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Georgetown Composite
Dispute Settlement

CONFIDENTIAL
16 January 1992

MEX [Institutional Provisions and Dispute Settlement]

USA [Institutional Provisions]

CDA [Institutional Arrangements]

Article 2301: CDA [Dispute Settlement - Scope] USA [Application]

1. MEX USA [Except] MEX [for the matters covered in Chapter 11 (Review of Antidumping and Countervailing Duty Amendments Determinations), Chapter 16 (Financial Services), and Chapter 21 (Investment),] USA [as otherwise provided in this Agreement,] the provisions of this Chapter shall apply with respect to the avoidance or settlement of all disputes regarding the interpretation or application of this Agreement, USA [or] CDA MEX [including] whenever a Party considers that a USA CDA [an actual or proposed] measure of another Party is or would MEX USA [be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Article 2404 unless MEX [all of] the Parties USA [interested in the matter] agree to use another procedure in any particular case.] CDA [otherwise cause nullification or impairment of any benefit reasonably expected to accrue to it under this Agreement.]

2. Disputes arising under both this Agreement and the General Agreement on Tariffs and Trade, and agreements negotiated thereunder (GATT), CDA [or arising under both this Agreement and other trade agreements binding between the Parties to a dispute,] may be settled in USA [either] CDA MEX [the] forum CDA MEX [chosen] at the discretion of the complaining Party USA [or Parties], according to the rules of that forum MEX [to be exercised following consultations with the other Parties]. USA [In the event that there are two complaining Parties and they cannot agree on the forum, the dispute shall be settled exclusively under this Agreement.]

3. Once the dispute settlement provisions of this Agreement USA MEX [or] the GATT CDA [or of any other Agreement] have been initiated pursuant to MEX USA [Article 2306] CDA [this Part], USA MEX [or] the GATT MEX USA [with respect to any matter] CDA [or that other Agreement,] the procedure initiated shall be used to the exclusion of any other.

USA [4. Disputes between Canada and the United States arising under both this Agreement and the Canada-United States Free-Trade Agreement ("CUSFTA") shall be settled under the provisions of this Agreement unless both Parties agree otherwise. For such

disputes, once Canada and the United States have initiated proceedings pursuant to Article 2306 of this Agreement or Article 1805 of the CUSFTA, the procedure initiated shall be used to the exclusion of the other. The referral of a dispute for resolution under the CUSFTA shall not affect any rights that Mexico may have under this Agreement with respect to the matter, including its right to initiate dispute settlement procedures under this Chapter.]

Article 2302: The ^{USA MEX}[North American] Trade Commission

1. The Parties hereby establish the ^{USA MEX}[North American] Trade Commission (the Commission).

2. The Commission shall:

- (a) supervise the implementation of this Agreement;
- (b) oversee its further elaboration ^{CDA}[in a manner that promotes fulfilment of its object and purpose];
- (c) resolve disputes that may arise over its interpretation ^{MEX CDA}[or] ^{USA}[and] application; and
- (d) consider any other matter that may affect its operation.

3. The Commission shall be composed of representatives of each Party ^{CDA}[to this Agreement]. The principal representative of each Party shall be the cabinet-level officer or Minister primarily responsible for international trade ^{USA CDA}[or their designees]. ^{MEX}[In order to address matters that affect the operation of the Agreement in a prompt and effective manner, each Party shall designate a permanent representative to the Commission who shall coordinate and execute on a continuing basis the functions described in paragraph 1. Actions of the permanent representatives taken by consensus shall be deemed actions of the Commission.]

4. The Commission shall convene at least once a year in regular session to review the ^{CDA}[implementation and further elaboration] ^{MEX USA}[functioning] of this Agreement. Regular sessions of the Commission shall be ^{MEX USA}[held alternately in the three countries] ^{CDA}[hosted, in alphabetical rotation, by each Party].

