Podolski - Measures Concerning the Road Transport Service[1]

1. The Federal Republic of Podolski ("Podolski") is a developed, high-income economy, as recognised by the World Bank in 2024, with a nominal GDP of USD 4 trillion. Podolski is geographically spread across an area of approximately 900,000 sq. km. The Kingdom of Klose ("Klose") is a developed, resource-rich country, with a nominal GDP of USD 2.1 trillion and a geographical area of approximately 15,000,000 sq. km. Both Podolski and Klose have been founding Members of the World Trade Organization ("WTO") since 01 January 1995 and were contracting parties to the General Agreement on Tariffs and Trade 1947 ("GATT 1947"). Both Podolski and Klose are landlocked countries.

2. The Democratic Republic of Klinsmann is a developing country projected to attain upper-middle-income status by 2035. Klinsmann began its WTO accession process on 01 April 2005. After six years of negotiations, Klinsmann became a WTO Member on 15 April 2011. Since then, Klinsmann has been actively engaged in negotiations for Free Trade Agreements ("FTAs") and has consequently signed a number of FTAs with its major trading partners. Klinsmann is geographically spread across an area of approximately 600,000 sq. km. and has a coastline of 11,000 kilometres.[2]

3. Podolski and Klose have among the most developed road transport services in the world and export these services to most parts of the world, including Klinsmann. As Podolski and Klose are landlocked, the governments of both States have historically supported the road transport industry within their respective territories.

4. Since gaining independence, Klinsmann has been developing its road transport network to improve connectivity and take advantage of its position as a coastal state. Podolski and Klose rely on the port facilities of Klinsmann for their export and import activities and transport a majority of their merchandise goods via heavy goods vehicles (trucks) to the ports in Klinsmann and vice versa. Considering the close proximity of these countries and their mutual reliance on the port infrastructure in Klinsmann, all three countries have established vast road networks connecting one another.

[1] The problem is drafted by Centre for Trade and Investment Law, guided by Mr. Kailas Surendran and Mr. Ridhish Rajvanshi. Participants must not contact the authors. Any communication may lead to disqualification.

[2] The regional map is provided in Annex E.

5. Podolski has long maintained strict federal standards for motor carrier safety and driver qualifications, enforcing a rigorous licensing regime regarding the operation and supply of road transport services, including long-haul trucking. This is particularly relevant considering that several road networks pass through mountainous terrain in Podolski.

6. The Podolski Road and transport Development Authority ("PRADA") enacted the Transport Regulation and Carrier Safety Act, 2010 ("TRAC Act"). The TRAC Act was published in the Official Gazette of Podolski and entered into force on 01 January 2011. The objective of the Act is to streamline the licensing regime for road transport and ensure that the supply of road transport services complies with requirements such as driver experience, safety and maintenance for obtaining a license.

7. The TRAC Act was implemented as a regulatory tool to ensure that all road transport services and service suppliers comply with relevant licensing requirements. The TRAC Act imposes strict licensing requirements on long-haul trucks and truck drivers of operators established outside Podolski. Operators established outside Podolski are permitted to supply services within Podolski only upon fulfilling these licensing requirements and obtaining an operating licence issued by PRADA.

8. At the same time, the TRAC Act imposed licensing requirements on domestic road transport service suppliers. Entities established in Podolski, irrespective of ownership, were required to obtain a licence from PRADA. The licensing regime for entities established in Podolski did not require fulfilment of the licensing requirements imposed on service suppliers established outside Podolski; such licences could be acquired upon providing proof of establishment in Podolski.[1] The TRAC Act required all operators to renew these licenses annually.

9. An entity established in Podolski could therefore obtain an operating licence based on evidence of establishment. Conversely, a licence for the cross-border supply of trucking services was contingent on fulfilment of specific licensing requirements such as minimum experience requirements for drivers, certification showing that trucks are periodically serviced, and the mandatory installation of safety equipment such as fire extinguishers.

[1] The relevant extracts of the regulations framed under the TRAC Act, including the licensing regime referred to in this paragraph, are set out in Annex B.

10. On 14 February 2015, PRADA initiated bilateral discussions with Klose's National Authority for Vehicle Inspection, Transit, and Highway Excellence ("NAVIGATE"), the authority responsible for regulating road transport services in Klose. These discussions aimed to improve road connectivity between Podolski and Klose and to expand trade in road transport services between the two countries.

11. On 20 February 2015, PRADA and NAVIGATE signed a Memorandum of Understanding ("MoU") on the Facilitation of Road Transport Services. Under the MoU, PRADA and NAVIGATE affirmed their intention to harmonise relevant standards applicable to road transport services, particularly in the context of the cross-border supply of services.

12. The MoU includes licensing requirements relating to trucks and automobiles used for road transport, and driver qualifications, similar to the provisions in the TRAC Act. A crucial element of the MoU is Article 4 (Reciprocity Article), which records the mutual understanding between PRADA and NAVIGATE that the licensing requirements in Klose are similar to those in Podolski. In effect, PRADA exempts licences to road transport service operators of Klose supplying cross-border services on the basis of the reciprocity arrangement agreed pursuant to Article 4 of the MoU.[1] The MoU retained the annual renewal of licenses as provided under the TRAC Act.

13. In late 2025, during a bilateral High-Level meeting between Ministers and Senior Officials of Podolski and Klinsmann, the Ministry of Ports, Road and Transport of Klinsmann proposed an MoU between PRADA and the Ministry of Ports, Road and Transport of Klinsmann on the harmonisation of standards and a reciprocity arrangement for road transport services, similar to the MoU in force with NAVIGATE.

14. Podolski acknowledged the deep connectivity existing between Podolski and Klinsmann. However, Podolski declined the proposal to enter into an MoU, providing no official reasons or formal response. The TruthTeller, a prominent news agency in the region, reported that PRADA officials believed the standards applicable to trucks, automobiles, and drivers in Klinsmann failed to meet the standards maintained in Podolski and under the TRAC Act, leading to PRADA's refusal.

[1] The relevant part of the MoU is found in Annex D.

15. In 2016, PRADA commissioned a strategic economic study on the challenges and opportunities for the Podolskian economy regarding transport services and logistics. The study was conducted by the state-funded Podolskian University ("PU") and led by the Head of PU's Law and Economics Department, Prof. Samuel Weatherspoon. The final report (Weatherspoon Report) was issued in 2017.

16. The report advocated for State support to promote domestic transport sectors and improve logistics nationwide as part of the Transport Sector Guidance ("TSG") under the Podolski Transformative Strategy for greater Development by 2030 ("PTSD"). The PTSD is a broader economic strategy issued by the President's Office of Podolski to achieve a USD 7 trillion GDP by 2030. The PTSD is supplemented by sectoral guidance to drive growth and operational improvements.

17. A key recommendation of the Weatherspoon Report was the revival of "Republic Logistics", a State-Owned Enterprise ("SOE") jointly owned by the Ministry of Economy and PRADA, responsible for logistics development and transport service supply.

18. The Weatherspoon Report highlighted that Republic Logistics should be established as the exclusive service supplier of Podolski and modernise its fleet of trucks, vessels, and aircraft to maximise productivity and secure transport service supply to and from Podolski. In particular, the report emphasized that Republic Logistics should acquire a dedicated fleet of electric trucks, given conflicts in oil-exporting countries and rising fuel and maintenance costs.

19. The Weatherspoon Report stressed that this would improve connectivity and logistics operations across Podolski, leveraging import-export activities and boosting national exports. It further noted that these recommendations would help reduce internal logistics costs in Podolski, making goods cheaper for consumers.

20. In 2018, Prof. Weatherspoon contested parliamentary elections. During his campaign, he referred to the PTSD and TSG and promised to do "everything possible" to "make the recommendations in the Weatherspoon Report a reality, especially the restoration of Republic Logistics".

21. In 2019, Prof. Weatherspoon was elected to Parliament and appointed Minister of State for the Ministry of Economy, while also being assigned additional charge of PRADA. Consequently, Prof. Weatherspoon began initiatives to turn Republic Logistics

around. To render Republic Logistics competitive and economically viable, Prof. Weatherspoon issued an Office Memorandum 13/19 ("OM 13/19") directing PRADA to ensure that trucks owned and operated by Republic Logistics should be exempt from any licensing requirements under the TRAC Act indefinitely. The OM 13/19 also designated Republic Logistics as the national operator for transport and logistics services in Podolski.

22. Furthermore, Prof. Weatherspoon issued an Office Memorandum ("OM") mandating Republic Logistics to hire only drivers holding a driver's licence issued by PRADA and possessing at least seven years of experience working for enterprises established in Podolski. The Ministry of Economy explained that this measure would reduce training expenses for Republic Logistics and foster a pool of local expert drivers.

