This document contains the consolidated text as it stands at the end of the XXXIInd round of negotiations (21 February – 2 March 2018) on Goods in the Trade Part of the EU-Mercosur Association Agreement. This is without prejudice to the final outcome of negotiations. Both sides reserve the right to make subsequent modifications to their proposals.

EU Mercosur negotiations

Chapter on Goods
Draft consolidated text

Joint Text January 2018
XXX BNC/MCS-EU 31.01.2018

Remarks:

This text proposal is without prejudice to further additional proposals the EU and MERCOSUR may present. [EU: A horizontal provision will inter alia be needed to address the implications of the fact that the agreement is to be implemented between the two regions thus assuring an equivalent level of circulation within the respective markets. Further elements concerning business facilitation will also be proposed.]
The EU and MERCOSUR re-emphasizes that the negotiations in the area of goods will address both tariffs and non-tariff barriers in order to assure effective market access. In this regard, it will inter alia seek finding solutions to existing (and potential) non-tariff barriers to the Mercosur and EU markets. Specific proposals will be submitted at a later stage.
The text will need to be reviewed in the light of the definition to be agreed of "Party/ Signatory Party/Parties" to the Agreement.

TITLE X
TRADE IN GOODS

Article 1

Objective

Mercosur and the European Union agree to establish a Free Trade Area over a transitional period starting from the entry into force of this Agreement, in accordance with the provisions of this Agreement and in conformity with Article XXIV of the GATT 1994.

Except as otherwise provided in this Agreement, the provisions of this Title shall apply to trade in goods of a Party.

CHAPTER I

CUSTOM DUTIES

Section 1 - Common Provisions

Article 2

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes, are incorporated into and made part of this agreement.

Article 3

1. For purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Annex X (Rules of Origin).

2. Except as otherwise provided for in this Agreement, each Party shall reduce and/or eliminate its customs duties on originating goods in accordance with the Schedules set out in Annex…. (hereinafter referred to as "Schedules").

3. A customs duty includes any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation,[1] but does not include any:

   (a) internal taxes or other internal charges imposed consistently with Article III of GATT 1994

   (b) Antidumping or countervailing duties applied in accordance with Articles VI and XVI of GATT 1994 and the WTO Agreement on the Implementation of Article VI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures in conformity with the Chapter (Trade Remedies).

[1] This includes ad valorem import duties, agricultural components, additional duties on sugar content, additional duties on flour content, specific duties, mixed duties, seasonal duties, additional duties from entry price systems, among other measures of equivalent effect.

(c) measures applied in accordance with Article XIX of GATT 1994 and with the WTO agreement on Safeguards, or with other safeguard measures of the Agreement.

(d) measures authorised by the WTO Dispute Settlement Body or under the Dispute Settlement provisions of this Agreement.

(e) fee or other charge, imposed consistently with Article VIII of GATT 1994.

(f) measures adopted to safeguard a Party's external financial position and its balance of payments, in conformity with Article XII of GATT 1994 and the Understanding on Balance of Payments Provisions of GATT 1994.

4. The classification of goods in trade between Mercosur and the European Union shall be that set out in each Party's respective tariff regimes in conformity with the Harmonised Commodity Description and Coding System. A Party may create a new tariff line as long as the customs duty applicable to the corresponding products under the new tariff line to the other Party is equal to or lower than the original tariff line, according to its Schedule, and that the agreed tariff concession remain unchanged. The respective Parties Schedule shall indicate which HS version each Party has used.

5. For each good, the base rate of customs duties on imports, to which the successive reductions are to be applied under paragraph 2, shall be effectively applied by the Parties on the date 31 December 2014.

[EU compromise: 6.Without prejudice of Article 3(2) and 3(5), for a period of two years from the date of entry into force of this Agreement, the EU Party shall not increase customs duties applied on [31 December 2017] on goods originating in Paraguay pursuant to [Rule X of Chapter RoO annexed to this Agreement] that are subject to duty elimination in accordance with the Schedules. For greater certainty, goods subject to duty elimination are goods that at the end of the staging period attach a zero duty.