5. The Commission may establish and delegate responsibilities to ad hoc or standing committees or working groups ^{MEX USA} [and seek the advice of non-governmental individuals or groups].

^{CDA} [6. The Parties, and any committees or groups established pursuant to paragraph 5, shall seek the advice of nongovernmental individuals, business enterprises, and groups on a regular basis.]

7. The Commission shall establish its rules and procedures. ^{MEX USA} [All decisions of the Commission shall be taken by consensus].

Article 2303: The Secretariat

1. ^{MEX USA} [The Commission] ^{CDA} [The Parties] shall establish a ^{CDA} [permanent] Secretariat, ^{CDA} [comprising national sections, to facilitate the operation of this Agreement and the work of panels, committees and other groups established or that may be convened pursuant thereto.] ^{MEX USA} [to provide secretarial and technical assistance to the panels] ^{MEX} [appointed pursuant to this Chapter and Chapter 11 (Review of Antidumping and Countervailing Duty Amendments and Determinations.)] ^{USA} [established under this Agreement, or in connection with other matters concerning the implementation of this Agreement, as the Commission may direct].

^{CDA} [2. The office of each Party's section shall be in the location designated by that Party in its instrument of ratification or accession.]

^{CDA} [3. Each Party shall be responsible for the operating costs of its section.]

^{CDA} [4. Each Party shall appoint an individual to serve as Secretary to its section of the Secretariat who shall be responsible for all administrative matters involving that section.]

^{CDA} [5. The Secretaries shall provide support for the Commission as set out in this Agreement, and as may be directed by the Commission.]

^{CDA} [6. The Secretaries of the disputing Parties shall act jointly to service all meetings of Panels established pursuant to

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'Article 2308 ^{MEX}[Non-Binding Arbitration] ^{USA CDA}[Panel
Procedures]

1. If a dispute has been referred to the Commission under Article 2306 and has not been resolved within a period of 30 ^{MEX}[calendar] days after such referral, or within such other period as the Commission has agreed upon, or has not been referred to ^{MEX}[binding] arbitration pursuant to Article 2307, the Commission, upon the request of any Party ^{USA}[transmitted in writing to the other Parties,] ^{CDA}[to the dispute], shall ^{MEX}[refer the matter to non-binding arbitration before a] ^{USA CDA}[establish a] panel of ^{MEX}[arbitrators] ^{USA CDA}[experts to consider the matter]. ^{MEX}[The panel process shall commence as of the date of such a] ^{USA CDA}[A panel shall be deemed to be established from the date of the] request by a Party.

^{MEX}[2. The panel shall be established and perform its functions in a manner consistent with the provisions of Article 2309.]

3. Unless the ^{MEX CDA}[Commission agrees] ^{USA}[parties to the dispute agree] otherwise, the final report of the panel shall be published along with any separate ^{USA}[or minority] opinions, ^{MEX CDA}[and any written views that a Party that has participated in the proceeding desires to be published] ^{USA}[five days after it is transmitted to the Parties].

4. Upon receipt of the final report of the panel, the ^{MEX USA}[Commission] ^{CDA}[disputing Parties] shall agree on the resolution of the dispute, which ^{USA CDA}[normally] shall conform ^{MEX}[to the greatest extent possible] with the ^{MEX}[decision] ^{USA CDA}[recommendation] of the panel.

Whenever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or ^{CDA}[otherwise] causing nullification or impairment in the sense of Article 2404 or, failing such a resolution, compensation.

¹ Mexico and Canada are considering developing language on terms of reference for panel proceedings under 2308 and arbitration under 2307.

this Article. The Secretary of the Party in whose territory a panel proceeding is held shall prepare a record thereof, and each disputing Party Secretary shall preserve an authentic copy of such record in its office.]

^{CDA}[7. Each disputing Party Secretary shall receive and file all requests, briefs, and other papers properly presented to a panel.]

