory of one or both of the Parties exclusively from originating materials; or

(e) except for a good provided for in Chapters 61 through 63 of the Harmonized System, the good is produced entirely in the territory of one or both of the Parties but one or more of the non-originating materials provided for as parts under the Harmonized System that are used in the production of the good do not undergo a change in tariff classification because

(i) the heading for the good provides for and specifically describes both the good itself and its parts and is not further subdivided into subheadings, or

(ii) the subheading for the good provides for and specifically describes both the good itself and its parts, provided that at least one category of identical or similar materials provided for in that heading or subheading be originating;

and the good satisfies all other applicable requirements of this Chapter.

Article 3.2: De Minimis Rule for Originating Goods

1. Except as provided in paragraphs 2 and 3, a good shall also originate in the territory of a Party where the value of all the non-originating materials used in the production of a good that do not undergo an applicable change in tariff classification set out in the rule for the good in Annex 3.1 is not more than ten per cent of the value of the good, adjusted to an F.O.B. basis at the point of direct shipment, provided that the good satisfies all other applicable requirements of this Chapter.

2. Paragraph 1 does not apply to:

(a) a non-originating material provided for in Chapter 4 or tariff item 1901.90.aa of the Harmonized System that is used in the production of a good provided for in Chapter 4, tariff item 1901.20.aa, 1901.90.aa, heading 21.05, tariff item 2106.90.cc, 2202.90.cc or 2309.90.aa of the Harmonized System;

(b) a non-originating material provided for in subheading 0201.10 through 0201.30 or 0202.10 through 0202.30 of the Harmonized System that is used in the production of a good provided for in Chapter 16 of the Harmonized System;

(c) a printed circuit assembly that is a non-originating material used in the production of a good where the applicable rule in Annex 3.1 places restrictions on the consideration of such non-originating material for the purpose of determining whether the good originates;

(d) a non-originating material used in the production of a good provided for in Chapters 1 through 19, heading 20.01 through 20.08, subheading 2009.90, heading 21.01 through 21.05, subheading 2106.10, tariff item 2106.90.bb, heading 22.01, tariff item 2202.90.bb or heading 22.03 through 22.07 of the Harmonized System, unless that non-originating material is provided for in a different subheading than the good for which origin is being determined under this Chapter;

(e)a non-originating material provided for in Chapters 50 through 64 of the Harmonized System that is used in the production of a good provided for in Chapters 50 through 64 of the Harmonized System; or

(f) a non-originating material used in the production of a good provided for in subheading 3824.90, 8406.10 through 8406.82, 8415.10 through 8415.83, 8418.10 through 8418.69, 8421.12, 8422.11, 8450.11 through 8450.20, 8451.21 through 8451.29, heading 84.56 through 84.61, 84.62 through 84.63, subheading 8477.10 through 8477.20, 8477.30, heading 84.83, 85.01, subheading 8502.11 through 8502.39, 8516.31, 8516.33, 8516.40, tariff item 8516.60.aa, subheading 8516.72, 8526.10 or 8540.71 through 8540.79 of the Harmonized System.

3. Where Annex 3.1 sets out two or more alternative rules for a good, paragraph 1 shall apply only if the determination of whether the good is an originating good is being made under the first rule set out for that good.

Article 3.3:Rules Regarding Accessories, Spare Parts and Tools, Indirect Materials, and Packaging and Packing Materials and Containers

1. For purposes of determining whether a good is an originating good, the following materials shall be deemed to be originating materials without regard to where the materials are produced:

(a) accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts or tools, provided that the accessories, spare parts or tools are not invoiced separately from the good and the quantities and value of the accessories, spare parts or tools are customary for the good;

(b) indirect materials used in the production of the good;

(c) packaging materials and containers in which the good is packaged for retail sale, provided that the packaging materials and containers are classified under the Harmonized System with the good that is packaged within; and

(d) packing materials and containers in which the good is packed for shipment.

2. For purposes of applying other Chapters of this Agreement to the materials referred to in subparagraphs 1(a), (c) and (d), these materials shall be deemed to originate if the good referred to in paragraph 1 originates.

Exceptions to the Rules

Article 3.4: Non-Qualifying Operations

A good shall not be considered to be an originating good merely by reason of:

(a) any work, process or practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent this Chapter;

(b) minor processing; or

(c) a change in tariff classification that is the result of

(i) a change in end use of the good, or

(ii) collecting parts so that the collection of parts is classified as if it were an assembled good pursuant to Rule 2(a) of the General Rules for the interpretation of the Harmonized System.

Article 3.5: Direct Shipment and Transhipment

1. Except as provided in paragraph 2, an originating good that is exported from the territory of a Party shall maintain its originating status only if:

(a) the good is shipped directly from the territory of one Party to the territory of the other Party;

(b) the good is transhipped through the territory of a non-Party, provided that

(i) the good does not undergo further production or any other operation in the territory of that non-Party, other than unloading, splitting up of loads, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party, and

(ii) the good remains under customs control in the territory of any non-Party through which the good is transported to the territory of a Party; or

(c) subject to Article 5.12(4), the good is transhipped through the territory of a non-Party with which each Party has entered separately into a free trade agreement under Article XXIV of the GATT 1994 before this Agreement enters into force and does not undergo further production other than minor processing in the territory of that non-Party.

2. Subject to Article 5.12(5), with regard to any specifically identified good that is agreed upon by the Parties after the date of entry into force of this Agreement, an originating good that is transhipped through the territory of a non-Party with which each Party has entered separately into a free trade agreement under Article XXIV of the GATT 1994 before this Agreement enters into force may undergo more than minor processing in the territory of that non-Party, provided that the good meets any specifically designated conditions, as agreed by the Parties, regarding the production in the territory of that non-Party.

Article 3.6:Third Country Materials for Originating Goods

Where each Party has entered separately into a free trade agreement under Article XXIV of the GATT 1994 with the same non-Party before this Agreement enters into force, a

good, which, if imported into the territory of one of the Parties under such free trade agreement with that non-Party, would qualify for tariff preferences under that agreement, shall be considered to be an originating good under this Chapter when imported into the territory of the other Party and used as a material in the production of another good in the territory of that other Party.