EU compromise linked to para 3.6, to be added in the Chapter on Origin: X. For the purpose of Article 3(6) of Chapter X on TiG, "good(s) originating in Paraguay" means good(s) that conform(s) to the origin requirements under Subsection 2 and 3 of Section 2 of Chapter 1 of Title II of Commission Delegated Regulation (EU) No 2015/2446 of 28 July 2015 and Subsections 3 to 9 of Section 2 of Title II of Commission Implementing Regulation (EU) No 2015/2447 of 24 November 2015.]

7. Except as otherwise provided for in this Agreement, no new customs duties shall be introduced, nor shall those already applied according to the Schedules be increased, in trade of originating goods between Mercosur and the European Union as from the date of entry into force of this Agreement. For greater certainty, a Party may raise a customs duty to the level set out in Annex [X] (Tariff Elimination Schedule) for the respective year following a unilateral reduction.

8. If a Party lowers a MFN applied rate to a level below the base rate in relation to a particular tariff line, the MFN applied rate shall be deemed to replace the base rate in the Schedule, for as long as the MFN applied rate is lower than the base rate, for the purpose of the calculation of the preferential rate for that particular tariff line. In this regard, the Party shall, effect the tariff reduction on the MFN applied rate to calculate the applicable rate, maintaining at all times the relative margin of preference. The relative margin of preference for any given tariff line

corresponds to the difference between the base rate set out in the Schedule and the applied duty rate for that tariff line in accordance with the Schedule divided by that base rate, expressed in percentage terms.

9. Each Party may accelerate its tariff elimination schedule, or otherwise improve the conditions of market access, if its general economic situation and the situation of the economic sector concerned so permit. In addition, beginning three years after the entry into force of this Agreement, on the request of either Party, the XXX Committee shall consult to consider measures providing for improved market access. An agreement by the Parties in the XXX Committee on any preferential treatment on a good originating in the other Party shall supersede any duty rate or staging category determined in the respective Schedule for that good.

Article 6

Goods Re-Entered After Repair

1. For the purposes of this Article, repair means any processing operation undertaken on goods to remedy operating defects or material damage and entailing the re-establishment of goods to their original function or to ensure their compliance with technical requirements for their use, without which the goods could no longer be used in the normal way for the purposes for which they were intended. Repair of goods includes restoration and maintenance. It shall not include an operation or process that either:

   (a) destroys the essential characteristics of goods or creates new or commercially different goods,

   (b) transforms the unfinished goods into finished goods, or

   (c) is used to improve the technical performance of goods.

2. A Party shall not apply customs duty to goods defined in paragraph 1, regardless of their origin, that re-enter its customs territory after those goods have been temporarily exported from its customs territory to the customs territory of the other Party for repair, regardless of whether such repair could be performed in the customs territory of the Party from which the goods were exported for repair.

4. Paragraph 2 does not apply to a goods imported in bond, into free trade zones, or zones of similar status, that are exported for repair and are not re-imported in bond, into free trade zones, or zones of similar status.

5. A Party shall not apply customs duty to goods, regardless of their origin, imported temporarily from the customs territory of the other Party for repair.

[MCS: Section 2 – Industrial Development

Note EU requested deletion of this section.

Article 7

General Provisions

1. After the entry into force of the Agreement, Mercosur Signatory Parties may introduce exceptional measures during the transitional period referred to in Article 1 of this Chapter, if a product under preferential terms has entered the territory of a Mercosur Signatory Party under such conditions as to cause material retardation to the establishment of an infant industry or cause or threaten to cause disruption to an infant industry.

2. According to the definition established in the Notes and Supplementary Provisions of Article XVIII of the GATT, the reference to the establishment of infant industries shall apply not only to the establishment of a new industry, but also to the establishment of a new branch of production in an existing industry, to the substantial transformation of an existing industry, and to the substantial expansion of an existing industry supplying a relatively small proportion of the domestic demand.

   2.1 Infant industry means a particular industry which is in the process of being established or has been established in the territory of a Mercosur Signatory Party for no more than eight (8) years.