^{CDA}[8. Each disputing Party Secretary shall forward to all other disputing Party Secretaries copies of all official letters, documents, records, or other papers received or filed with its Section pertaining to any proceeding before a panel.]

^{CDA}[Article: 2303 bis: Publication

Each Party shall ensure that any measures of general application respecting any matter covered by this Agreement shall be published promptly or otherwise made available in such a manner as to enable interested persons and Parties to become acquainted with them.]

Article 2304: Notification

^{CDA}[1. Each Party shall, to the maximum extent practicable, with respect to any proposed or actual measure that might materially affect the operation of this Agreement:

- a. publish a notice in its official journal at an early stage in such a manner as to enable interested persons and Parties to become acquainted with the measure; and
- b. allow reasonable time between publication and entry into force of the measure to permit interested persons and other Parties to make comments in writing, discuss these comments upon request of any Party, and take the comments and the results of the discussions into account.]

2. Each Party shall provide written notice to other Parties ^{CDA}[to the maximum extent practicable with respect to] ^{USA MEX}[of] any ^{USA CDA}[proposed or actual] measure that ^{USA MEX}[it considers] might materially affect the operation of this Agreement. Such

notice shall be given as ^{MEX}[soon] ^{USA CDA}[far in advance] as possible ^{MEX}[after] ^{USA CDA}[of] the implementation of the measure. ^{MEX USA}[The notice shall include, whenever appropriate, a description of the reasons for the ^{USA}[proposed or actual] measure.]

3. ^{USA}[If prior notice is not possible, the Party implementing the measure shall provide written notice to the other Parties as soon as possible after implementation.] ^{CDA}[Paragraph 2 shall not apply in urgent circumstances, provided that the Party:

- a. immediately notifies the other Parties of the measure, together with a brief indication of the objective and rationale of the measure, including the nature of the urgency;
- b. provides to other Parties upon request copies of the measure in its final form; and
- c. allows the other Parties to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.]

4. Each Party shall ^{CDA}[, to the maximum extent practicable, with respect to any proposed or actual measure that might materially affect the operation of this Agreement] ^{MEX USA}[promptly] provide upon request of any Party information and respond to questions pertaining to ^{MEX USA}[any] ^{CDA}[the] ^{USA}[proposed or actual] measure, ^{USA CDA}[whether or not previously notified].

^{MEX USA}[5. The provision of written notice shall be without prejudice as to whether the measure is consistent with this Agreement.]

^{CDA}[6. The provisions of this Article shall not require any Party to provide confidential information, the disclosure of which would prejudice legitimate commercial interests.]

Article 2305: Consultations

1. ^{MEX USA}[A] ^{CDA}[Any] Party may request ^{USA}[in writing] consultations ^{USA CDA}[with any other Party] regarding any actual or proposed measure ^{MEX USA}[or any other matter] ^{CDA}[of that other Party] that it considers ^{MEX USA}[affects] ^{CDA}[might materially affect] the operation of this Agreement, whether or not the matter has been notified in accordance with Article 2304.

USA CDA [2. The Party requesting consultations USA [with another Party shall at the same time provide a copy of its request to the third Party.] CDA [shall notify other Parties to this Agreement of its request].]

USA [3. The third Party may request consultations on the matter and, if the three Parties agree, the consultations may be held jointly.]

CDA [3. Any other Party having a substantial interest shall have the right to participate in the consultations.]

4. MEX USA [The] CDA [All consulting] Parties shall make every attempt to arrive at a USA CDA [mutually] satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement.

5. 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 2306: USA MEX [Initiation of Procedures] CDA [Good Offices, Conciliation, Mediation]

1. If the CDA [consulting] Parties fail to resolve a matter through consultations within 30 MEX [calendar] days USA [of the delivery] of a written request for consultations under Article 2305, USA [or within 45 days of such request if two Parties have requested consultations,] any CDA [such] Party may USA [convene by written] request MEX CDA [in writing] USA [to the other Parties] a meeting of the Commission.