23. In July 2020, Prof. Weatherspoon stated in an interview with The TruthTeller that "multiple projects are under consideration for revamping Republic Logistics. The PTSD-TSG has shown that reducing licensing requirements and operational expenses increases revenue". He added that "the Ministry of Economy is in the process of procuring multiple electric trucks and modern vessels to make Republic Logistics more competitive".

24. In October 2020, the Ministry of Economy published a Call for Bids for the procurement of 400 electric trucks and 100 diesel trucks for Republic Logistics, open to entities established in Podolski. The Ministry of Economy published the technical specifications for the procurement on its official website.

25. On 21 December 2020, Rageroad Motors Inc. was awarded the contract for 400 electric trucks and 100 diesel trucks and delivered the vehicles within one week. Within a month, Republic Logistics was prepared to launch road transport services using its new fleet.

26. On 25 January 2021, Republic Logistics, in the presence of Prof. Weatherspoon, held a ceremony flagging off trucks transporting goods to Klose and Klinsmann. During the ceremony, Prof. Weatherspoon stated: "This marks the beginning of a new era in transport services. It will strengthen our domestic market, bringing revenue and jobs back to Podolski while supporting importers and exporters in moving goods across borders".

27. From 2021 onwards, Podolski's domestic road transport sector expanded rapidly, accounting for 20% of Podolski's GDP by the end of 2025. The sector is dominated by Republic Logistics, which operates over 1,000 trucks and supplies services both within Podolski and across the territories of Klose and Klinsmann.

28. As part of the PTSD, the Economic Sector Guidance ("ESG") recommended that Podolski pursue free trade agreements with key economies, taking into account geopolitical and foreign policy considerations. On 01 January 2022, Podolski, Klose, and Klinsmann signed a Free Trade Agreement – Comprehensive Agreement on Regional Trade and Investment (CARTI). The CARTI entered into force on 01 January 2023 and covers substantially all trade in goods and services between the Parties.

29. Envisaged as a comprehensive agreement, the CARTI contains dedicated chapters on trade in goods, cross-border trade in services, and investment. The Cross-Border Trade in Services Chapter (Chapter 10) and Investment Chapter (Chapter 11) provide for substantive liberalisation across service and non-service sectors. Both chapters include Schedules of Specific Commitments setting out market access and national treatment limitations, as well as an MFN Exemption Annex for the Trade in Services Chapter.

30. Chapter 10 prohibits specific market access restrictions and guarantees National Treatment and Most-Favoured-Nation ("MFN") treatment to service suppliers. Chapter 11 guarantees non-discriminatory access for investors and investments via National Treatment and MFN obligations, while prohibiting nationality requirements for senior management.

31. Podolski did not schedule any limitations regarding Market Access with respect to Chapter 10. However, pursuant to the TRAC Act, Podolski maintained certain temporary limitations concerning National Treatment and MFN obligations in Chapters 10 and 11.

32. Under Chapter 10, Podolski maintained temporary limitations regarding discriminatory licensing requirements for cross-border road transport services, including for renewal of licenses. These limitations applied exclusively to Klinsmann and were scheduled to expire within two years from CARTI's entry into force (i.e. on 01 January 2025). Podolski scheduled no such limitations for Klose in light of the PRADA–NAVIGATE MoU.

33. These transient reservations resulted from direct negotiations between PRADA and Klinsmann's Ministry of Ports, Road and Transport. During negotiations, Klinsmann explained that it was establishing a licensing regime similar to Podolski's, targeting completion by late 2025. Consequently, Podolski scheduled a two-year transitional period for Klinsmann, after which the limitation on national treatment and MFN obligations would cease to apply.

34. Podolski also scheduled a specific National Treatment limitation under Chapters 10 and 11 regarding licence exemptions granted to Republic Logistics. Beyond this, no other limitations for road transport services were listed in Chapter 11.

35. Between 2021 and 2025, Republic Logistics established commercial presence across the region, creating branch offices in Klose and Klinsmann. Merchandise importers in Podolski increasingly utilized these branches in Klinsmann to transport imported goods from Klinsmann's ports to warehouses in Podolski. On 01 October 2023, Prof. Weatherspoon, through a letter, directed PRADA to limit licenses to cross-border suppliers of road transport to operators who have experience supplying the services for consumers in Podolski or to operators who have entered into a commercial arrangement with Republic Logistics or its branches or subsidiaries in other countries.

36. On 01 November 2023, Podolski amended the TRAC Act to align with the UN Sustainable Development Goals (SDGs), its commitments under the UNFCCC and the Paris Agreement, and national carbon reduction targets. Section V was inserted into the TRAC Act, mandating that road transport enterprises established in Podolski could only obtain or renew an operating licence if they maintained at least 35 electric trucks, presented formal fleet electrification plans, or demonstrated negligible carbon emissions.[1]

37. Addressing Parliament, Prof. Weatherspoon affirmed that Section V applied non-discriminatorily to all domestic and foreign-owned entities, including Republic Logistics.

38. Shawshank Redemption Inc. and Top Gear Inc. are subsidiaries established in Podolski, owned by Shawshank Group and Top Gear Group respectively (both entities incorporated in Klinsmann and controlled by nationals of Klinsmann). On 01 January

[1] The relevant extract of the amendment is provided in Annex C.

2024, both subsidiaries applied to renew their operating licences under the TRAC Act. PRADA rejected both applications because the companies operated 15-year-old diesel trucks and had not submitted plans to replace them with electric vehicles.

39. Shawshank Redemption Inc. and Top Gear Inc. reapplied, providing evidence that their overall carbon emissions were negligible compared to Republic Logistics and operators from Klose, alongside five-year fleet electrification plans. PRADA rejected their applications a second time.

40. In a joint press conference, both companies stated that enterprises from Klose and Podolski had received licence renewals by PRADA upon submitting similar evidence. They alleged that granting licences to other companies (including truck operators) established in Podolski under similar economic conditions constituted grave discrimination and administrative law violations.

41. Shawshank Redemption Inc. and Top Gear Inc. filed a writ petition in Podolski's judicial system, claiming that PRADA's executive action violated equality before the law under Article 14 of Podolski's Constitution. The proceeding remains pending before the Supreme Court of Podolski.

42. On 01 May 2024, the Association of Road Transport Service Suppliers in Klinsmann submitted a representation to the Government of Klinsmann, stating that Podolski maintained a numerical restriction for cross-border service suppliers. The Association clarified that PRADA's requirement for prior experience supplying services to consumers in Podolski limited the entry of new operators, thereby restricting access to Podolski's markets. Similarly, requiring entities to have a commercial arrangement with Republic Logistics, including its subsidiaries or branches, limits potential service suppliers to a small number. The Association requested Klinsmann to raise this issue before the CARTI Joint Committee.

43. Klinsmann's Ministry of Commerce subsequently requested a meeting of the Joint Committee pursuant to Article 27.4 of the CARTI.

44. On 15 July 2024, during the Joint Committee meeting, Klinsmann raised concerns regarding market access limitations on the number of service suppliers alongside the licence rejections of Shawshank Redemption Inc. and Top Gear Inc. Klose also expressed concern regarding the market access restrictions in Podolski.

45. Podolski responded that it imposed no numerical limitations on service suppliers and that Republic Logistics operated in full conformity with CARTI. Regarding licence rejections, Podolski stated that the matter was sub-judice before the Supreme Court of Podolski.

46. On 15 January 2025, Klinsmann published the Road Safety Regulations 2025 ("RS Regulations") in its Official Gazette, entering into force immediately. Article 3 of the RS Regulations required operators to renew licences under the new framework. Klinsmann's Minister of Ports, Road and Transport hailed the RS Regulations as a modern transport framework aligned with CARTI implementation and stated that the RS Regulations is equivalent to Podolski's TRAC Act.

47. On 10 September 2025, a severe accident occurred in Podolski involving a truck registered in Klinsmann, resulting in 7 pedestrian fatalities. An official investigation concluded that the truck had worn-out tyres, lacked periodic servicing as required by the TRAC Act, and was operating on an expired licence. The investigation concluded that brake failure caused the vehicle to crash into a crowded bus shelter.

48. Over the next two months, several other trucks operated by Klinsmann suffered mechanical failures, leading to deaths or injuries to the drivers or bystanders in Podolski. In particular, there were multiple reports of trucks catching fire in the middle of transit, which did not have appropriate safety requirements. These had led to injuries to pedestrians and travellers and caused significant damage to public property in Podolski.