Application and Interpretation:

Article 3.7: Fungible Goods and Materials

For purposes of determining whether a good is an originating good,

(a) where originating materials and non-originating materials that are fungible materials are used in the production of the good, the determination of whether the materials are originating materials may, at the choice of the producer of the good, be made on the basis of any of the applicable inventory management methods set out in Annex 3.7;

(b) where originating goods and non-originating goods that are fungible goods are physically combined or mixed in inventory in the territory of a Party and, prior to exportation to the territory of the other Party, do not undergoproduction or any other operation in the territory of the Party in which they were physically combined or mixed in inventory, other than unloading, reloading or any other operation necessary to preserve the goods in good condition or to transport the goods to the territory of the other Party, the determination of whether the good is an originating good may, at the choice of the exporter of the good, be made on the basis of any of the applicable inventory management methods set out in Annex 3.7; and

(c) where originating goods and non-originating goods that are fungible goods are physically combined or mixed in inventory in the territory of a Party and, prior to acquisition by a person in the territory of that Party, do not undergo production or any other operation in the territory of that Party, other than unloading, reloading or any other operation necessary to preserve the goods in good condition or to transport the goods to that person, the determination of whether the good is an originating good may, at the choice of the person who physically combined or mixed in inventory the fungible goods, be made on the basis of any of the applicable inventory management methods set out in Annex 3.7.

Article 3.8: Self-Produced Materials

For purposes of determining whether a good is an originating good, the producer of a good may, at the producer's choice, designate any self-produced material that is used in the production of the good as a material to be taken into account as an originating or non-originating material, as the case may be, in determining whether the good satisfies the applicable requirements of Article 3.1.

Article 3.9:Tariff Classification

For purposes of this Chapter, the basis for tariff classification is the Harmonized System.

Article 3.10:Category of Identical or Similar Materials and Other Requirements Under Articles 3.1(b) and (c)

1. For purposes of determining whether a good is an originating good under Article 3.1(b), where a rule for a good in Annex 3.1 specifies the requirement that at least one category of identical or similar materials used in the production of the good be originating:

(a) only those materials that are provided for in the specific tariff provisions identified as providing for those materials in that rule and that are used in the production of the good shall be considered as materials for the purpose of determining whether that requirement is satisfied;

(b) a category of identical or similar materials shall consist of a single material only if no other material used in the production of the good is identical or similar to that single material; and

(c) the specific tariff provisions referred to in subparagraph (a) shall not include the tariff provision which provides for the good itself.

2. For purposes of determining whether a good is an originating good under Article 3.1(c), where the rule for a good in Annex 3.1 specifies that no change in tariff classification is required and specifies the requirement that at least one category of identical or similar materials used in the production of the good be originating:

(a) only the materials that are provided for in the same tariff provision as the good and that are used in the production of the good shall be considered as materials for the purposes of determining whether the requirement that at least one category of identical or similar materials be originating is satisfied; and

(b) a category of identical or similar materials shall consist of a single material only if no other material used in the production of the good is identical or similar to that single material.

Article 3.11: Applying Article 3.1(e) When Goods and Parts Are Classified Together

For purposes of determining whether a good is an originating good under Article 3.1(e):

(a) only the parts that are provided for in the same tariff provision as the good and that are used in the production of the good shall be considered as parts for the purposes of determining whether the requirement that at least one category of identical or similar materials be originating is satisfied;

(b) the determination of whether a heading or subheading under the Harmonized System provides for and specifically describes both a good and its parts shall be made on the basis of the nomenclature of the heading or subheading and the relevant Section or

Chapter Notes, in accordance with the General Rules for the Interpretation of the Harmonized System;

(c) a category of identical or similar materials shall consist of a single material only if no other material used in the production of the good is identical or similar to that single material; and

(d) Article 3.1(e) does not apply for purposes of determining whether a part provided for in a heading referred to in Article 3.1(e)(i) or in a subheading referred to in Article 3.1(e)(ii) is an originating good.

Article 3.12: De Minimis Calculation and Application

1. For purposes of applying the Customs Valuation Code under Article 3.2(1) and paragraphs 2 through 6, the principles of the Customs Valuation Code shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions.

2. For purposes of Article 3.2(1), the de minimis content of a good shall be calculated as follows:

$$DMC = \frac{VNM}{VG} \times 100$$

where

DMC is the de minimis content of the good, expressed as a percentage,

VG is the value of the good, determined in accordance with paragraph 3, adjusted to a F.O.B. basis at the point of direct shipment, and

VNM is the value of all the non-originating materials used in the production of the good, determined in accordance with paragraph 6, that do not undergo an applicable change in tariff classification set out in Annex 3.1.

3. For purposes of Article 3.2(1) and paragraph 2, the value of a good shall be:

(a)the transaction value of the good, determined in accordance with Article 1 of the Customs Valuation Code; or

(b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, determined in accordance with Articles 2 through 7 of the Customs Valuation Code.

4. For purposes of paragraph 2, VNM shall not include the value of non-originating materials used to produce originating materials, including originating self-produced materials, that are subsequently used by the producer in the production of the good.

5. For purposes of paragraph 2, where identical materials or fungible materials are used in the production of the good, the value of the non-originating materials may be determined, at the choice of the producer of the good, by one of the methods set out in Annex 3.12.5.

6. For purposes of paragraphs 2, 4 and 5, the value of a non-originating material shall:

(a) be the transaction value of the material, determined in accordance with Article 1 of the Customs Valuation Code; or

(b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, be determined in accordance with Articles 2 through 7 of the Customs Valuation Code; and

(c) where not included under subparagraph (a) or (b), include

(i) freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer,

(ii) duties and taxes paid or payable with respect to the material in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(iii) the costs of customs brokerage services, including the cost of in-house customs brokerage services, incurred with respect to the material in the territory of one or both of the Parties, and

(iv) the cost of waste and spoilage resulting from the use of the material in the production of the good, minus the value of any reusable scrap or by-product.

7. Except as provided in Article 3.2(2) or (3), Article 3.2(1) shall apply for purposes of determining whether a good satisfies the requirements of Article 3.1(b) where that good is classified as a set, a mixture or a composite good under the Harmonized System.

Article 3.13: Definitions

For purposes of this Chapter:

adjusted to an F.O.B. basis means, with respect to a good, adjusted by

(a) deducting

(i)the costs of transporting the good after it is shipped from the point of direct shipment,

(ii) the costs of unloading, loading, handling and insurance that are associated with that transportation, and

(iii) the cost of packing materials and containers,

where those costs are included in the transaction value of the good, and

(b) adding

(i)the costs of transporting the good from the place of production to the point of direct shipment,

(ii) the costs of loading, unloading, handling and insurance that are associated with that transportation, and

(iii) the costs of loading the good for shipment at the point of direct shipment,

where those costs are not included in the transaction value of the good;

category of identical or similar materials means those materials that are identical materials or similar materials with respect to each other and that are used in the production of the good for which origin is being determined under this Chapter;

Customs Valuation Code means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 under the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations;

direct shipment means transporting or conveying a good from one Party to the other Party on a through bill of lading to a consignee in that other Party;

fungible goods or materials means goods or materials that are interchangeable for commercial purposes with other goods or materials, as the case may be, and the properties of which are essentially identical;

good is wholly obtained or produced entirely in the territory of one or both of the Parties means:

(a) a mineral good extracted in the territory of one or both of the Parties;

(b) a vegetable and other good harvested in the territory of one or both of the Parties;

(c) a live animal born and raised in the territory of one or both of the Parties;

(d) a good obtained from hunting, trapping or fishing in the territory of one or both of the Parties;

(e) a fish, shellfish and other marine life taken from the sea by vessels registered or recorded with a Party and flying its flag;

(f) a good produced on board factory ships from a good referred to in subparagraph (e), provided such factory ships are registered or recorded with that Party and fly its flag;

(g) a good taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;

(h) a good taken from outer space, provided that the good is obtained by a Party or a person of a Party and does not undergo production outside the territories of the Parties;

(i) waste and scrap derived from

(i) production in the territory of one or both of the Parties, or

(ii) used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials; and

(j) good produced in the territory of one or both of the Parties exclusively from goods referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production;

identical materials means, with respect to a material, materials that are the same as that material in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance;

indirect material means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, and includes

(a) fuel and energy,

(b) tools, dies and moulds,

(c) spare parts and materials used in the maintenance of equipment and buildings,

(d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings,

(e) gloves, glasses, footwear, clothing, safety equipment and supplies,

(f) equipment, devices and supplies used for testing or inspecting the other goods,

(g) catalysts and solvents, and

(h) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be part of that production;

material means a good that is used in the production of another good, and includes a part or an ingredient;

minor processing means, with respect to a good:

(a) mere dilution with water or any other substance that does not materially alter the characteristics of the good,

(b) cleaning, including removal of rust, grease, paint or any other coating,

(c) applying any preservative or decorative coating, including any lubricant, protective encapsulation, preservative or decorative paint, or metallic coating,

(d) trimming, filing or cutting off small amounts of excess material,

(e) packing or repacking of the good for transport, storage or sale,

(f) packaging or repackaging of the good for retail sale,

(g) repairs or alterations, washing, laundering or sterilizing,

(h) textile decorative processes incidental to the production of textile goods, other than apparel, such as edge pinking, whipping, folding and rolling, fringing, fringe knotting, piping, bordering, minor embroidery, hemstitching, embossing, dyeing or printing, or other similar processes, or

(i) ornamental or finishing operations incidental to apparel assembly and designed to enhance the marketing appeal or the ease of care of the good, such as embroidery, hemstitching, sewn appliqué work, stone or acid washing, printing, piece dyeing, preshrinking, permanent pressing, the attachment of accessories, notions, trimmings or findings, or other similar operations;

non-originating good or material means a good or material that does not qualify as originating under this Chapter;

point of direct shipment means the location from which a producer of a good normally ships that good to the buyer of the good;

packaging materials and containers means materials and containers in which a good is packaged for retail sale;

packing materials and containers means materials and containers that are used to protect a good during transportation, but does not include packaging materials and containers;

producer means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good;

production means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good;

self-produced material means a material that is produced by the producer of a good and used in the production of that good;

similar materials means, with respect to a material, materials that, although not alike in all respects, have similar characteristics and component materials that enable the materials to perform the same functions and to be commercially interchangeable with that material when used in the production of a good;

transaction value means the price actually paid or payable for the good or material with respect to the transaction between the producer of the good and the buyer of the good or the seller of the material, respectively, adjusted in accordance with paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Code; and

used means used or consumed in the production of a good.

Chapter Four
National Treatment and Other Border Measures

NATIONAL TREATMENT
Article 4.1: National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes, and to this end Article III of GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement.

2. Paragraph 1 does not apply to the measures set out in Annex 4.1.

TECHNICAL BARRIERS TO TRADE

Article 4.2: Technical Barriers to Trade

1. The rights and obligations of the Parties relating to standards-related measures shall be governed by the Agreement on Technical Barriers to Trade, part of Annex 1A of the WTO Agreement.

2. The Parties shall endeavour to enter into an agreement on mutual recognition respecting conformity assessment.

Article 4.3: Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties relating to sanitary and phytosanitary measures shall be governed by the Agreement on the Application of Sanitary and Phytosanitary Measures, part of Annex 1A of the WTO Agreement.

BORDER MEASURES

Article 4.4: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, 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, except in accordance with Article XI of GATT 1994, including its interpretative notes. To this end Article XI of GATT 1994 and its interpretative notes, or any equivalent provisions of a successor agreements to which both Parties are party, are incorporated into and made a part of this Agreement.

2. The Parties reaffirm that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:

(a) limiting or prohibiting the importation from the territory of the other Party of such good of that non-Party; or

(b) requiring as a condition of export of such good of the Party to the territory of the other Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Parties shall consult, on request of the other Party, with a view to avoiding undue interference with or distortion of pricing, marketing and distribution arrangements in the other Party.

5. Paragraphs 1 through 4 shall not apply to the measures set out in Annex 4.1.

EMERGENCY ACTION

Article 4.5: Bilateral Emergency Actions

1. Subject to paragraphs 2 and 3, if a good originating in the territory of one Party is, as a result of the reduction or elimination of a duty provided for in Chapter Two, being imported into the territory of the other Party in such increased quantities, in absolute terms, and under such conditions so that the imports of such good from the exporting Party alone constitute a substantial cause of serious injury to a domestic industry producing a like or directly competitive good, the importing Party may, to the extent necessary to remedy the injury:

(a) suspend the further reduction of any rate of duty provided for under this Agreement on such good; or

(b) increase the rate of duty on such good to a level not to exceed the lesser of:

(i) the most-favoured nation (MFN) rate of duty in effect at the time,

(ii) the applicable MFN or GPT rate of duty in effect on the day immediately preceding the date of the entry into force of this Agreement.

2. The following conditions and limitations shall apply to an action authorized by paragraph 1:

(a) notification and consultation shall precede the action;

(b) no action shall be maintained for a period exceeding three years;

(c) no action may be taken or maintained by a Party against any particular good originating in the territory of the other Party after July 1, 1999; and

(d) upon the termination of the action, the rate of duty shall be the rate which would have been in effect but for the action.

3. The Party taking an action pursuant to this Article may provide to the Party against whose good the action is taken mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties are unable to agree on compensation, the Party against whose good the action is taken may take action having trade effects substantially equivalent to the action taken under paragraph 1.

Article 4.6: Global Emergency Actions

1. The Parties retain their rights and obligations under Article XIX of the GATT 1994 or any safeguard agreement pursuant thereto except those regarding compensation or retaliation and exclusion from an action to the extent that such rights or obligations are inconsistent with this Article. A Party taking emergency action under Article XIX or any such agreement shall exclude from the action imports of a good from the other Party unless:

(a) imports from the other Party account for a substantial share of total imports; and

(b) imports from the other Party, contribute importantly to the serious injury, or threat thereof, caused by imports.