2. The request shall MEX CDA [state the matter] USA [identify the measure] complained of, and shall indicate the provisions of this Agreement that are considered relevant.

3. Unless otherwise agreed, the Commission shall convene within 10 MEX [calendar] days and shall endeavor to resolve the dispute promptly.

4. The Commission CDA [shall promptly investigate the dispute and] may call on such technical advisors CDA [or may create such expert groups or working parties] as it deems necessary MEX USA [or on the assistance of a mediator acceptable to MEX [all] USA [the] Parties USA [to the dispute]] CDA [or may offer such good offices, conciliation, mediation or other alternative dispute resolution procedures, as may assist the consulting Parties] MEX USA [in an

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effort] to reach a USA CDA [mutually] satisfactory resolution of the dispute.

CDA [5. The Commission may make recommendations to the Parties that it considers to be concerned.]

CDA [6. The interests of all Parties to this Agreement shall be fully taken into account by the Commission and by the consulting Parties.]

MEX [7. At the request of any Party, the Commission shall consider and determine whether it is appropriate to consolidate two or more proceedings initiated pursuant to this Chapter. In making such a determination, the Commission shall consider, inter alia, whether the issues involved in the separate proceeding are the same or similar, and whether consolidation would cause delay prejudicial to a Party.]

USA [8. If, upon receipt of a request for a Commission meeting, the third Party considers that it has a substantial interest in the matter and seeks to participate as a complaining Party, it shall transmit to the other Parties within 7 days written notice of its participation. If the third Party does not elect to participate:

a. it may not thereafter initiate procedures under this Article regarding the measure in dispute or challenge the measure under any substantially equivalent provision of the GATT or the CUSFTA; and

b. the Commission shall consist, for purposes of the resolution of the dispute, of representatives of the two remaining Parties.]

Article 2307: MEX [Binding] Arbitration

1. If a dispute has been referred to the Commission under Article 2306 and has not been resolved within a period of 30 MEX [calendar] days after such referral, the Commission, MEX [upon request of any Party]:

MEX CDA [a. shall refer a dispute MEX [under] CDA [regarding actions taken pursuant to] Chapter 8 Safeguards-Emergency

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Action, Chapter 3 (Rules of Origin), ^{MEX}[Chapter 12 (Technical Standards) and Article 505 (Technical Regulations and Standards for Agricultural, Food, Beverage and Certain Related Goods)] in accordance with the provisions of those chapters, and¹

b.] may refer any ^{MEX CDA}[other] dispute, ^{CDA}[with the consent of the Parties to that dispute], to ^{MEX CDA}[binding] arbitration ^{MEX}[before a panel of arbitrators] ^{USA CDA}[on such terms as the Commission may adopt]. ^{MEX}[The panel process shall commence as of the date of such a request by a Party.]

^{CDA}[2. Other Parties may become party to an arbitration proceeding upon the agreement of the Parties that have agreed to have recourse to arbitration.]

3. ^{MEX}[The] ^{USA CDA}[Unless the Commission directs otherwise, an arbitration] panel shall be established and perform its functions in a manner consistent with the provisions of ^{USA}[paragraphs 1, 4, 5, 8 and 10 of] Article 2309.

^{MEX CDA}[4. ^{CDA}[Unless the Commission agrees otherwise,] the ^{CDA}[final] report of the panel shall be published along with any separate opinions, and any written views that a Party that has participated in the proceeding desires to be published.]

^{MEX}[5. The determination of the panel shall be deemed binding under the domestic law of each Party.]

^{USA CDA}[5. If a Party ^{USA}[to the dispute] fails to implement in a timely fashion the findings of a ^{CDA}[binding] arbitration panel and the Parties are unable to agree on appropriate compensation or remedial action, then the other Party ^{USA}[or Parties to the dispute] shall have the right to suspend the application of equivalent benefits of this Agreement to the non-complying Party.]

¹ These provisions may need to be modified to accord with the provisions negotiated in these areas.