49. PRADA, during a press conference, addressed the issue of trucks malfunctioning and causing damage to public property and human life and announced that foreign road transport service suppliers must comply with TRAC Act licensing requirements, including for renewals, or face heavy penalties and criminal prosecution.

50. On 15 January 2026, Prof. Weatherspoon stated in a televised interview that PRADA would enforce strict licensing scrutiny before granting reciprocity. PRADA conducted an evaluation of Klinsmann's RS Regulations and concluded that Klinsmann's regulatory framework was not equivalent to the TRAC Act, and that Klinsmann had not undertaken the reforms necessary to align its licensing regime with that of Podolski.

51. Consequently, PRADA issued an Office Memorandum No 17/26 ("OM 17/26") requiring officers to issue a license or renew licenses, for all suppliers of road transport services, only after detailed assessment of all the requirements under the TRAC Act. The OM 17/26 reaffirmed the exemption for Republic Logistics.

52. On 30 January 2026, Klinsmann's Ministry of Ports, Road and Transport sent a formal letter ("the Letter") protesting the OM 17/26 and stated that this is contrary to Podolski's obligations under the CARTI. It also affirmed that the OM 17/26 is without basis and inconsistent with Podolski's obligations under the CARTI, especially since Klinsmann has enacted the RS Regulations in consonance with TRAC Act.

53. The Ministry of Ports, Road and Transport of Klinsmann claimed that this hinders the flow of services and investment under the CARTI and further called upon PRADA and the Ministry of Economy of Podolski to withdraw the measures and restore national treatment to service suppliers of Klinsmann.

54. Podolski acknowledged receipt but issued no substantive response.

55. Podolski's failure to carry out its obligations under the CARTI on account of the limitation on the number of service suppliers that Podolski has maintained in the form of a monopoly and the rejection of licenses to investments from Klinsmann in Podolski and on account of Podolski's failure to respond to the Letter and the continuance of the discriminatory licensing regime, on 01 March 2026, Klinsmann requested consultations under Article 28.7 of CARTI regarding:

- Podolski's maintenance of numerical limitations on the number of service suppliers;
- the introduction of OM 17/26 violating the Podolski's obligations under the CARTI; and
- the rejection of operating licences for Klinsmann-owned investments in Podolski.

56. Podolski failed to reply to the consultation request within the mandatory 10-day period. Consequently, Klinsmann requested the establishment of an arbitral panel pursuant to Article 28.8 of CARTI.

57. The Democratic Republic of Klinsmann, pursuant to Article 28.8, requested the establishment of a Panel to find that the Federal Republic of Podolski has violated its

obligations under the Cross-Border Trade in Services Chapter and Investment Chapter of the CARTI. The Democratic Republic of Klinsmann submitted the following claims in its request for the establishment of a Panel:

(a) The Federal Republic of Podolski has maintained limitations on the number of service suppliers in the form of numerical quotas, monopolies or exclusive service suppliers which is inconsistent with Article 10.5 (Market Access) and Article 10.7 (Schedule of Specific Commitments);

(b) The continuance of the discriminatory licensing regime under OM 17/26 is violative of Article 10.3 (National Treatment) and Article 10.4 (Most-Favoured-Nation); and

(c) The conduct of the PRADA in rejecting licenses to Shawshank Redemption Inc. and Top Gear Inc. is inconsistent with Article 11.4 (National Treatment) and Article 11.5 (Most-Favoured-Nation).

58. Podolski, in response to the Panel request, released a press statement that "*Podolski is saddened by the dispute put forward by its neighbour and long-standing trade partner, Klinsmann. Podolski maintains that it has not imposed any limitations on the number of service suppliers and reiterates that there is no systematic non-compliance with the Article on Market Access in the Cross-Border Trade in Services Chapter. Further, Podolski maintains that its discriminatory measures with respect to cross-border trade in services are justified, as they are measures necessary for the protection of human health. Similarly, Podolski also maintains that the rejection of licenses to enterprises of Klinsmann is necessary to secure compliance with laws or regulations which are not inconsistent with the provision of this Agreement*".

NOTE: Students are not to deviate from the issues specified above. Counter-claims are not permitted. The scope of the oral proceedings is limited to violations of the Cross-Border Trade in Services and Investment Chapter, as covered by subparagraphs above and not to be extended beyond.

Students are not to argue with respect to the likeness of the services and service suppliers with respect to claim (b). The analysis of likeness under claim (c) should be limited to the facts provided for in the moot problem.

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ANNEX A

THE COMPREHENSIVE AGREEMENT ON REGIONAL TRADE AND INVESTMENT (CARTI) BETWEEN PODOLSKI, KLOSE AND KLINSMANN

PREAMBLE

The Parties to this Agreement, resolving to:

ESTABLISH a comprehensive regional agreement that promotes economic integration to liberalise trade and investment, bring economic growth and social benefits, create new opportunities for workers and businesses, contribute to raising living standards, benefit consumers, reduce poverty and promote sustainable growth;

STRENGTHEN the bonds of friendship and cooperation between them and their peoples;

BUILD on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization;

RECOGNISE the differences in their levels of development and diversity of economies;

STRENGTHEN the competitiveness of their businesses in global markets and enhance the competitiveness of their economies by promoting opportunities for businesses, including promoting the development and strengthening of regional supply chains;

ESTABLISH a predictable legal and commercial framework for trade and investment through mutually advantageous rules;

FACILITATE regional trade by promoting efficient and transparent customs procedures that reduce costs and ensure predictability for their importers and exporters;

RECOGNISE their inherent right to regulate and resolve to preserve the flexibility of the Parties to set legislative and regulatory priorities, safeguard public welfare, and protect legitimate public welfare objectives, such as public health, safety, the environment, the conservation of living or non-living exhaustible natural resources, the integrity and stability of the financial system and public morals;

AFFIRM that state-owned enterprises can play a legitimate role in the diverse economies of the Parties, while recognising that the provision of unfair advantages to state-owned enterprises undermines fair and open trade and investment, and resolve to establish rules for state-owned enterprises that promote a level playing field with privately owned businesses, transparency and sound business practices;

PROMOTE high levels of environmental protection, including through effective enforcement of environmental laws, and further the aims of sustainable development, including through mutually supportive trade and environmental policies and practices;

PROMOTE transparency, good governance and the rule of law, and eliminate bribery and corruption in trade and investment; and

ESTABLISH an Agreement to address future trade and investment challenges and opportunities, and contribute to advancing their respective priorities over time,

HAVE AGREED as follows:

CHAPTER 1
INITIAL PROVISIONS AND GENERAL DEFINITIONS

Article 1.1: Establishment of a Free Trade Area

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

…..

Article 1.3: General Definitions

For the purposes of this Agreement, unless otherwise provided in this Agreement:

…..

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

days means calendar days;

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

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

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

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

…..

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

national means a “natural person who has the nationality of a Party” or a permanent resident of a Party;

person means a natural person or an enterprise;

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

……

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

…….

WTO means the World Trade Organization; and

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

…

CHAPTER 10

CROSS-BORDER TRADE IN SERVICES

Article 10.1: Definitions

For the purposes of this Chapter:

……

cross-border trade in services or **cross-border supply of services** means the supply of a service:

(a) from the territory of a Party into the territory of another Party;

(b) in the territory of a Party to a person of another Party; or

(c) by a national of a Party in the territory of another Party

but does not include the supply of a service in the territory of a Party by a covered investment;

enterprise means an enterprise as defined in Article 1.3 (General Definitions), and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organised under the laws of a Party, or a branch located in the territory of a Party and carrying out business activities there;

…..

measures adopted or **maintained by a Party** means measures adopted or maintained by:

(a) central, regional, or local governments or authorities; or

(b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities;

service supplied in the exercise of governmental authority means, for each Party, any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers;

service supplier of a Party means a person of a Party that seeks to supply or supplies a service; and

…..

Article 10.2: Scope

1. This Chapter shall apply to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of another Party. Such measures include measures affecting:

   (a) the production, distribution, marketing, sale or delivery of a service;

   (b) the purchase or use of, or payment for, a service;

   (c) the access to and use of distribution, transport or telecommunications networks and services in connection with the supply of a service;

   (d) the presence in the Party's territory of a service supplier of another Party; and

   (e) the provision of a bond or other form of financial security as a condition for the supply of a service.

2. In addition to paragraph 1 of Article 10.5 (Market Access), Article 10.8 (Domestic Regulation) and Article 10.11 (Transparency) shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment.

3. This Chapter shall not apply to:

   (a) financial services, except that paragraph 2 shall apply if the financial service is supplied by a covered investment in the Party's territory;

   (b) government procurement;

   (c) services supplied in the exercise of governmental authority; or

   (d) subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.