2. In determining whether:

(a) imports from the other Party account for a substantial share of total imports, those imports normally shall not be considered to account for a substantial share of total imports if the other Party is not among the top five suppliers of the good subject to the proceeding, measured in terms of import share during the most recent three-year period; and

(b) imports from the other Party contribute importantly to the serious injury, or threat thereof, the competent investigating authority shall consider such factors as the change in the import share of the other Party, and the level and change in the level of imports from the other Party. In this regard, imports from the other Party normally shall not be deemed to contribute importantly to a serious injury or threat thereof if the growth rate of imports from the other Party during the period in which the injurious surge in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.

3. A Party taking such action, from which a good from the other Party is initially excluded, pursuant to paragraph 1, shall have the right subsequently to include that good from the other Party in the action in the event that the competent investigating authority determines that a surge in imports of such good from the other Party undermines the effectiveness of the action.

4. A Party shall, without delay, deliver written notice to the other Party of the institution of a proceeding that may result in emergency action under paragraph 1 or 3.

5. Neither Party may impose restrictions on a good in an action under paragraph 1 or 3:

(a) without delivery of prior written notice to the Commission, and without adequate opportunity for consultation with the other Party against whose good the action is proposed to be taken, as far in advance of taking the action as practicable; and

(b) that would have the effect of reducing imports of such good from a Party below the trend of imports of the good from that Party over a recent representative base period with allowance for reasonable growth.

6. The Party taking an action pursuant to this Article may provide to the Party against whose good the action is taken mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties are unable to agree on compensation, the Party against whose good the action is taken may take action having trade effects substantially equivalent to the action taken under paragraph 1 or 3.

Article 4.7: Export Taxes

1. Neither Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of the other Party, unless such duty, tax or charge is adopted or maintained on any such good when destined for domestic consumption.

2. Paragraph 1 does not apply to the measures set out in Annex 4.1.

Article 4.8: Temporary Entry of Business Persons

In view of the preferential trading relationship between the Parties, the Parties will facilitate temporary entry on a reciprocal basis for business persons who are otherwise qualified for entry under applicable measures of the Parties relating to public health, safety and national security and governed by the principles established in the General Agreement on Trade in Services, Annex 1B of the WTO Agreement, in particular the Annex on Movement of Natural Persons Supplying Services under the Agreement.

CONSULTATIONS

Article 4.9: Consultations

1. The Parties shall meet on the request of either Party to consider any matter arising under this Chapter.

2. Where a Party requests consultations under paragraph 1, the Parties may refer the matter for non-binding technical advice or recommendations to a committee or working group, including an ad hoc committee or working group, or to another forum.

3. Where the Parties have consulted pursuant to this Article, the consultations shall, on the agreement of the Parties, constitute consultations under Article 8.6.

Chapter Five
Customs Procedures

Section A - Certification of Origin
Article 5.1: Certificate of Origin

1. The Parties shall establish, prior to the implementation of this Agreement, a Certificate of Origin for the purpose of certifying that a good being exported from the territory of a Party into the territory of the other Party qualifies as an originating good, and may thereafter revise the Certificate by agreement.

2. Each Party may require that a Certificate of Origin for a good imported into its territory be completed at the option of the exporter in an official language of either Party.

3. Each Party shall:

(a) require that, for a Certificate of Origin to be considered valid by the Party into whose territory a good is imported with respect to which a claim for preferential tariff treatment is made, the Certificate be completed and signed by the exporter of that good in the territory of the Party from which the good is exported; and

(b) provide that, where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate on the basis of

(i) its knowledge of whether the good qualifies as an originating good, or

(ii) its reasonable reliance on the producer's written representation that the good qualifies as an originating good.

4. Each Party shall provide that a Certificate of Origin that has been completed and signed by an exporter in the territory of the other Party may, at the option of that exporter, be applicable to:

(a) a single importation of a good into the Party's territory, or

(b) multiple importations of identical goods into the Party's territory that occur within a specified period, not exceeding 12 months, set out therein by the exporter.

Article 5.2: Obligations Regarding Importations

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

(a) make a written declaration, based on a valid Certificate of Origin, that the good qualifies as an originating good;

(b) have the Certificate in its possession at the time the declaration is made;

(c) provide, on the request of that Party's customs administration,

(i) a copy of the Certificate,

(ii) documentary evidence such as bills of lading or waybills that indicate the shipping route and all points of shipment and transhipment prior to the importation of the good into its territory, and

(iii) where the good is shipped through or transhipped in the territory of a non-Party referred to in Article 3.5(1)(b), a copy of the customs control documents that indicate, to the satisfaction of the customs administration, that the good remained under customs control while in the territory of such non-Party; and

(d) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a Certificate on which a declaration was based contains information that is not correct.

2. Each Party shall provide that, where an importer in its territory claims preferential tariff treatment for a good imported into its territory from the territory of the other

Party, the Party may deny preferential tariff treatment to the good if the importer fails to comply with any requirement under this Chapter.

3. Each Party shall provide that, where a good would have qualified as an originating good when it was imported into the territory of that Party but the importer of the good did not have a valid Certificate of Origin for such good at the time of its importation, the importer of the good may, within a period of not less than three months after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment, provided that the importer:

(a) if required by that Party, declared at the time of importation of the good that such good would qualify as an originating good; and

(b) present

(i) a written declaration that the good qualified as an originating good at the time of importation,

(ii) a copy of the Certificate of Origin, and

(iii) such other documentation relating to the importation of the good as that Party may require.

Article 5.3: Obligations Regarding Exportations

1. Each Party shall provide that:

(a) an exporter in its territory shall provide a copy of the Certificate to its customs administration on request; and

(b) an exporter in its territory that has completed and signed a Certificate of Origin, and that has reason to believe that the Certificate contains information that is not correct, shall promptly notify in writing all persons to whom the Certificate was given by the exporter of any change that could affect the accuracy or validity of the Certificate.

2. Each Party:

(a) shall provide that a false certification by an exporter in its territory that a good to be exported to the territory of the other Party qualifies as an originating good shall have the same legal consequences, with appropriate modifications, as would apply to an importer in its territory for a contravention of its customs laws and regulations regarding the making of a false statement or representation; and

(b) may apply such measures as the circumstances may warrant where an exporter in its territory fails to comply with any requirement of this Chapter.

Article 5.4: Exceptions

Each Party shall provide that a Certificate of Origin shall not be required for:

(a) a commercial importation of a good whose value does not exceed $1,600 Canadian or its equivalent amount in New Israeli Shekels (NIS) or such higher amount as it may establish, except that it may require that the invoice accompanying the importation include a statement by the exporter of the good certifying that the good qualifies as an originating good, or

(b) an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a Certificate of Origin, provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of this Chapter.