CDA[5. The Commission shall be notified of any agreed resolution of any dispute.]¹

6. If the MEX USA[Commission] CDA[disputing Parties] MEX USA[has] CDA[have] not reached agreement on a mutually satisfactory resolution under paragraph 4 within 30 MEX[calendar] days of receiving the final report of the panel, USA CDA[(or such other date as the Commission may decide)], USA[and a party to the dispute considers that its] CDA[and to the extent that the final report of a Panel has determined that the] USA CDA[fundamental rights (under this Agreement) or benefits (anticipated under this Agreement)] CDA[of the complaining Party or Parties] USA CDA[are or would be impaired by the implementation or maintenance of the measure at issue,] CDA[that] MEX USA[the] Party CDA[or Parties] shall be free to suspend the application to the MEX[other] Party USA[whose measure is at issue] CDA[complained against] of benefits of equivalent effect until such time as the CDA[disputing] MEX CDA[Parties have reached agreement on a resolution of] USA[Commission has resolved] the dispute.

CDA MEX [An additional paragraph should provide some means of dispute settlement regarding the meaning of equivalent effect.]

Article 2309: Panel Process

1. The Commission shall USA CDA[develop and] maintain a roster of individuals who are willing and able to serve as MEX[arbitrators] USA CDA[panelists] USA[.] MEX CDA[, in accordance with the following criteria:]

MEX USA[a. USA[Except as provided below, wherever possible, panelists] MEX[Arbitrators normally] shall be MEX[chosen] USA[appointed] from the roster.]

b. USA[Panelists normally shall have experience in the resolution of disputes arising under international trade agreements.] CDA[Roster members shall have demonstrated expertise in law, international trade, or other matters covered by this Agreement, and] MEX USA[In all cases] MEX[arbitrators] USA[panelists] shall be chosen strictly on the basis of objectivity, reliability and sound judgment.

¹ Mexico will provide language with regard to time periods for implementation of agreed resolutions.

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c. CDA [Roster members shall be citizens of a Party to this Agreement.] MEX [Arbitrators shall be independent of the Parties and] USA CDA [Panelists] shall not USA CDA [be affiliated with or] take instructions from any Party.

CDA [c. The roster shall include a minimum of [] members from each Party to this Agreement.]

MEX CDA [2. The Commission CDA [and disputing Parties] shall, where appropriate in selecting MEX [arbitrators] CDA [panelists], endeavour to ensure that the individuals selected have expertise in the particular matter under consideration.]

CDA [3. Unless the Parties to a dispute involving financial services agree otherwise, panels shall be composed of a majority of members possessing financial services expertise.]

4. The panel shall be composed of five members, MEX [one of whom shall be a citizen of Mexico, one of whom shall be a citizen of Canada, and one of whom shall be a citizen of the United States] CDA [at least 2 of whom shall be citizens of the complaining Party and at least 2 of whom shall be citizens of the Party complained against].

5. USA [The following procedures shall apply when there are two Parties to the dispute:] Within 15 MEX [calendar] days of MEX [the commencement] USA CDA [establishment] of the panel MEX [process], each CDA [disputing] Party, MEX USA [in consultation with the other MEX [Parties] USA [Party]] shall MEX [appoint a member] USA CDA [choose 2 members] of the panel.

6. If a Party fails to appoint MEX [its arbitrator] USA CDA [its panelists] within 15 MEX [calendar] days, such MEX [arbitrator] USA CDA [panelists] shall be selected by lot from among MEX CDA [its citizens] USA [the persons the Party has selected to serve] on the roster described in paragraph 1.

MEX [7. Each Party shall have the right to exercise two peremptory challenges, to be exercised simultaneously and in confidence, disqualifying from appointment to the panel one candidate proposed by each of the other Parties.]