4. This Chapter does not impose any obligation on a Party with respect to a national of another Party who seeks access to its employment market or who is employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

…..

Article 10.3: National Treatment

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords to its own like services and service suppliers.

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part.

Article 10.4: Most-Favoured-Nation Treatment

Each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords to like services and service suppliers of any other Party or a non-Party.

Article 10.5: Market Access

No Party shall adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations on:

(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;[1] or

(iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

Article 10.6: Local Presence

No Party shall require a service supplier of another Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 10.7: Schedule of Specific Commitments

1. Each Party shall set out in its Schedule in Annex 10A (Schedules of Specific Commitments), the specific commitments it undertakes under Article 10.3 (National Treatment) and Article 10.5 (Market Access). With respect to sectors where such commitments are undertaken, each Schedule in Annex 10A (Schedules of Specific Commitments) shall specify:

(a) terms, limitations, and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments; and

(d) where appropriate, the time frame for implementation of such commitments.

2. Measures inconsistent with both Article 10.3 (National Treatment) and Article 10.5 (Market Access) shall be inscribed in the column relating to Article 10.5 (Market

[1] Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of services.

Access). In this case, the inscription shall be considered to provide a condition or qualification to Article 10.3 (National Treatment) as well.

3. A Party may maintain a measure inconsistent with Article 10.4 provided that such a measure is listed in Annex 10B (MFN Exemptions).

4. For greater certainty, Schedules of Specific Commitments shall be annexed to this Chapter as Annex 10A (Schedules of Specific Commitments) and shall form an integral part thereof.

…

CHAPTER 11
INVESTMENT

Article 11.1: Definitions

…

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

…

enterprise means an enterprise as defined in Article 1.3 (General Definitions), and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organised under the law of a Party, or a branch located in the territory of a Party and carrying out business activities there;[1]

…

investment means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stock and other forms of equity participation in an enterprise;

(c) bonds, debentures, other debt instruments and loans;

(d) futures, options and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing and other similar contracts;

[1] For greater certainty, the inclusion of a "branch" in the definitions of "enterprise" and "enterprise of a Party" is without prejudice to a Party's ability to treat a branch under its laws as an entity that has no independent legal existence and is not separately organised.

(f) intellectual property rights;

(g) licences, authorisations, permits and similar rights conferred pursuant to the Party's law; and

(h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens and pledges,

but investment does not mean an order or judgment entered in a judicial or administrative action;

investor of a non-Party means, with respect to a Party, an investor that attempts to make,[2] is making, or has made an investment in the territory of that Party, that is not an investor of a Party;

investor of a Party means a Party, or a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of another Party;

…

Article 11.2: Scope

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:

(a) investors of another Party;

(b) covered investments; and

(c) with respect to Article 9.10 (Performance Requirements) and Article 9.16 (Investment and Environmental, Health and other Regulatory Objectives), all investments in the territory of that Party.

2. A Party's obligations under this Chapter shall apply to measures adopted or maintained by:

[2] For greater certainty, the Parties understand that, for the purposes of the definitions of "investor of a non-Party" and "investor of a Party", an investor "attempts to make" an investment when that investor has taken concrete action or actions to make an investment, such as channelling resources or capital in order to set up a business or applying for a permit or licence.

(a) the central, regional or local governments or authorities of that Party; and

(b) any person, including a state enterprise or any other body, when it exercises any governmental authority delegated to it by central, regional or local governments or authorities of that Party.

3. For greater certainty, this Chapter shall not bind a Party in relation to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement for that Party.

Article 11.3: Relation to Other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

2. A requirement of a Party that a service supplier of another Party post a bond or other form of financial security as a condition for the cross-border supply of a service does not of itself make this Chapter applicable to measures adopted or maintained by the Party relating to such cross-border supply of the service. This Chapter shall apply to measures adopted or maintained by the Party relating to the posted bond or financial security, to the extent that the bond or financial security is a covered investment.

Article 11.4: National Treatment

1. Each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. For greater certainty, the treatment to be accorded by a Party under paragraphs 1 and 2 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to investors, and to investments of investors, of the Party of which it forms a part.

Article 11.5: Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to investors of any other Party or of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any other Party or of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. For greater certainty, the treatment referred to in this Article does not encompass international dispute resolution procedures or mechanisms, such as those included in Section B (Investor-State Dispute Settlement).

Article 11.6: Schedule of Specific Commitments

1. For the Parties, the commitments specified in Article 11.4 (National Treatment) and Article 11.5 (Most-Favoured-Nation) apply only to the sectors in Annex 11A (Schedule of Specific Commitments) and are subject to any conditions and qualifications set out therein.

2. For greater certainty, Schedules of Specific Commitments shall be annexed to this Chapter as Annex 11A (Schedules of Specific Commitments for Investments) and shall form an integral part thereof.

Article 11.7: Senior Management and Boards of Directors

1. No Party shall require that an enterprise of that Party that is a covered investment appoint to a senior management position a natural person of any particular nationality.

2. A Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be of a particular nationality or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

…

Section B

Investor-State Dispute Settlement

…

ANNEX 10A

SCHEDULE OF SPECIFIC COMMITMENTS OF PODOLSKI

Headnotes

1. Modes of supply for the purposes of this Schedule are: (1) cross-border supply; (2) consumption abroad; (3) commercial presence (scheduled separately in Annex 11A); and (4) presence of natural persons.

2. Schedule of Specific Commitments of Klose and Klinsmann shall not be used to interpret this Schedule.

…

Sector/sub-sector	Market Access	National Treatment	Additional Commitments
Transport Services Road Transport Services — Freight transportation by road (CPC 7123)	1) None 2) None 4) Unbound, except as indicated in horizontal section	(1) None, except: (i) For a transitional period of two years from the date of entry into force of this Agreement (i.e. until 01 January 2025), operators established in the Democratic Republic of Klinsmann supplying freight transportation services by road on a cross-border basis into the territory of Podolski shall be required to	

Sector/sub-sector	Market Access	National Treatment	Additional Commitments
		demonstrate compliance with the licensing requirements as provided under the Transport Regulation and Carrier Safety Act, 2010 ("TRAC Act") as a condition of licensing by the Podolski Road and transport Development Authority (PRADA), including for renewal of licenses.[1] (ii) Licences to operate road transport services, including trucking and tanker services, granted to Republic Logistics (the State-Owned Enterprise under the Ministry of Economy of Podolski) are not subject to the licensing	

[1] This limitation does not apply to operators established in the Kingdom of Klose, in respect of which PRADA grants licences on a reciprocal basis pursuant to the Memorandum of Understanding between PRADA and NAVIGATE dated 20 February 2015.

Sector/sub-sector	Market Access	National Treatment	Additional Commitments
		requirements under the TRAC Act. This limitation is not time-bound and applies for so long as Republic Logistics remains state-owned. (2) None (4) Unbound, except as indicated in horizontal restriction	

…

ANNEX 10B

MFN EXEMPTIONS OF PODOLSKI

…

Sector	Measure
Road Transport Services — Freight transportation by road (CPC 7123)	Exemption from the licensing requirements under the TRAC Act, granted by PRADA on a reciprocal basis exclusively to operators established in the Kingdom of Klose, pursuant to the Memorandum of Understanding between PRADA and NAVIGATE dated 20 February 2015.

	Operators established in the Democratic Republic of Klinsmann are not accorded equivalent treatment during the transitional period of two years from the date of entry into force of this Agreement (i.e. until 01 January 2025), as identified in Annex 10A.

…

ANNEX 11A

SCHEDULE OF SPECIFIC COMMITMENTS FOR INVESTMENT OF PODOLSKI

…

Sector/Sub-sector	Limitations
Transport Services Road Transport Services — Freight transportation by road (CPC 7123)	None

…

CHAPTER 27

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Article 27.1: Establishment of the Joint Committee

The Parties hereby establish a Joint Committee, composed of government representatives of each Party at the level of Ministers or senior officials. Each Party shall be responsible for the composition of its delegation.

Article 27.2: Functions of the Joint Committee

1. The Joint Committee shall:

(a) consider any matter relating to the implementation or operation of this Agreement;

(b) review, within three years of the date of entry into force of this Agreement and at least every five years thereafter, the economic relationship and partnership among the Parties; (c) consider any proposal to amend or modify this Agreement;

(d) supervise the work of all committees, working groups and any other subsidiary bodies established under this Agreement; and

(e) consider ways to further enhance trade and investment between the Parties;

…

Article 27.3: Decision-Making

The Joint Committee and all subsidiary bodies established under this Agreement shall take all decisions by consensus, except as otherwise provided in this Agreement, or as otherwise decided by the Parties. Except as otherwise provided in this Agreement, the Joint Committee or any subsidiary body shall be deemed to have taken a decision by consensus if no Party present at any meeting when a decision is taken objects to the proposed decision.