   2.2 A new branch of production in an existing industry may be in the process of being established but shall not have been established for more than eight (8) years.

      2.2.1 In this case, the existing industry could have been established for more than eight (8) years.

3. These exceptional measures may be a temporary suspension of the schedule of the tariff reduction of the good concerned or a reduction of the tariff preference on the product concerned to a level not exceeding the applied MFN customs duty or the base rate of customs duty related to the concerned products, whichever is lower.

4. The total value of imports of goods which are subject to these measures may not exceed 10% of total imports of the respective Mercosur Signatory Party originating in the Community during the last year for which statistics are available

5. Measures shall be applied only for the period necessary to remedy the material retardation to the establishment of an infant industry and to prevent or remedy the disruption to an infant industry.

   5.1 The period of a measure shall not exceed six years.

Article 8

Investigating Authority

1. Investigating authority means Ministerio de Producción or its successor in Argentina; Secretaria de Comércio Exeterior from the Ministério da Indústria, Comércio Exterior e Servicos or its successor in Brazil; Ministerio de Industria y Comercio or its successor in Paraguay; and Asesoría de Política Comercial del Ministerio de Economía y Finanzas or its successor in Uruguay.

2. Mercosur Signatory Parties may initiate the investigation at request of the infant industry. Such request shall contain at least (i) a description of the product, including name and description of the imported product concerned, its tariff heading and tariff treatment in force, and (ii) evidence that the conditions for imposing infant industry exceptional measures set out in Article 7.1 are met.

Article 9

Determination of Material Retardation and Disruption or Threat Thereof

1. The determination of material retardation shall consider delays, postponement, interruption or difficulties that could affect the establishment, development or growing process of the infant industry in terms of productivity and investments.

2. The determination of a disruption or a threat thereof shall consider major social problems or difficulties to the development or to the growing process of the infant industry that could bring about deterioration in such industry of a Mercosur Signatory Party.

3. When determining the existence of material retardation or of disruption or threat thereof, competent authorities shall evaluate all relevant factors of an objective and quantifiable nature.

4. The Investigating Authority shall demonstrate, on the basis of objective evidence, the existence of the causal link between imports of a product under preferential terms and material retardation or disruption or threat thereof, and shall also evaluate all known factors other than imports under preferential terms of this agreement that might be at the same time causing material retardation to the establishment of an infant industry or causing or threatening to cause disruption to an infant industry.

5. The period of data collection for disruption and material retardation investigations normally should be the maximum period as possible to be assessed, but no more than 3 years. This period should end as close to the date of the lodging of the application as is practicable.

Article 10

Transparency

Each Mercosur Signatory Party shall establish or maintain transparent, effective and equitable procedures for the impartial and reasonable application of infant industry measures, in compliance with the provisions established in this Chapter.

Article 11

Provisional Measures

In critical circumstances where delay may cause damage which would be difficult to repair, Mercosur Signatory Parties, after due notification, may introduce provisional measures during the transitional period referred to in Article 1 pursuant to a preliminary determination that there is clear evidence that imports under preferential terms have caused material retardation or disruption or threat thereof. The duration of the provisional measure shall not exceed one hundred and eighty (180) days, during which period the requirements of this Section shall be met. If final determination concludes that there was no material retardation to the establishment of an infant industry or disruption or threat thereof to infant industry caused by imports under preferential terms, the increased tariff or provisional guarantee, if collected or imposed under provisional measures, shall be promptly refunded, according to the domestic regulation of Mercosur Signatory Party.

Article 12

Notification

1. Mercosur Signatory Parties shall notify the (Trade Council) of:
   (a) the decision to initiate the investigation under this Section;
   (b) the decision to apply a provisional measure under this Section;
   (c) the decision to apply or not a definitive measure under this Section.

2. The decision shall be notified by Mercosur Signatory Party within a period of ten (10) days from the publication and shall be accompanied by the appropriate public notice. In the case of a decision to initiate an investigation, a copy of the request to initiate the investigation shall be included in the notification.