MEX [8. The three appointed arbitrators shall appoint the fourth and fifth arbitrators, who shall jointly chair the panel, within 30 calendar days of the commencement of the panel process. If agreement is not possible on the fourth and fifth arbitrators, they shall be selected in the following manner: [to be added]]

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USA CDA [8. The Commission shall USA [endeavor to agree on] CDA [designate] the fifth panelist who shall chair the panel. USA [Whenever possible, the fifth panelist shall be selected from the GATT roster of panelists.] If the Commission is unable to agree on the fifth panelist within USA [15 days of establishment of the panel] CDA [such period], then, at the request of either Party, the four CDA [appointed] panelists shall decide on the fifth panelist within 30 days of the establishment of the panel. If no agreement is possible, the fifth panelist shall be selected by lot from USA [among those persons on the GATT roster who are not nationals of a Party.] CDA [the roster described in paragraph 1.]]

MEX [9. Individuals may not serve as arbitrators for disputes in connection with which they have served as a technical advisor or mediator pursuant to paragraph 5 of article 2306.]

USA [10. When there are two complaining Parties to a dispute, the procedures set out in paragraphs 5, 6 and 8 shall apply, except that:

a. in consultation with the other Parties, each complaining Party shall select one panelist, the third Party shall select two panelists, and the complaining Parties shall jointly participate in the selection of the fifth panelist; and

b. the schedule for the selection of panelists shall be extended by 10 days and the schedule for each further stage of the dispute shall be extended by 15 days.]

CDA [10. Where more than one Party requests the establishment of a panel on the same matter, a single panel shall be established wherever possible.

In such cases, the following panel selection procedures, rather than those of paragraphs 5, 6, and 8 shall apply:

a. Within 15 days of establishment of the panel, each disputing Party shall nominate up to two candidates for the panel.

b. If a Party fails to nominate its candidates within 15 days, such candidates shall be selected by lot from among its citizens on the roster described in paragraph 1.

c. The Commission shall designate the panelists from among the candidates nominated, and shall designate a Chairperson, within 30 days of the establishment of the panel, having due regard to the interests of all disputing Parties.

d. If the Commission is unable to agree on membership of a panel within such period, then, at the request of any disputing Party, the panelists shall be selected by lot from the roster described in paragraph 1, provided that such panel shall always include at least one citizen of the Party complained against.]

11. MEX [Panels] USA CDA [The panel] shall MEX [follow] USA CDA [establish] MEX [the] USA CDA [its] rules of procedure MEX [set forth in Annex _____,] USA CDA [unless the Commission has agreed otherwise] CDA [,] USA [.] MEX CDA [in accordance with the following principles:]

a. The procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide written submissions and rebuttal arguments.

b. The proceedings of the panel MEX CDA [shall be confidential.] USA [, the written and oral submissions of the Parties, and the panel's initial report shall not be disclosed other than to employees of the Parties, the Secretariat, the panel, and its assistants.]

c. MEX [The Parties shall submit such evidence as they deem appropriate and arguments based on applicable international agreements] USA CDA [Unless otherwise agreed by the Parties USA [to the dispute] US] US, CAN the panel shall base its decision on the arguments and submissions of the Parties.

USA [d. When the third Party is not a Party to the dispute, it shall nevertheless be entitled to attend all hearings and to make written and oral submissions to the panel. Upon request, the Panel shall promptly transmit to such third Party all substantive written communications between the Parties and the panel concerning the dispute.]

CDA [d. Any other Party having a substantial interest in a matter before a panel, and having notified this to the Commission, shall have an opportunity to be heard by the panel, to receive the written submissions of the disputing Parties, and to provide written submissions. If such Party

considers the matter before the panel nullifies or impairs benefits accruing to it under this Agreement, that Party shall have recourse to the consultation and dispute settlement procedures of this Part.]

MEX[e. Where appropriate, a panel may request that the Secretariat appoint technical experts to provide assistance in analyzing and understanding the submissions of the Parties.]