Article 27.4: Rules of Procedure of the Joint Committee

1. The Joint Committee shall meet within one year of the date of entry into force of this Agreement and thereafter as the Parties may decide. Meetings of the Joint Committee shall be chaired successively by each Party.

2. The Party chairing a session of the Joint Committee shall provide any necessary administrative support for such session and shall notify the other Parties of any decision of the Joint Committee.

…

CHAPTER 28
DISPUTE SETTLEMENT

Article 28.1: Definitions

For the purposes of this Chapter:

cases of urgency means those cases which concern goods that rapidly lose their quality, current condition, or commercial value, in a short period of time, including perishable goods;

Code of Conduct means the code of conduct referred to in Article 28.21 (Rules of Procedure and Code of Conduct) and set out in Annex 28B (Code of Conduct);

complaining Party means the Party that requests consultations under Article 28.7 (Consultations);

panel means a panel established under Article 28.8 (Request for Establishment of a Panel) or reconvened under Articles 28.14 (Compliance Review), 28.15 (Compensation and Suspension of Concessions or other Obligations), or 28.16 (Compliance Review after Suspension of Concessions or other Obligations);

responding Party means the Party to which a request for consultations is made under Article 28.7 (Consultations); and

Rules of Procedure means the rules of procedure referred to in Article 28.21 (Rules of Procedure and Code of Conduct) and set out in Annex 28A (Rules of Procedure).

…

Article 28.4: Scope

1. Unless otherwise provided in this Agreement, this Chapter shall apply with respect to the avoidance or settlement of disputes between the Parties concerning the interpretation or application of this Agreement, wherever a Party considers that:

   (a) a measure of the other Party is inconsistent with its obligations under this Agreement; or

(b) the other Party has otherwise failed to carry out its obligations under this Agreement.

2. This Chapter shall apply subject to such special and additional provisions on dispute settlement contained in other Chapters of this Agreement.

…

Article 28.5: Choice of Forum

1. If a dispute arises regarding a right or obligation under this Agreement and a substantially equivalent right or obligation under another international agreement to which both Parties are party, including the WTO Agreement, the complaining Party may select the forum in which to settle the dispute.

2. The complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of, or referred the matter to, a panel or tribunal, pursuant to Article 28.8 (Request for Establishment of a Panel) or under the relevant provisions of the other international agreement.

3. Once the complaining Party has selected the forum in which to settle the dispute, that forum shall be used to the exclusion of all other fora, unless the forum selected first fails to make findings on the issue in dispute for jurisdictional or procedural reasons.

Article 28.6: Good Offices, Conciliation, or Mediation

1. The Parties may at any time agree to undertake an alternative method of dispute resolution, such as good offices, conciliation, or mediation.

2. If the Parties agree, procedures undertaken pursuant to paragraph 1 may continue while proceedings of the panel provided for in this Chapter are in progress.

3. Procedures undertaken pursuant to paragraph 1 and, in particular, positions taken by the Parties during these procedures shall be confidential and without prejudice to the rights of a Party in any further or other proceedings.

4. A Party may suspend or terminate the procedures undertaken pursuant to paragraph 1 at any time.

Article 28.7: Consultations

1. The Parties shall endeavour to resolve any dispute referred to in paragraph 1 of Article 28.4 (Scope) through consultations in good faith, with a view to reaching a mutually agreed solution.

2. A Party may request consultations in writing pursuant to paragraph 1, setting out the reasons for the request, including identification of the measure at issue or other matter under Article 28.4 (Scope) and an indication including a brief description of the factual and legal basis for the complaint.

3. The responding Party shall reply in writing to the request no later than 10 days after the date of receipt of the request. Unless the Parties agree otherwise, consultations shall be held no later than 30 days, or 15 days in cases of urgency, after the date of receipt of the request.

4. Unless the Parties agree otherwise, consultations shall be deemed concluded 60 days, or 30 days in cases of urgency, after the date of receipt of the request.

5. In the consultations, each Party shall:

   (a) provide sufficient information to enable a full examination of how the measure at issue or other matter which is the subject of consultations might affect the operation or application of this Agreement;

   (b) treat any confidential information exchanged in the course of consultations in the same manner as treated by the Party providing the information; and

   (c) endeavour to ensure the participation of personnel of their competent governmental authorities or other regulatory bodies who have responsibility for or expertise in the matter subject to the consultations.

6. Consultations may be held in person or by any technological means available to the Parties. If the consultations are held in person, they shall be held in the capital of the responding Party, unless the Parties agree otherwise.

7. Consultations, and in particular, positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of a Party in any further or other proceedings.

Article 28.8: Request for Establishment of a Panel

1. The complaining Party may request in writing the establishment of a panel to examine the matter arising under this Agreement if:

   (a) the responding Party does not reply to a request for, or enter into, consultations within the time period specified in paragraph 3 of Article 28.7 (Consultations); or

   (b) the Parties fail to resolve the dispute through consultations within the time period specified in paragraph 4 of Article 28.7 (Consultations).

2. The request for establishment of a panel shall set out the reasons for the request, including identification of:

   (a) the specific measure at issue or other matter;

   (b) whether consultations have been held; and

   (c) the factual and legal basis of the complaint sufficient to present the problem clearly, including the provisions of this Agreement alleged to have been breached.

3. When a complaining Party makes a written request for the establishment of a panel pursuant to paragraph 1, a panel shall be established in accordance with Article 28.9 (Composition of the Panel).

Article 28.9: Composition of the Panel

…

Article 28.10: Qualifications of Panellists

…

Article 28.11: Functions of a Panel

1. Unless the Parties agree otherwise, the panel shall perform its functions and conduct its proceedings in a manner consistent with this Agreement, the Rules of Procedure, and the Code of Conduct.

Panel Assessment

2. The panel shall make an objective assessment of the matter before it, including an examination of the facts of the dispute and the applicability of and conformity with this Agreement, and to make the findings and determinations as required in its terms of reference.

3. A panel shall make its findings by consensus. If a panel is unable to reach consensus, it may make its findings by majority vote. A panel shall not disclose which panellists are associated with majority or minority opinions.

4. No finding, determination or recommendation of a panel can add to or diminish the rights and obligations of the Parties provided under this Agreement.

5. The panel, on joint request by the Parties, in its report and decisions, may suggest ways in which the responding Party could implement the panel's findings.

Terms of Reference

6. Unless the Parties agree otherwise, within 20 days of the date of establishment of a panel, the terms of reference of the panel shall be to:

   (a) examine, in light of the relevant provisions of this Agreement cited by the Parties, the matter referred to in the request for the establishment of the panel; and

   (b) make findings of law and fact, and determinations, as provided for in this Agreement, together with the reasons therefor in a written report or decision as provided for in this Chapter.

7. The Parties shall notify the panel of other agreed terms of reference within the time period specified in paragraph 6.

Rules of Interpretation

8. The panel shall interpret this Agreement in accordance with the customary rules of interpretation of public international law. The panel shall also consider relevant interpretations in panel and Appellate Body reports adopted by the Dispute Settlement Body of the WTO.

Article 28.12: Reports of a Panel

1. The reports of a panel shall be drafted without the presence of the Parties. The panellists shall assume full responsibility for the drafting of the reports and shall not delegate this responsibility. Opinions expressed in the reports of the panel shall be anonymous. The reports shall include any separate or dissenting opinions on matters not unanimously agreed by the Panel.

2. The panel shall base its reports on the relevant provisions of this Agreement, the submissions, and arguments of the Parties, and on any information or advice it has obtained in accordance with the Rules of Procedure.

Interim Report

3. The panel shall issue its interim report to the Parties no later than 150 days, or no later than 120 days in cases of urgency, after the date of establishment of the panel.

4. The panel shall set out in its interim report:

   (a) a descriptive section summarising the submissions and arguments of the Parties;

   (b) its findings on the facts and the applicability of the provisions of this Agreement;

   (c) its findings on whether:

      (i) the measure at issue of the responding Party is inconsistent with its obligations under this Agreement;

      (ii) the responding Party has otherwise failed to carry out its obligations under this Agreement;

   (d) any other findings jointly requested by the Parties; and

   (e) its reasons for the findings in subparagraphs (b) through (d).