Section B - Administration and Enforcement

Article 5.5: Records

Each Party shall provide that:

(a) an exporter in its territory that completes and signs a Certificate of Origin shall maintain in its territory, for five years after the date on which the Certificate was signed or for such longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with:

(i) the purchase of, cost of, value of, and payment for, the good that is exported from its territory,

(ii) the sourcing of, purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory, and

(iii) the production of the good in the form in which the good is exported from its territory; and

(b) an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for five years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the Certificate, as the Party may require relating to the importation of the good.

Article 5.6: Origin Verifications

1. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may, through its

customs administration, conduct a verification of origin, subject to paragraph 2, by means of:

(a) written questionnaires to an exporter or a producer in the territory of that other Party for purposes of obtaining the information on the basis of which a Certificate of Origin referred to in Article 5.1 was completed and signed;

(b) visits to the premises of an exporter or a producer in the territory of that other Party for purposes of reviewing the records referred to in Article 5.5 and to observe the facilities used in the production of the good; or

(c) such other procedures as the Parties may agree.

2. Notwithstanding any other treaties, agreements or memoranda of understanding between the Parties as contemplated under Article 5.11(3), where, pursuant to paragraph 10, a Party notifies the other Party that the origin verifications referred to in paragraph 1 are required to be conducted by its customs administration on behalf of the other Party, such verifications shall be conducted, subject to the procedures, conditions and time frames set out in Annex 5.6.2, in accordance with the verification standards and framework established under Article 5.11.

3. Prior to conducting a verification visit referred to in paragraph 1(b), the customs administration of the Party proposing to conduct the visit or, where the circumstances contemplated under paragraph 2 exist, the customs administration of the Party acting on behalf of the other Party, as the case may be, shall deliver a written notification of the intention to conduct a visit at least 30 days in advance of the date of the proposed visit to the exporter or producer whose premises are to be visited and obtain the written consent of that exporter or producer to such visit.

4. The notification referred to in paragraph 3 shall include:

(a) the identity of the customs administration issuing the notification and, where the circumstances referred to under paragraph 2 exist, the identity of the customs administration on whose behalf the notification is being sent;

(b) the name of the exporter or producer whose premises are to be visited;

(c) the date and place of the proposed verification visit;

(d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification;

(e) the names and titles of the officials performing the verification visit; and

(f) the legal authority for the verification visit.

5. Where an origin verification referred to under paragraph 1 is to be conducted by the customs administration of the Party into whose territory a good was imported, the customs administration of that Party shall:

(a) in the case of a written questionnaire, deliver a copy of the questionnaire; or

(b) in the case of a verification visit, not less than 30 days prior to conducting the visit, deliver a copy of the written notification referred to paragraph 3, to the customs administration of the Party from whose territory the good was exported.

6. Where an exporter or producer does not respond to a written questionnaire or does not give its written consent to a proposed verification visit within 30 days of delivery to the exporter or producer of the questionnaire or of the notification referred to in paragraph 3, as the case may be, or fails to provide sufficient information in response to a questionnaire or denies access to the records referred to in Article 5.5 during the conduct of a visit, the Party into whose territory the good was imported may deny preferential tariff treatment to the good that was the subject of the origin verification.

7. Each Party shall provide that, where its customs administration receives notification, pursuant to paragraph 5, from the customs administration of the other Party or is contacted to conduct a verification visit on behalf of that other Party, pursuant to Annex 5.6.2(1), it may, within 15 days of receipt of the notification or from the date of contact, as the case may be, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt or contact, or for such longer period as the Parties may agree.

8. Each Party shall provide that, where its customs administration conducts a verification visit pursuant to paragraph 1(b) or where a verification visit is required to be conducted on its behalf by the customs administration of the Party from whose territory the goods were exported pursuant to paragraph 2, the exporter or producer whose goods are the subject of the verification visit may designate two observers to be present during the visit, provided that:

(a) the observers do not participate in a manner other than as observers; and

(b) the failure by the exporter or producer to designate observers shall not result in the postponement of the verification visit.

9. The customs administration of the Party into whose territory the good is imported, regardless of the manner in which, under either paragraph 1 or 2, a verification of origin is conducted, shall provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including the findings of fact and the legal basis on which the determination was made.

10. Each Party shall, before this Agreement enters into force, notify the other Party as to whether an origin verification referred to under paragraph 1 is required to be conducted in its territory by:

(a) the customs administration of the other Party; or

(b) its customs administration on behalf of that other Party.

11. Notwithstanding paragraph 10, either Party may, at any time after the Agreement enters into force, upon 60 days notice to the other Party, change the manner in which an origin verification is required to be conducted in its territory from subparagraph 10(a) to (b) or vice versa, as the case may be.

Article 5.7: Confidentiality

1. Each Party shall maintain, in accordance with its law, the confidentiality of confidential business information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. The confidential business information collected by a Party pursuant to this Chapter may only be disclosed in accordance with the Mutual Assistance Agreement concerning customs matters to be concluded by the Parties.

Article 5.8: Advance Rulings

1. Each Party shall, through its customs administration, provide for the issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or producer in the territory of the other Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning whether the good qualifies as an originating good under the requirements of Chapter Three.

2. Each Party shall provide that its customs administration:

(a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling; and

(b) hall, after it has obtained all necessary information from the person requesting an advance ruling, issue the ruling within 120 days.

3. Subject to paragraph 4, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or such later date as may be specified in the ruling.

4. The Party issuing an advance ruling may modify or revoke the ruling:

(a) if the ruling is based on an error

(i) of fact, or

(ii) in the tariff classification of a good or a material that is the subject of the ruling;

(b) if there is a change in the material facts or circumstances on which the ruling is based;

(c) to conform with a modification of Chapter Three; or

(d) to conform with a judicial decision or a change in its domestic law.

Article 5.9: Penalties

Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its laws and regulations relating to this Chapter.

Section C - Review and Appeal of Origin Determinations

Article 5.10: Review and Appeal

1. Each Party shall grant substantially the same rights of review and appeal with respect to a decision relating to the origin of imported goods represented as meeting the requirements of Chapter Three as are provided with respect to the tariff classification of imported goods.

2. Each Party shall provide that the rights of review and appeal referred to in paragraph 1 shall include access to:

(a) at least one level of administrative review independent of the official or office responsible for the determination under review; and

(b) in accordance with its domestic law, judicial or quasi-judicial review of the determination or decision taken at the final level of administrative review.