Article 13

Consultation

1. When a Mercosur Signatory Party has determined that the conditions to impose definitive measures are met, it should notify and at the same time invite the EU for consultations.

2. The notification and invitation for consultations referred to in paragraph 1 shall be made at least 30 days before definitive measures are expected to come into force. No definitive measures shall be applied in the absence of notification.

3. At any stage of the investigation, the EU may request consultations or any additional information that it considers necessary.]

CHAPTER II

NON TARIFF MEASURES

(The title of this chapter or the final placement of the provisions contained in it, will be agreed upon at a later stage.)

Section 1 – General Provisions

Article 14

Fees and Other Charges on Imports and Exports

1. Each Party shall ensure, in accordance with Article VIII of GATT 1994, including its Notes and Supplementary Provisions that all fees and other charges of whatever character other than import and export duties imposed on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered, which shall not be calculated on an ad valorem basis, and shall not represent an indirect protection for domestic products or a taxation of imports or exports for fiscal purposes.

[Note Mercosur to consult, including a phase out of 3 years for compliance with GATT VIII ex *No later than 3 years after entry force of this Agreement, each Party....including as regards consular transactions...]*

2. Each Party may impose charges or recover costs only where specific services are rendered, in particular the following:

   (a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;

   (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions relating to binding information or the provision of information concerning the application of the customs legislation;

   (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;

   (d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.

4. Each Party shall publish a list of the fees and charges it imposes in connection with importation or exportation.

Article 15

Import and Export Licensing Procedures

1. The Parties shall ensure that all import and export licensing procedures are neutral in application, and administered in a fair, equitable, non-discriminatory and transparent manner.

2. The Parties shall only adopt or maintain licensing procedures as a condition for importation into its territory or exportation from its territory to the other Party when other appropriate procedures to achieve an administrative purpose are not reasonably available.

3. The Parties shall not adopt or maintain non-automatic import or export licensing procedures[2] unless necessary to implement a measure that is consistent with this Agreement. Any Party adopting non-automatic licensing procedures shall indicate clearly the measure being implemented through such licensing procedure.

4. The Parties shall introduce and administer any licensing procedures in accordance with Articles 1 to 3 of the WTO Import Licensing Agreement (hereinafter referred to as "Import Licensing Agreement"). To this end, Articles 1 to 3 of the Import Licensing Agreement are incorporated into and made part of this Agreement. The Parties shall apply those provisions, mutatis mutandis, for any licensing procedures for exports to the other Party

5. Any Party introducing licensing procedures or changes in these procedures shall make the corresponding information available on an official governmental website on the Internet. This information shall be accessible, whenever practicable, 21 days prior to the effective date of the requirement but in all events not later than such effective date. The information available on the Internet shall contain the data required under Article 5 of the WTO Import Licensing Agreement. The notification foreseen in Article 5 of the Import Licensing Agreement shall be carried out between the Parties with regard to licensing procedures for export.

6. Upon request of the other Party, each Party shall promptly provide any relevant information regarding any licensing procedures which the Party to which the request is addressed intends to adopt or has adopted or maintained, including the information indicated in paragraph 4.

[MSR: Article 16

The Parties agree to create a mechanism to neutralise the distorting effects of the application of some domestic support measures on bi-regional trade.

(this proposal corresponds and replaces art 16. Chapter III)

1. Those agricultural products subject to product-specific distorting domestic support (product-specific AMS) and not fully covered by this Agreement shall benefit from the opening/expansion of preferential tariff quotas, according to the following criteria:

   - If the product- specific AMS for the last three years notified, represents between 1% and 5% of the Gross Value of Production (GVOP) of the product, a tariff quota equal to 1% of the domestic consumption of that product in the Party shall be opened or expanded.

   - If the product-specific AMS for the last three years notified, represents more than 5% of the GVOP of the product, a tariff quota equal to 2% of the domestic consumption of that product in the Party shall be opened or expanded.

[2] For the purposes of this Article, "Non-automatic licensing procedures" is defined as licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import or export operations involving the goods subject to licensing procedures.