5. In exceptional cases, if the panel considers that it cannot issue its interim report within the time period specified in paragraph 3, the panel shall promptly inform the Parties in writing of the reasons for the delay together with an estimate of when it will issue its

interim report. The panel shall not exceed an additional period of 60 days, or 30 days in cases of urgency.

6. A Party may submit to the panel written comments no later than 20 days after the date of issuance of the interim report. After considering any written comments by the Parties on the interim report, the panel may modify its report and make any further examination it considers appropriate.

7. The interim report, and the contents of any comments made on an interim report, shall not be made public.

Final Report

8. The panel shall issue its final report to the Parties within 30 days of the issuance of its interim report.

9. The final report of the panel shall be binding on the Parties.

10. A Party may release a copy of the final report to the public. The release shall be subject to the protection of confidential information in accordance with the Rules of Procedure.

Article 28.13: Compliance with the Final Report

1. If the panel finds that the measure at issue of the responding Party is inconsistent with its obligations under this Agreement, or that it has failed to carry out its obligations under this Agreement, the responding Party shall take, promptly, any measure necessary to eliminate the non-conformity.

2. If immediate compliance is not possible, the responding Party shall, no later than 30 days after the date of issuance of the final report, notify the complaining Party that a reasonable period of time is necessary for compliance with the final report. The Parties shall endeavour to agree on the length of the reasonable period of time required to comply with the final report.

3. If the Parties are unable to agree on the reasonable period of time within 45 days after the date of issuance of the final report, the complaining Party may request in writing the chair of the panel to determine the length of the reasonable period of time. This request shall be made no later than 120 days after the date of issuance of the final

report. The chair shall present the Parties with a decision in writing, together with reasons, no later than 45 days after the date of the request.

4. As a guideline, the reasonable period of time, where determined by the chair of the panel, shall not exceed 15 months in all cases, from the date of issuance of the final report to the Parties. The length of the reasonable period of time may be extended at any time by mutual agreement of the Parties.

5. If the responding Party considers that it has complied with the final report, it shall, no later than the date of the expiry of the reasonable period of time, provide the complaining Party with a description of the steps it has taken to comply with the final report.

…

Article 28.18: Mutually Agreed Solution

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 28.4 (Scope).

2. If a mutually agreed solution is reached during panel proceedings, the Parties shall jointly notify the agreed solution to the panel. Upon this notification, the proceedings of the panel shall be terminated.

3. Each Party shall take measures necessary to implement the mutually agreed solution within the agreed time period.

4. No later than the date of expiry of the agreed time period, the implementing Party shall inform the other Party in writing of any measures taken to implement the mutually agreed solution.

…

Article 28.21: Rules of Procedure and Code of Conduct

1. The proceedings provided for in this Chapter shall be conducted in accordance with the Rules of Procedure and the Code of Conduct, unless the Parties agree otherwise.

2. Notwithstanding subparagraph 2(g) of Article 27.2 (Functions of Joint Committee – Administrative and Institutional Provisions) and Article 30.2 (Amendments – Final

Provisions), amendments relating to Annex 28A (Rules of Procedures) and Annex 28B (Code of Conduct) shall be made by diplomatic notes exchanged between the governments of the Parties.

3. The Rules of Procedure shall ensure that:

(a) there is at least one hearing before the panel at which each Party may present views orally;

(b) the first hearing shall be held in the capital of the responding Party, and any additional hearings shall alternate between the capitals of the Parties, unless the Parties agree otherwise;

(c) subject to subparagraph (j), a hearing before the panel shall be open for the public to observe, unless the Parties agree otherwise. Hearings held in closed session shall be confidential;

(d) each Party has an opportunity to provide an initial written submission;

(e) the panel may at any time during the proceeding address questions in writing to a Party or the Parties;

(f) subject to subparagraph (j), the request for consultations and the request for establishment of a panel shall be released to the public;

(g) subject to subparagraph (j), a Party may release to the public its own written submissions, written versions of oral statements, and written responses to requests or questions from the panel;

(h) if the Parties agree and subject to any agreed terms and conditions, the panel may accept and consider amicus curiae submissions;

(i) subject to consultations with the Parties, the panel may seek information or technical advice from any expert that it deems appropriate; and

(j) confidential information is protected.

Article 28.22: Working Language

All proceedings of the panel and all documents and information submitted to the panel shall be in the English language.

…

Article 28.24: Private Rights

Neither Party shall provide for a right of action under its laws or regulations against the other Party on the ground that a measure of the other Party is inconsistent with its obligations under this Agreement or that the other Party has otherwise failed to carry out its obligation under this Agreement.

CHAPTER 29
EXCEPTIONS AND GENERAL PROVISIONS

Article 29.1: General Exceptions

1. For the purposes of Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Textile and Apparel Goods), Chapter 5 (Customs Administration and Trade Facilitation), Chapter 7 (Sanitary and Phytosanitary Measures), Chapter 8 (Technical Barriers to Trade), Chapter 11 (Investment) and Chapter 17 (State-Owned Enterprises and Designated Monopolies), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 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.

3. For the purposes of Chapter 10 (Cross-Border Trade in Services), Chapter 11 (Investment), Chapter 12 (Temporary Entry for Business Persons), Chapter 13 (Telecommunications), Chapter 14 (Electronic Commerce) and Chapter 17 (State-Owned Enterprises and Designated Monopolies), Article XIV of GATS are incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties understand that

the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal or plant life or health.

4. Nothing in this Agreement shall be construed to prevent a Party from taking action, including maintaining or increasing a customs duty, that is authorised by the Dispute Settlement Body of the WTO or is taken as a result of a decision by a dispute settlement panel under a free trade agreement to which the Party taking action and the Party against which the action is taken are party.

Article 29.2: Security Exceptions

Nothing in this Agreement shall be construed to:

(a) require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or

(b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

…

ANNEX B

TRANSPORT REGULATION AND CARRIER SAFETY ACT, 2010 (TRAC ACT)

[Act No. 14 of 2010]

[Enacted by the Road and Transport Authority of the Federal Republic of Podolski, notified in the Official Gazette of Podolski, and in force from 01 January 2011]

An Act to streamline the licensing of road transport services in the Federal Republic of Podolski, to ensure that the supply of road transport services complies with the applicable licensing requirements, and for matters connected therewith or incidental thereto.

BE IT ENACTED by the Road and Transport Authority of the Federal Republic of Podolski, in exercise of the powers conferred upon it, as follows:

SECTION I — PRELIMINARY

1. Short title, extent and commencement

(1) This Act may be cited as the Transport Regulation and Carrier Safety Act, 2010 ("this Act").

(2) It extends to the whole of the territory of the Federal Republic of Podolski ("Podolski") and applies to every person supplying road transport services within, into or from the territory of Podolski, including the operation of long-haul trucks and tankers.

(3) It shall come into force on 01 January 2011.

2. Definitions

In this Act, unless the context otherwise requires —

(a) "cross-border road transport service supplier" means a road transport service supplier that supplies road transport services into or from the territory of Podolski without being established, in the form of an enterprise, within the territory of Podolski;

(b) "domestic road transport service supplier" means an enterprise established within the territory of Podolski, irrespective of the nationality of the persons owning or controlling such enterprise, that supplies road transport services;

(c) "license" means a license for the supply of road transport services granted under Section III of this Act;

(d) "Ministry" means the Ministry of Economy of Podolski;

(e) "PRADA" means the Podolski Road and transport Development Authority, being the competent authority of Podolski responsible for the regulation and licensing of road transport services;

(f) "road transport services" means services supplied by road, including the operation of trucking services and tankers for the carriage of general cargo, goods or liquids, whether supplied on a domestic or a cross-border basis;

(g) "Licensing requirements" means the standards and requirements specified in Section IV of this Act and any regulations framed thereunder, applicable to cross-border road transport service suppliers, and includes requirements relating to drivers, trucks and tankers;

(h) words and expressions used but not defined in this Act shall have the meaning assigned to them under the general laws of Podolski.

SECTION II — REGULATORY AUTHORITY

3. Road and Transport Authority

(1) PRADA shall be the competent authority for the grant, renewal, suspension and cancellation of licenses for the supply of road transport services under this Act.

(2) In respect of cross-border road transport service suppliers, PRADA shall exercise its functions under this Act jointly with the Ministry, as provided in Section III.

(3) PRADA may, in consultation with the Ministry, frame regulations not inconsistent with this Act to give effect to its provisions, including regulations prescribing the Licensing requirements referred to in Section IV.

SECTION III — LICENSING OF ROAD TRANSPORT SERVICES

4. Requirement of license

No person shall supply road transport services, including the operation of trucking services and tankers, within, into or from the territory of Podolski except under, and in accordance with the terms of, a license granted under this Section.