Section D - Cooperation

Article 5.11: Cooperation

1. In furtherance of their mutual interest in ensuring the effective administration of the certification process established under Articles 5.1, 5.2 and 5.3, the Parties shall cooperate fully in the verification of origin certification and in the enforcement of their respective laws in accordance with this Agreement.

2. Pursuant to paragraph 1, the Parties shall:

(a) cooperate in developing verification standards and a framework to ensure that both Parties act consistently in determining that goods imported into their respective territories meet the rules of origin set out in Chapter Three; and

(b) exchange information to assist each other in the tariff classification, valuation and determination of origin, for tariff preference and country of origin marking purposes, of imported and exported goods.

3. In furtherance of their mutual interest in the prevention, investigation and repression of unlawful acts, the Parties shall cooperate fully in the enforcement of their respective customs laws in accordance with this Agreement and with other treaties, agreements and memoranda of understanding between them.

4. Each Party shall, to the extent allowed by its law with respect to the confidentiality of information, notify the other Party of any determination, measure or ruling, including, to the greatest extent practicable, any that is prospective in application, that:

(a) establishes an administrative policy or principle that is likely to influence future determinations of origin; or

(b) changes the scope of an existing administrative policy, principle, precedential decision, regulation or rule of general application regarding determinations of origin.

Article 5.12: Working Group on Rules of Origin and Other Customs-Related Market Access Issues

1. The Parties hereby establish a Working Group on Rules of Origin and Other Customs-Related Market Access Issues, comprising representatives of each Party, to ensure the effective administration of Chapter Three and this Chapter and any other customs-related provisions of this Agreement.

2. The Working Group shall meet on the request of either Party.

3. The Working Group shall:

(a) monitor the administration by the Parties of Chapter Three and this Chapter to ensure uniform interpretation;

(b) endeavour to agree, at the request of either Party, on any proposed modification of or addition to Annex 2.2.3, Chapter Three or this Chapter;

(c) propose to the Parties any modification of or addition to Chapter Three, this Chapter or any other provision of this Agreement as may be required to conform with any change to the Harmonized System;

(d) endeavour to agree on:

(i) the uniform interpretation, application and administration of Chapter Three and this Chapter,

(ii) tariff classification and valuation matters relating to determinations of origin,

(iii) revisions to the Certificate of Origin,

(iv) any other matter referred to it by either Party,

(v) any other customs-related matter arising under this Agreement; and

(e) consider any proposed customs-related administrative and operational change that may effect the flow of trade between the Parties.

4. The Parties agree that Article 3.5(1)(c) shall enter into effect only upon:

(a) the agreement by the Parties on the method of verification by a customs administration that a good has undergone no further production other than minor processing in the territory of a non-Party referred to in Article 3.5(1)(c), based on the principles of Article 5.6;

(b) the establishment by the Parties of a Declaration of Minor Processing for the purpose of certifying that the good has undergone no further production other than minor processing in the territory of a non-Party referred to in Article 3.5(1)(c); and

(c) the establishment by the Parties of an obligation regarding the completion of the Declaration of Minor Processing and the obligations regarding importations, exportations and record-keeping with regard to a good that undergoes minor processing referred to Article 3.5(1)(c), based on the principles set out in Articles 5.1 to 5.5.

5. The Parties agree that Article 3.5(2) shall enter into effect only upon:

(a) the agreement by the Parties on the method of verification by a customs administration that a good has undergone more than minor processing in the territory of a non-Party referred to in Article 3.5(2), based on the principles of Article 5.6;

(b) the establishment by the Parties of a Declaration of Major Processing for the purpose of certifying that the good has undergone more than minor processing in the territory of a non-Party referred to in Article 3.5(2);

(c) the establishment by the Parties of an obligation regarding the completion of the Declaration of Major Processing and the obligations regarding importations, exportations and record-keeping with regard to a good that undergoes more than minor processing referred to Article 3.5(2), based on the principles set out in Articles 5.1 to 5.5.

6. The Parties will endeavour to reach agreement on the matters described in paragraph 4 before this Agreement enters into force.

7. The Parties shall review the rules of origin within two years of the date of entry into force of this Agreement, with a view to further liberalization of bilateral trade, with particular regard to:

(a) further minor production in third countries of originating goods with respect to specifically identified goods and specifically designated production processes, including minor processing and simple assembly of textile products; and

(b) specific goods that undergo significant production in the territory of one of the Parties.

8. Where a Party considers that a rule of origin for a good requires modification on the basis that the good undergoes significant production in its territory, it shall submit a proposed modification along with supporting rationale and studies to the other Party for that other Party's consideration.

Article 5.13: Definitions

For purposes of this Chapter:

identical goods means goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods under Chapter Three.

PART THREE :

GOVERNMENT PROCUREMENT

Chapter Six
Government Procurement

Article 6.1: Government Procurement

The rights and obligations of the Parties relating to government procurement shall be governed by the Agreement on Government Procurement, Annex 4 of the WTO Agreement, as of the date of its entry into force for the Parties.

Article 6.2: Further Liberalization

The Parties will endeavour to negotiate further liberalization of access by suppliers of the other Party to their government procurement.

PART FOUR

CONDUCT OF BUSINESS

Chapter Seven
Competition Policy

Article 7.1: Competition Law

1. Each Party shall adopt or maintain measures to proscribe anti-competitive business conduct and take appropriate action with respect thereto, recognizing that such measures will enhance the fulfilment of the objectives of this Agreement. To this end the Parties shall consult from time to time about the effectiveness of measures undertaken by each Party.

2. Each Party recognizes the importance of cooperation and coordination between their authorities to further effective competition law enforcement in the free trade area. The Parties shall cooperate on issues of competition law enforcement policy, including mutual legal assistance, notification, consultation and exchange of information relating to the enforcement of competition laws and policies in the free trade area.

3. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Article.

Article 7.2: Monopolies and State Enterprises

1. Nothing in this Agreement shall be construed to prevent a Party from designating a monopoly.

2. Where a Party intends to designate a monopoly and the designation may affect the interests of persons of the other Party, the Party shall:

(a) wherever possible, provide prior written notification to the other Party of the designation; and

(b) endeavour to introduce at the time of the designation such conditions on the operation of the monopoly as will minimize or eliminate any nullification or impairment of benefits.

3. Each Party shall ensure, through regulatory control, administrative supervision or the application of other measures, that any privately-owned monopoly that it designates and any government monopoly that it maintains or designates:

(a) acts in a manner that is not inconsistent with the Party's obligations under this Agreement wherever such a monopoly exercises any regulatory, administrative or other governmental authority that the Party has delegated to it in connection with the monopoly good, such as the power to grant import or export licenses, approve commercial transactions or impose quotas, fees or other charges;

(b) except to comply with any terms of its designation that are not inconsistent with subparagraph (c) acts solely in accordance with commercial considerations in its purchase or sale of the monopoly good in the relevant market, including with regard to price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale; and

(c) does not use its monopoly position to engage, either directly or indirectly, including through its dealings with its parent, its subsidiary or other enterprise with common

ownership, in anticompetitive practices in a non-monopolized market in its territory that adversely affects the other Party, including through the discriminatory provision of the monopoly good, cross-subsidization or predatory conduct.