CDA[e. The panel shall have the right to seek information and technical advice from any individual or body which it deems appropriate, including officials designated as members of each Party's section of the Secretariat.]

12. USA CDA[Unless the disputing Parties otherwise agree,] the panel shall, within MEX CDA[three months] USA[90 days] after its CDA[chairperson] MEX[chairpersons] USA [chairman] MEX[are] USA CDA[is] appointed, present to the Parties an initial report containing:

a. MEX[only] findings of fact;

USA CDA[b. its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or otherwise cause nullification or impairment in the sense of Article _____;]

USA CDA[c. its recommendations, if any, for resolution of the dispute; and]

USA CDA[d. if requested by any disputing Party at the time of establishment of the panel, 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.]

Panelists may furnish separate opinions on matters not unanimously agreed.

USA CDA[13. The panel shall afford the disputing Parties the opportunity to comment on its preliminary findings of fact prior to completion of its report.]

14. Within 14 MEX[calendar] days of issuance of the initial report USA CDA[of the panel,] a USA CDA[disputing] Party MEX[may] USA CDA[disagreeing in whole or in part] USA[with the report] shall

present ^{MEX}[written comments on that report] ^{USA CDA}[a written statement of objections and the reasons for those objections] to the Panel.

15. In such an event, and after considering such written comments, the panel ^{CDA}[on its own motion or at the request of any disputing Party] may:

^{USA CDA}[a. request the views of ^{USA}[the other Party or] ^{CDA}[all disputing] Parties;

b. reconsider its report;]

c. make any further examination that it deems appropriate; and

d. ^{MEX}[shall] issue a final report ^{USA CDA}[together with any separate ^{USA}[or minority] opinions to the Parties and the Commission] ^{MEX}[together with separate opinions on matters not unanimously agreed], within 30 ^{MEX}[calendar] days of issuance of the initial report.

^{USA}[16. Neither the initial report nor the final report shall disclose which panelists are associated with majority or minority opinions.]

^{MEX}[17. If requested by a Party at the time of the commencement of the panel process, the panel shall present findings as to the degree of adverse trade effect on the other Parties of any measure found not to conform with the obligations of the Agreement.]

^{CDA}[Article 2310: Administration of Laws

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

^{CDA}[Article 2311: Review and Appeal

1. Each Party shall introduce and maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and correction of administrative action relating to matters covered by this Agreement, including access to at least one level of administrative review or appeal of such action.

2. In any such tribunals or procedures, [a listing of

appropriate administrative law principles common to common-law and civil law systems, e.g., right to reasoned decision-making, etc., might be included here]

3. Such tribunals or procedures shall be independent of the office or authority entrusted with administrative enforcement and have no substantial interest in the outcome of the matter.

4. The decisions of such tribunals or procedures shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals.]

USA CDA [Article 2312: Referrals of Matters from Judicial or Administrative Proceedings

1. In the event an issue of interpretation of this Agreement arises in any domestic judicial or administrative proceeding of a Party which any Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, CDA [the Commission shall be notified and shall endeavour] USA [the Parties concerned shall endeavor] to agree on the interpretation of the applicable provisions of this Agreement as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation to the court or administrative body in accordance with the rules of that forum.

3. If the USA [Parties are] CDA [Commission is] unable to reach agreement on the interpretation of the provision of the Agreement at issue, any Party may submit its own views to the court or administrative body in accordance with the rules of that forum.]

CDA [4. The Commission may establish a standing committee of experts to render opinions as may be requested by the Commission, any Party, or by any domestic judicial or administrative tribunal of any Party.]

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NOTE:

[The United States is considering the inclusion of a provision that would encourage the use of arbitration in commercial disputes between a national or company of a Party and a national or company of another Party.]

[The United States is also considering the inclusion of a provision that would allow the Parties to evaluate more effectively the scientific basis of arguments raised by the Parties to a dispute under this Agreement on grounds related to health, conservation of living resources, or environmental protection.]