5. License for domestic road transport service suppliers

(1) Any enterprise established within the territory of Podolski, irrespective of the ownership or control of such enterprise, may apply to PRADA for the grant of a license to supply road transport services.

(2) PRADA shall grant a license under this Section upon the applicant furnishing evidence of its establishment within the territory of Podolski, and no compliance with the Licensing requirements under Section IV shall be required of such applicant.

(3) A license granted under this Section shall be subject to Section V (where applicable) and to such other conditions as PRADA may prescribe by regulations.

6. License for cross-border road transport service suppliers

(1) A cross-border road transport service supplier, being an operator established outside the territory of Podolski, may apply jointly to PRADA and the Ministry for the grant of a license to supply road transport services on a cross-border basis.

(2) PRADA and the Ministry shall grant a license under this Section only upon the applicant demonstrating, to the satisfaction of PRADA, compliance with the licensing requirements specified in Section IV, and subject to the approval of the Ministry.

(3) Nothing in this Section shall be construed to affect the operation of Section VI (Reciprocity Arrangements).

SECTION IV — LICENSING REQUIREMENTS APPLICABLE TO CROSS-BORDER SUPPLIERS

7. Licensing requirements

Every cross-border road transport service supplier shall, prior to the grant or renewal of a license under Section III, satisfy PRADA that —

(a) the drivers deployed by it for the supply of road transport services possess not less than the minimum experience requirements of five years;

(b) every motor carrier and intermodal equipment provider must systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles and intermodal equipment subject to its control;

(c) every motor carrier used by it are fitted with the prescribed safety equipment, including fire extinguishers and such other safety equipment as may be prescribed; and

(d) it complies with such other requirements as PRADA may prescribe by regulations from time to time.

8. Regulations under this Section

PRADA may, in consultation with the Ministry, frame regulations prescribing the minimum experience requirements for drivers, the intervals and manner of servicing and certification of trucks and tankers, and the safety equipment required under Section 7. The relevant extracts of such regulations are reproduced in Annex B-1.

9. Mandatory Off-duty Time

(1) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 13 hours of driving time unless the driver takes at least 8 consecutive hours of off-duty time before driving again.

(2) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 14 hours of on-duty time unless the driver takes at least 8 consecutive hours of off-duty time before driving again.

(3) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after 16 hours of time have elapsed between the conclusion of the most recent period of 8 or more consecutive hours of off-duty time and the beginning of the next period of 8 or more consecutive hours of off-duty time.

SECTION V – ENVIRONMENTAL CONDITIONS

…

SECTION VI — RECIPROCITY ARRANGEMENTS

11. Power to enter into reciprocity arrangements and MoUs

…

SECTION VII — EXEMPTIONS

…

14. Exemption for State-owned enterprises

Notwithstanding anything contained in this Act, the Ministry may, by order, exempt any enterprise owned or controlled by the State from the requirement of obtaining a license, or from compliance with any other requirement, under this Act, having regard to the public interest in the development of the domestic transport sector.

SECTION VIII — PENALTIES AND ENFORCEMENT

…

SECTION IX — MISCELLANEOUS

21. Power to make regulations

PRADA may, in consultation with the Ministry, make regulations, consistent with this Act, for carrying out the purposes of this Act, including regulations under Sections 7, 8 and 12.

22. Overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force in Podolski, save as otherwise provided by international agreements to which Podolski is a party.

ANNEX C

TRANSPORT REGULATION AND CARRIER SAFETY ACT, 2010 (TRAC ACT)

AMENDMENT NO. 01/2023

SECTION V — ENVIRONMENTAL AND SUSTAINABILITY REQUIREMENTS

10. Environmental requirement for grant or renewal of license

(1) With effect from 01 November 2023, no license shall be granted or renewed under Section III of this Act to any road transport service enterprise established within the territory of Podolski unless PRADA is satisfied that the enterprise

(a) has not less than thirty-five (35) electric trucks forming part of the fleet of vehicles used by it for the supply of road transport services; or

(b) has taken demonstrable steps towards increasing the number of electric trucks forming part of its fleet, including the submission to PRADA of a fleet-electrification or procurement plan in the manner prescribed by regulations; or

(c) furnishes evidence, in the manner prescribed by regulations, that the carbon emissions generated by the operation of its fleet are negligible.

(2) The requirement under sub-section (1) shall apply uniformly to every road transport service enterprise established within the territory of Podolski, irrespective of whether such enterprise is owned or controlled by persons of Podolski or of any other country, and irrespective of the nationality of its ownership or control.

(3) PRADA may, in consultation with the Ministry, frame regulations prescribing the manner of assessment of the matters referred to in sub-section (1), including the threshold below which carbon emissions shall be considered negligible for the purposes of sub-section (1)(c).

(4) Nothing in this Section shall be construed to derogate from any exemption granted under Section VII of this Act.

ANNEX D

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE PODOLSKI ROAD AND TRANSPORT DEVELOPMENT AUTHORITY

AND

KLOSE'S NATIONAL AUTHORITY FOR VEHICLE INSPECTION, TRANSIT AND HIGHWAY EXCELLENCE

ON

THE FACILITATION OF ROAD TRANSPORT SERVICES

The Road and Transport Authority of the Federal Republic of Podolski ("PRADA") and the National Authority for Vehicle Inspection, Transit, and Highway Excellence of the Kingdom of Klose ("NAVIGATE"), each hereinafter referred to individually as a "Participant" and collectively as the "Participants";

RECALLING that Podolski and Klose are both landlocked, developed economies with long-standing and highly developed road-transport sectors, and that both Participants rely on well-functioning cross-border trucking corridors to move merchandise trade to and from third countries;

…

HAVE REACHED the following understanding:

ARTICLE 1: DEFINITIONS

For the purposes of this Memorandum of Understanding ("MoU"):

…

ARTICLE 2: OBJECTIVE

…

ARTICLE 3: HARMONISATION OF STANDARDS

1. The Participants affirm their intention to harmonise the licensing requirements applicable to road transport services supplied on a cross-border basis, including

standards that lay down the characteristics of the service and the manner in which it is supplied.

2. Such standards include, without limitation, standards relating to: (a) trucks, tankers and other automobiles used for the supply of road transport services, including requirements as to periodic servicing, roadworthiness and safety equipment; and (b) drivers, including minimum experience and qualification requirements.

ARTICLE 4: RECIPROCITY ARTICLE

1. The Participants record their mutual understanding that the licensing requirements applicable to road transport service operators, vehicles and drivers in Klose are similar to the licensing requirements applicable under the TRAC Act in Podolski.

2. On the basis of the understanding recorded in paragraph 1, PRADA shall, on a reciprocal basis, grant a licence for the cross-border supply of road transport services to an operator established in the territory of Klose without requiring such operator separately to demonstrate compliance with the licensing requirements otherwise applicable under the TRAC Act to operators established outside Podolski, provided that the operator furnishes to PRADA evidence of a subsisting and valid licence or authorisation issued by NAVIGATE.

3. For greater certainty, nothing in this Article relieves an operator of the obligation to obtain a licence from PRADA prior to supplying road transport services on a cross-border basis into the territory of Podolski; it relieves such an operator only of the requirement to independently establish compliance with the licensing requirements referred to in Article 3.

4. NAVIGATE shall accord treatment reciprocal to that described in paragraph 2 to operators established in the territory of Podolski seeking to supply road transport services on a cross-border basis into the territory of Klose.

ARTICLE 5: LICENSING PROCEDURE

1. An application for a licence under Article 4 shall be accompanied by (a) evidence of establishment in the territory of the Participant in which the operator is established, and (b) evidence of a subsisting licence or authorisation issued by the competent authority of that Participant.

2. The competent authority receiving an application under paragraph 1 shall determine the application within a reasonable period and shall not impose fees or requirements additional to those specified in this MoU.