4. Paragraph 3 does not apply to procurement by governmental agencies of goods for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

5. For purposes of this Article, "maintain" means designate prior to the date of entry into force of this Agreement and existing on January 1, 1997.

Article 7.3: State Enterprises

1. Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state enterprise.

2. Each Party shall ensure, through regulatory control, administrative supervision or the application of other measures, that any state enterprise that it maintains or establishes acts in a manner that is not inconsistent with the Party's obligations wherever such enterprise exercises any regulatory, administrative or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant licenses, approve commercial transactions or impose quotas, fees or other charges.

3. Each Party shall ensure that any state enterprise that it maintains or establishes accords non-discriminatory treatment in the sale of its goods.

Article 7.4: Definitions

For purposes of this Chapter:

designate means to establish, designate or authorize, or to expand the scope of a monopoly to cover an additional good or service, after the date of entry into force of this Agreement;

monopoly means an entity, including a consortium or government agency, that in any relevant market in the territory of a Party is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant, and

state enterprise means an enterprise owned, or controlled through ownership interests, by a Party and with respect to Canada, means a Crown corporation within the meaning of the Financial Administration Act (Canada), as amended from time to time, and a Crown corporation within the meaning of any comparable provincial law or equivalent entity that is incorporated under other applicable provincial law.

PART FIVE

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Chapter Eight

Article 8.1: Application

1. This Chapter applies with respect to the avoidance or settlement of all disputes regarding the interpretation or application of this Agreement or wherever a Party considers that an actual or proposed measure of the other Party is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex 8.1 unless the Parties agree to use another procedure in any particular case.

2. Disputes arising under both this Agreement and the WTO Agreement, including the General Agreement on Tariffs and Trade 1994 (WTO), and its successor agreements, to which both Parties are party, may be settled in either forum, according to the rules of that forum, at the discretion of the complaining Party.

3. Once the dispute settlement provisions of this Agreement or the WTO have been initiated pursuant to Article 8.7 or the WTO with respect to any matter, the procedure initiated shall be used to the exclusion of any other.

Article 8.2: The Commission

1. The Parties hereby establish the Canada-Israel Trade Commission (The Commission) to supervise the implementation of this Agreement, to resolve disputes that may arise over its interpretation and application, to oversee its further elaboration, and to consider any other matter that may affect its operation.

2. The Commission shall comprise representatives of both Parties. The principal representative of each Party shall be the cabinet-level officer or Minister primarily responsible for international trade, or a person designated by the cabinet-level officer or Minister.

3. The Commission shall convene at least once a year in regular session to review the functioning of this Agreement. Regular sessions of the Commission shall be held alternately in the two countries.

4. The Commission may establish, and delegate responsibilities to, ad hoc or standing committees or working groups and seek the advice of non-governmental individuals or groups.

5. The Commission may establish its rules and procedures. All decisions of the Commission shall be taken by consensus.

Article 8.3: Administrative Support to the Trade Commission and Dispute Resolution Panels

1. Each Party shall identify an agency, division or branch of its government ("designated agency") to facilitate the operation of this Chapter and to provide administrative assistance to panels established under this Chapter.

2. Where a Party has requested a Commission meeting under Article 8.7(1), the designated agency of the Party complained against shall be responsible for providing support to any mediator or to any panel established to deal with the dispute.

3. During a panel proceeding the Parties shall exchange documents by sending them to the designated agency to be filed and forwarded to the other Party. The designated agency shall administer the Code of Conduct for panelists established pursuant to Article 8.8, and provide administrative support for panels by arranging for hearing rooms, the production of panel reports and the payment of panelists. The designated agency may also provide administrative support for the Commission if so directed by the Commission.

Article 8.4: Contact Points

Each Party shall designate a central contact point to facilitate communication between the Parties on any matter covered by this Agreement. On the request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the other Party.

Article 8.5: Publication, Notification and Provision of Information

1. Each party shall, to the extent possible, publish promptly, all laws, regulations, procedures and administrative rulings of general application respecting matters covered by this Agreement.

2. Each Party shall, to the extent possible, publish, consistent with Article X of GATT 1994, any law, regulation, procedure or administrative ruling of general application that it proposes to adopt respecting the matters covered by this Agreement.

3. Each Party shall, to the extent possible, provide written notice, in an official language of either Party, to the other Party of any proposed or actual measure that might materially affect the operation of this Agreement. The notice shall include, where appropriate, a description of the reasons for the proposed or actual measure.

4. The written notice shall be given as far in advance as possible of the implementation of the measure. If prior notice is not possible, the Party implementing the measure shall provide written notice to the other Party as soon as possible after implementation.

5. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure, whether or not previously notified.

6. The provision of written notice shall be without prejudice as to whether the measure is consistent with this Agreement.

Article 8.6: Consultations

1. Either Party may request consultations regarding any actual or proposed measure or any other matter that it considers affects the operation of this Agreement, whether or not the matter has been notified in accordance with Article 8.5.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement.

3. Each Party shall treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

Article 8.7: Initiation of Procedures

1. If the Parties fail to resolve a matter through consultations within 30 days of delivery of a request for consultations under Article 8.6, either Party may request in writing a meeting of the Commission. The request shall state the matter complained of, and shall indicate what provisions of this Agreement are considered relevant. Unless otherwise agreed, the Commission shall convene within 20 days after delivery of a request and shall endeavour to resolve the dispute promptly.

2. The Commission may call on such technical advisers as it deems necessary, or on the assistance of a mediator acceptable to both Parties, in an effort to reach a mutually satisfactory resolution of the dispute.

Article 8.8: Code of Conduct

The Parties shall, by the date of the entry into force of this Agreement, exchange letters establishing a Code of Conduct for panelists appointed pursuant to Article 8.9.

Article 8.9: Panel Procedures

1. Panels shall be established in accordance with the provisions of Annex 8.9.

2. If a dispute has been referred to the Commission under Article 8.7 and has not been resolved within a period of 30 days after the Commission has convened or within such other period as the Commission has agreed, the Commission, on the request of either Party, shall establish a panel of experts to consider the matter and to make findings, determinations and, if requested by either Party, recommendations concerning the removal of a measure found not to conform with the Agreement. A panel shall be deemed to be established from the date of delivery to the other Party of the request of a Party.