2. Quotas shall be updated every three years, on the basis of the average AMS notified by the Parties to the WTO for the last 3 years.

3. The Party affected by the AMS shall provide the other Party with all the supporting data, including:

   - Product concerned (including HS heading);
   - Level of product-specific AMS, average for the last 3 years;
   - Estimated level of GVOP of the product, average for the last 3 years;
   - Tariff treatment of the product in the Agreement;
   - Tariff treatment requested based on the AMS/GVOP ratio (including estimated data of domestic consumption in the Party).]

[MSR: Article 17

The Parties shall not maintain, introduce or re-introduce export subsidies or measures of equivalent effect on agricultural products.

For the purposes of this Article, the meaning of "export subsidies" will be the one set in Article 1 e) of the WTO Agreement on Agriculture.]

[EU counter-proposal is part of "EU DRAFT TEXTUAL PROPOSALS RELATED TO AGRICULTURE IN TRADE PART OF EU-MERCOSUR ASSOCIATION AGREEMENT]

Note EU to revert.

[EU: Article 18

Duties, Taxes or Other Fees and Charges on Exports

Neither Party may maintain or institute any duties, taxes or other fees and charges imposed on or in connection with the exportation of goods to the other Party; or any internal taxes, fees and charges on goods exported to the other Party that are in excess of those imposed on like products destined for domestic consumption.]

[Alt EU compromise text:

1. Neither Party shall introduce or maintain any duty or charges of any kind on or in connection with the exportation of a good to the other Party, other than in accordance with the Schedule included in Annex [X-x] (Export Duties Schedule of Mercosur).

2. If a Mercosur Signatory Party applies a lower rate of duty, or other fees and charge pursuant to paragraph 1 (Schedules X-x) on, or in connection with the exportation of a good, and for as long as it is lower than the rate calculated in accordance with the Schedules included in Annex [X-x] (Export Duties Schedule of Mercosur), that lower rate shall apply and deemed to replace the rate for that good in the Schedules included in Annex [X-x] (Export Duties Schedule of [Mercosur][Argentina and Brazil]).

3. Nothing in this Agreement shall prevent a Party from imposing at any time on the exportation of a good:

a) An internal tax or other internal charge that does not exceed the tax or charge imposed on a like good when destined for domestic consumption;
b) Any fee or charge that is permitted under Article X (fees and charges).

To be included in the Annexes

Annex 2-B

Export Duties Schedules of Mercosur

Section A. - General provisions

1. The following categories apply to the elimination or reduction of export duties, taxes, or other charges of any kind imposed on, or in connection with, the exportation of goods to the territory of the Union (hereinafter referred to as "export duties") on goods set out in the Export duty Schedules of Mercosur in this Annex pursuant to Article [X.]18 [of the Chapter on Trade in Goods]:

   (a) [*elimination at EIF years.*] export duties on goods provided for in the items in staging category "A" in the schedule to this Annex shall be eliminated on the date this Agreement enters into force, and export duties on such goods shall thereafter be set to 0 %;

   (b) [*elimination in z years.*] export duties on goods provided for in the items in staging category "Bx" in the schedule to this Annex shall be eliminated in [x] equal annual stages beginning on the date this Agreement enters into force, and export duties on such goods shall thereafter be set to 0 %;

   (c) [*reduction to x % in z years.*] export duties on goods provided for in the items in staging category "R5" in the schedule to this Annex shall be reduced to 5 % in [z] equal annual stages beginning on the date this Agreement enters into force, and export duties on such goods shall thereafter be set to 5 %;

   (d) [*standstill.*] export duties on goods provided for in the items in staging category "S" in the schedule to this Annex shall remain at the base rate beginning on the date this Agreement enters into force.

2. The base rate of export duty and staging category for determining the interim rate of export duty at each stage of reduction for an item are specified for the item in the Schedules in this Annex.

3. In the case of amendments of the Mercosur export tariff list, commitments made under the Schedules in this Annex shall apply based on correspondence of the description of the good, irrespective of its tariff classification.

4. Rates of export duties in the interim stages shall be rounded down, at least to the nearest 10th of a percentage point.