…

ARTICLE 11: ENTRY INTO EFFECT

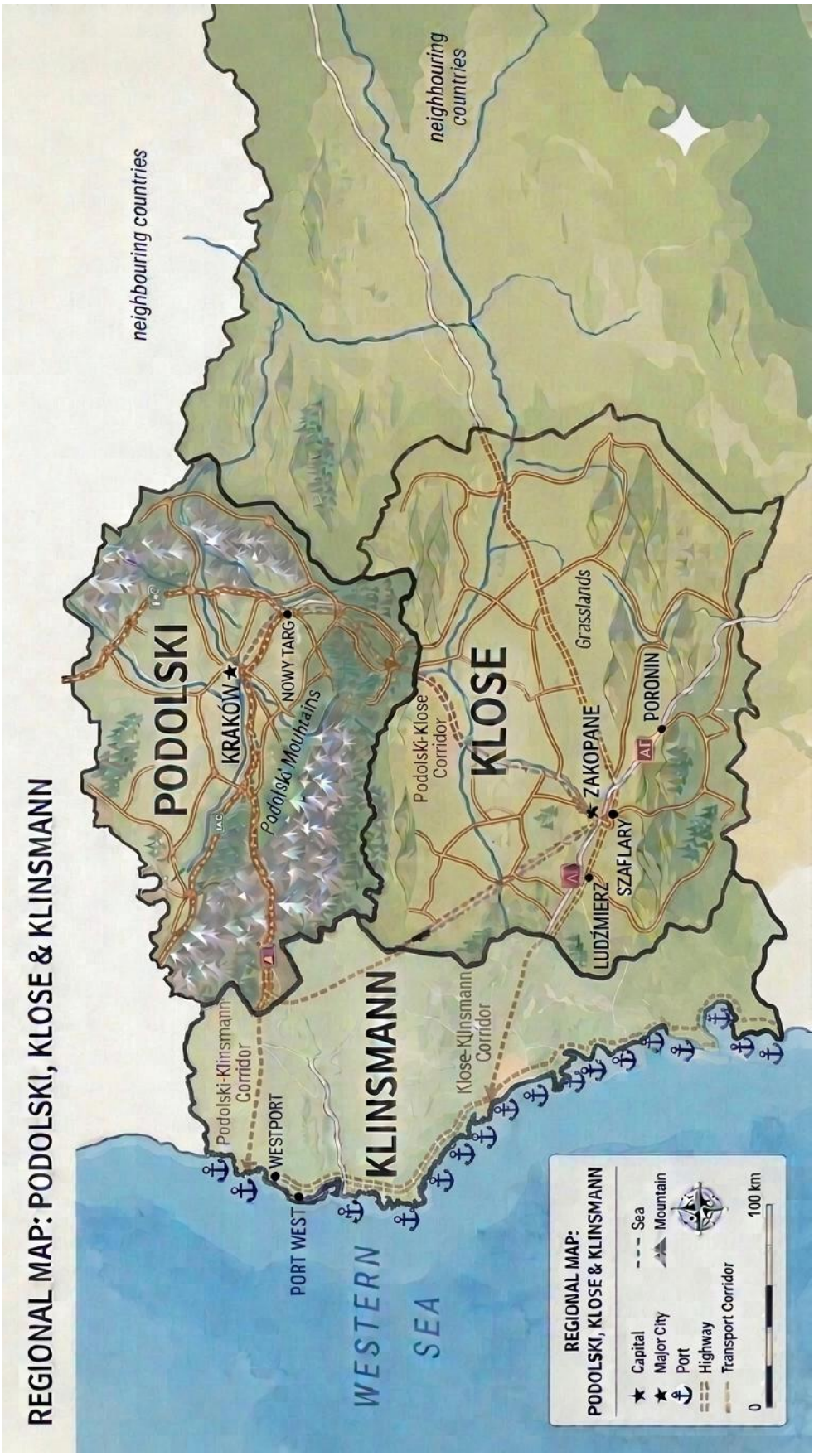
This MoU shall take effect on the date of signature by both Participants.

SIGNED in duplicate on 20 February 2015.

For the Road and Transport Authority of the Federal Republic of Podolski	For the National Authority for Vehicle Inspection, Transit, and Highway Excellence of the Kingdom of Klose
[Signature]	*[Signature]*

ANNEX E

REGIONAL MAP


REGIONAL MAP: PODOLSKI, KLOSE & KLINSMANN
neighbouring countries
neighbouring countries
PODOLSKI
KRAKÓW
NOWY TARG
Podolski Mountains
KLOSE
Podolski-Klose Corridor
Grasslands
ZAKOPANE
PORONIN
LUDŹMIERZ
SZAFLARY
KLINSMANN
Podolski-Klinsmann Corridor
Klose-Klinsmann Corridor
WESTPORT
PORT WEST
WESTERN SEA
REGIONAL MAP: PODOLSKI, KLOSE & KLINSMANN
Capital
Major City
Port
Highway
Transport Corridor
Sea
Mountain
0
100 km

ANNEX F

REFERENCES AND READING MATERIALS

NOTE: This is a non-exhaustive, indicative list of WTO Panel and Appellate Body reports, academic articles, and reading materials that may be relevant to the competition and the development of arguments. Participants are expected to perform independent legal research and should not rely solely on these sources. It is provided solely to offer participants a common legal baseline for understanding the core concepts involved in the dispute for both written and oral submissions. Students may also refer to WTO Analytical Index.

WTO panel and Appellate Body reports

- Appellate Body Report, *Argentina – Measures Relating to Trade in Goods and Services*, WT/DS453/AB/R and Add.1, adopted 9 May 2016, DSR 2016:II, p. 431
- Panel Report, *Argentina – Measures Relating to Trade in Goods and Services*, WT/DS453/R and Add.1, adopted 9 May 2016, as modified by Appellate Body Report WT/DS453/AB/R, DSR 2016:II, p. 599
- Panel Report, *Brazil – Measures Affecting Imports of Retreaded Tyres*, WT/DS332/R, adopted 17 December 2007, as modified by Appellate Body Report WT/DS332/AB/R, DSR 2007:V, p. 1649
- Appellate Body Report, *Brazil – Measures Affecting Imports of Retreaded Tyres*, WT/DS332/AB/R, adopted 17 December 2007, DSR 2007:IV, p. 1527
- Panel Report, *Canada – Certain Measures Affecting the Automotive Industry*, WT/DS139/R, WT/DS142/R, adopted 19 June 2000, as modified by Appellate Body Report WT/DS139/AB/R, WT/DS142/AB/R, DSR 2000:VII, p. 3043
- Appellate Body Report, *Canada – Certain Measures Affecting the Automotive Industry*, WT/DS139/AB/R, WT/DS142/AB/R, adopted 19 June 2000, DSR 2000:VI, p. 2985
- Panel Report, *China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products*, WT/DS363/R and Corr.1, adopted 19 January 2010, as modified by Appellate Body Report WT/DS363/AB/R, DSR 2010:II, p. 261
- Appellate Body Report, *China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products*, WT/DS363/AB/R, adopted 19 January 2010, DSR 2010:I, p. 3

- Panel Report, *China – Certain Measures Affecting Electronic Payment Services*, WT/DS413/R and Add.1, adopted 31 August 2012, DSR 2012:X, p. 5305

- Panel Report, *European Union and its member States – Certain Measures Relating to the Energy Sector*, WT/DS476/R and Add.1, circulated to WTO Members 10 August 2018, appealed 21 September 2018

- Panel Reports, *European Communities – Regime for the Importation, Sale and Distribution of Bananas*, WT/DS27/R/ECU *(Ecuador)* / WT/DS27/R/GTM, WT/DS27/R/HND *(Guatemala and Honduras)* / WT/DS27/R/MEX *(Mexico)* / WT/DS27/R/USA *(US)*, adopted 25 September 1997, as modified by Appellate Body Report WT/DS27/AB/R, DSR 1997:II, p. 695 to DSR 1997:III, p. 1085

- Appellate Body Report, *European Communities – Regime for the Importation, Sale and Distribution of Bananas*, WT/DS27/AB/R, adopted 25 September 1997, DSR 1997:II, p. 591

- Panel Report, *Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef*, WT/DS161/R, WT/DS169/R, adopted 10 January 2001, as modified by Appellate Body Report WT/DS161/AB/R, WT/DS169/AB/R, DSR 2001:I, p. 59

- Appellate Body Report, *Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef*, WT/DS161/AB/R, WT/DS169/AB/R, adopted 10 January 2001, DSR 2001:I, p. 5

- Panel Report, *Mexico – Measures Affecting Telecommunications Services*, WT/DS204/R, adopted 1 June 2004, DSR 2004:IV, p. 1537

- Panel Report, *United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services*, WT/DS285/R, adopted 20 April 2005, as modified by Appellate Body Report WT/DS285/AB/R, DSR 2005:XII, p. 5797

- Appellate Body Report, *United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services*, WT/DS285/AB/R, adopted 20 April 2005, DSR 2005:XII, p. 5663 (and Corr.1, DSR 2006:XII, p. 5475)

- Appellate Body Report, *United States – Standards for Reformulated and Conventional Gasoline*, WT/DS2/AB/R, adopted 20 May 1996, DSR 1996:I, p. 3

Reading materials, references incl. articles, books, etc., if any, will be released with the Clarifications.

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