3. The panel proceedings commenced at the request of one Party shall take place in the territory of the other Party or in a jointly agreed location.

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

"To examine, in the light of the relevant provisions of the Agreement, the matter referred to the Commission (as set out in the request for a Commission meeting) and to make such findings, determinations and recommendations if requested as are provided in this Article."

If the complaining Party, having raised it during the Commission meeting, wishes to argue that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

5. The Commission shall, at its first meeting or shortly thereafter, establish Model Rules of Procedure. The Model Rules of Procedure shall:

(a) assure a right to at least one hearing before the panel and the opportunity to provide written submissions and rebuttal arguments;

(b) permit counsel chosen by a Party to advise that Party during panel proceedings including hearings;

(c) require that a Party's positions be presented by official spokespersons of that Party; and

(d) set out provisions concerning confidentiality of the panel's hearings, deliberations and initial report, and written submissions to and communications with the panel.

Unless otherwise agreed by the Parties, the panel shall conduct its proceedings in accordance with the Model Rules of Procedure and shall base its decision on the arguments and submissions of the Parties.

6. Unless the Parties otherwise agree, the panel shall, within 3 months after its Chairperson is appointed, present to the Parties an initial report containing findings of fact, its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification and impairment in the sense of Annex 8.1, and its recommendations, if any, for resolution of the dispute. Where feasible, the panel shall afford the Parties opportunity to comment on its preliminary findings of fact prior to completion of its report. If requested in the terms of reference for the panel, the panel shall also present findings as to the degree of adverse trade effect on the other Party of any measure found not to conform with the obligations of the Agreement.

7. Within 30 days of issuance of the initial report of the panel, a Party disagreeing in whole or in part may present a written statement of its objections and the reasons for those objections to the Commission and the panel. In such an event, the panel on its own motion or at the request of the Commission or either Party may request the views of both Parties, reconsider its report, make any further examination that it deems

appropriate and issue a final report, together with any separate opinions, within 60 days of issuance of the initial report.

8. Unless the Commission agrees otherwise, the final report of the panel shall be published along with any separate opinions, and any written views that either Party desires to be published, within 15 days after it is presented to the Commission.

9. On receipt of the final report of the panel, the Commission shall agree on the resolution of the dispute, which normally shall conform with the report of the panel. Whenever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or causing nullification or impairment in the sense of Annex 8.1 or, failing such a resolution, agreed compensation.

10. If in its final report a panel has determined that a measure is inconsistent with the obligations of this Agreement or causes nullification or impairment in the sense of Annex 8.1 and the Party complained against has not reached agreement with the complaining Party on a mutually satisfactory resolution pursuant to paragraph 9 within 30 days of receiving the final report if the measure was found to be inconsistent with this Agreement or within 180 days if the measure was found to cause nullification or impairment, the complaining Party may suspend the application to the Party complained against of benefits of equivalent effect until such time as they have reached agreement on a resolution of the dispute.

11. In considering what benefits to suspend pursuant to paragraph 9:

(a) a complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Annex 8.1; and

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

12. On the written request of the Party complained against delivered to the complaining Party and to its designated agency, the panel which made the determination shall determine whether the level or extent of benefits suspended by the complaining Party pursuant to paragraph 10 is manifestly excessive.

13. The panel proceedings pursuant to paragraph 12 shall be conducted in accordance with the Model Rules of Procedure. The panel shall present its determination within 60 days of the date the Party complained against made the request or such other period as the disputing Parties may agree.

Article 8.10: 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.

PART SIX

OTHER PROVISIONS

Chapter Nine
Further Elaboration

Article 9.1: Intellectual Property Rights

The rights and obligations of the Parties relating to intellectual property rights shall be governed by the Agreement on Trade-Related Aspects of Intellectual Property Rights, Annex 1C of the WTO Agreement, and any subsequent amendments to that Agreement.

Article 9.2: Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by the Agreement on Subsidies and Countervailing Measures, part of Annex 1A of the WTO Agreement.

2. The rights and obligations of the Parties relating to the application of antidumping measures shall be governed by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, part of Annex 1A of the WTO Agreement.

3. Each Party reserves the right to apply its antidumping law and countervailing duty law to goods imported from the territory of the other Party in conformity with the principles of the agreements referred to in paragraphs 1 and 2. Antidumping law and countervailing duty law include, as appropriate for each Party, relevant statutes, legislative history, regulations, administrative practice and judicial precedents.

Chapter Ten
Exceptions

Article 10.1: General Exceptions

Article XX of GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 also include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

Article 10.2: National Security

1. Nothing in this Agreement shall be construed:

(a) to require either party to furnish or allow access to any information the disclosure of which would be contrary to its essential security interests;

(b) to prevent either Party from taking any actions necessary for the protection of its essential security interests:

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,

(ii) taken in time of war or other emergency in international relations, or

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of biological, chemical, nuclear weapons or other nuclear explosive devices; or

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

Article 10.3: Taxation

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of a Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

3. Notwithstanding paragraph 2:

(a) Article 4.1 and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the GATT 1994; and

(b) Article 4.7 shall apply to taxation measures.

Article 10.4: Balance of Payments

The rights and obligations of the Parties relating to balance of payments shall be governed by the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994, part of Annex 1A of the WTO Agreement.

Article 10.5: Cultural Industries

Measures affecting cultural industries are exempt from the provisions of this Agreement, except as specifically provided in Article 2.1.

Article 10.6: Definitions

For purposes of this Chapter:

cultural industries means persons engaged in any of the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution or sale of music in print or machine readable form; or

(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services;

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement;

taxation measures do not include:

(a) a "customs duty" as defined in Article 2.3; or

(b) the measures listed in exceptions (b) and (c) of that definition; and

transfers means international transactions and related international transfers and payments.

Chapter Eleven
General and Final Provisions

Article 11.1: Annexes

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

Article 11.2: Amendments

1. The Parties may agree on any modification of or addition to this Agreement.

2. When so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement.

3. Notwithstanding Article 11.1, the annexes to this Agreement may be amended by the Commission through an exchange of letters confirming the amendment.

Article 11.3: Entry into Force

1. This Agreement shall enter into force on January 1, 1997, subject to the completion of the necessary legal procedures by each Party, through an exchange of written notifications through diplomatic channels certifying such completion.

Article 11.4: Duration and Termination

This Agreement shall remain in force unless terminated by either Party on six month's notice to the other Party.

Article 11.5: Further Liberalization of Trade

With a view to enhancing the free trade area established under this Agreement, the Parties agree that, within two years of the date of its entry into force, they will enter into further discussions to seek additional means of expanding the scope of liberalized trade in the free trade area through the further removal of tariffs and other barriers to trade between the Parties.

Article 11.6: Authentic Texts

The English, French and Hebrew texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.