5. For the purposes of this Annex and the Schedule in this Annex, the first reduction shall take effect on the date of entry into force of this agreement. Any subsequent annual reduction shall take effect on 1 January of the relevant year following the year of entry into force as provided for in Article [X.X] (Entry into force).

Section B.

Export Duty Schedule of Mercosur *[or Member]]*

HS [version]	Description	Base rate (%)	Final rate (%)	Category
[HS code]	[description]	[duty rate]	[end rate]	[category code]
example				
1211.90.98	*- - - - Aquilaria Crassna Pierre*	*15*	*0*	*A*

Note Mercosur to consider.

Article 19

State Trading Enterprises

1. Nothing in this Agreement shall prevent a Signatory Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of GATT 1994, its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII, [EU: which are hereby incorporated into and made part of this Agreement.]

2. Insofar as one of the Parties requests information of the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party shall ensure full transparency in line with the rules set out in GATT Article XVII.

[EU: paragraphs 1 & 2 to be reviewed in the light of the outcome on the discussion regarding the EU proposed SOE chapter]

[EU: 3.As a derogation from paragraph 1, no Party shall designate or maintain a designated import or export monopoly. For the purposes of this Article, import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import a good from, or export a good to, the other Party.

4. For greater certainty, paragraph 3 is without prejudice to provisions in Title X Trade in Service and Investment [and Service and Investment Schedules], and does not include a right that results from the grant of an intellectual property right.]

[Mercosur Alt.

Article 19

State Trading Enterprises

1. The Parties reaffirm their rights and obligations under Article XVII of GATT 1994, its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII.

2. Nothing in this Agreement shall prevent a Party from maintaining or establishing a state trading enterprise or designating or maintaining a monopoly or from granting enterprises special or exclusive rights or privileges.

3. When a Party requests information from the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party shall endeavour to ensure transparency without prejudice to Article XVII.4(d) of GATT 1994 on confidential information.

4. The provisions of paragraph 3 shall not require any Party to disclose confidential information the disclosure of which would be inconsistent with its laws and regulations, impede law enforcement, or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of particular enterprises.

5. The provisions of this Article shall not affect the rights and obligations of the Parties under Chapter X (Government Procurement).This article shall not apply to a measure adopted or maintained by an enterprise in those sectors where a market access, national treatment, or most-favoured-nation reservation of a Party is scheduled in the Party's schedules of commitments.]

Article 20

Prohibition of Quantitative Restrictions

1. No 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, whether applied by quotas, licenses or other measures, 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, are incorporated into and made part of this Agreement.

2. No party shall adopt or maintain export or import price requirements, except as permitted in the enforcement of antidumping and countervailing duty orders or price undertakings.

Article 21

Preference Utilisation

1. For the purpose of monitoring the functioning of the Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics for a period starting one year after the entry into force of this Agreement until 10 years after the tariff elimination is completed for all goods according to the Schedules in Annex [x]. Unless the [Trade Committee]

decides otherwise, this period shall be automatically extended for five years, and thereafter this Committee may decide to subsequently extend it.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment.

3. Without prejudice to paragraph 2 no Party shall be obliged to exchange import statistics granted confidentiality according to domestic legislation.

CHAPTER III

COMMON PROVISIONS

Article 22

General exceptions

1. Article XX of the GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of Chapter (XXX – "*Market Access/NTM*") and Chapter (XXX – Customs and Trade Facilitation).

2. In this context, the Parties understand that

   (a) the measures referred to in Article XX(b) of the GATT 1994 include environmental measures, such as measures taken to implement multilateral environmental agreements, which are necessary to protect human, animal or plant life or health; and

   (b) Article XX(g) of the GATT 1994 applies to measures for the conservation of living and non-living exhaustible natural resources.

3. Before a Party takes any measures provided for in subparagraphs (i) and (j) of Article XX of the GATT 1994, it shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If no agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Whenever exceptional and critical circumstances require immediate action the Party intending to take the measures may apply the necessary measure without prior notification. The Party shall inform the other Party immediately thereof.