FREE TRADE AGREEMENT

BETWEEN

THE EFTA STATES

AND

MONTENEGRO

PREAMBLE

Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation (hereinafter referred to as the "EFTA States"), on the one part, and Montenegro, on the other, hereinafter individually referred to as a "Party" or collectively as the "Parties":

RECOGNISING the common wish to strengthen the links between the EFTA States on the one part and Montenegro on the other by establishing close and lasting relations;

RECALLING their intention to participate actively in the process of Euro-Mediterranean economic integration and expressing their preparedness to cooperate in seeking ways and means to strengthen this process;

REAFFIRMING their commitment to democracy, the rule of law, human rights and fundamental freedoms in accordance with their obligations under international law, including as set out in the United Nations Charter and the Universal Declaration of Human Rights;

DESIRING to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic cooperation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law;

DETERMINED to promote and further strengthen the multilateral trading system, building on their respective rights and obligations under the Marrakesh Agreement establishing the World Trade Organisation (hereinafter referred to as the "WTO Agreement") and the other agreements negotiated thereunder, thereby contributing to the harmonious development and expansion of world trade;

REAFFIRMING their commitment to pursue the objective of sustainable development and recognising the importance of coherence and mutual supportiveness of trade, environment and labour policies in this respect;

RECALLING their rights and obligations under multilateral environmental agreements to which they are party, and the respect for the fundamental principles and rights at work, including the principles set out in the relevant International Labour Organisation (hereinafter referred to as the "ILO") Conventions to which they are party;

AIMING to create new employment opportunities and to improve living standards, along with high levels of protection of health and safety and of the environment;

DETERMINED to implement this Agreement in line with the objective to preserve and protect the environment through sound environmental management and to promote an optimal use of the world's resources in accordance with the objective of sustainable development;

AFFIRMING their commitment to prevent and combat corruption in international trade and investment, and to promote the principles of transparency and good public governance;

ACKNOWLEDGING the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, such as the OECD Guidelines for Multinational Enterprises, the OECD Principles of Corporate Governance and the UN Global Compact;

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

CONVINCED that this Agreement will enhance the competitiveness of their firms in global markets and create conditions encouraging economic, trade and investment relations between them;

HAVE DECIDED, in pursuit of the above, to conclude the following Free Trade Agreement (hereinafter referred to as "this Agreement"):

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

Objectives

1. The EFTA States and Montenegro shall establish a free trade area by means of this Agreement and the complementary Agreements on Agriculture, concurrently concluded between each individual EFTA State and Montenegro, with a view to spurring prosperity and sustainable development in their territories.

2. The objectives of this Agreement, which is based on trade relations between market economies and on the respect of democratic principles and human rights, are:
    a. to achieve the liberalisation of trade in goods, in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994");
    b. to mutually increase investment opportunities between the Parties, and to gradually develop an environment conducive to enhanced trade in services;
    c. to provide fair conditions of competition for trade between the Parties and to ensure adequate and effective protection of intellectual property rights;
    d. to gradually achieve further liberalisation on a mutual basis of the government procurement markets of the Parties;
    e. to develop international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties' trade relationship; and
    f. to contribute in this way to the harmonious development and expansion of world trade.

ARTICLE 2

Trade Relations Governed by this Agreement

1. This Agreement shall apply to trade relations between, on the one side, the individual EFTA States and, on the other side, Montenegro, but not to the trade relations between individual EFTA States, unless otherwise provided for in this Agreement.

2. As a result of the customs union established by the Customs Treaty of 29 March 1923 between Switzerland and Liechtenstein, Switzerland shall represent Liechtenstein in matters covered thereby.

ARTICLE 3

Relation to Other International Agreements

1. The Parties confirm their rights and obligations under the WTO Agreement, the other agreements negotiated thereunder to which they are party, and any other international agreement to which they are party.

2. The provisions of this Agreement shall be without prejudice to the interpretation or application of rights and obligations under any other international agreement relating to investment to which one or several EFTA States and Montenegro are parties.

3. If a Party considers that the maintenance or establishment of a customs union, a free trade area, an arrangement for frontier trade or another preferential agreement by another Party has the effect of altering the trade regime provided for by this Agreement, it may request consultations with that Party. That Party shall afford adequate opportunity for consultations with the requesting Party.

ARTICLE 4

Territorial Application

1. This Agreement shall, except as otherwise specified in Article 8, apply:
   a. to the land territory, internal waters, and the territorial sea of a Party, and the air-space above the territory of a Party, in accordance with international law; and
   b. beyond the territorial sea, with respect to measures taken by a Party in the exercise of its sovereign rights or jurisdiction in accordance with international law.

2. This Agreement shall not apply to the Norwegian territory of Svalbard, with the exception of trade in goods.

ARTICLE 5

Central, Regional and Local Government

Each Party shall ensure within its territory the observance of all obligations and commitments under this Agreement by its respective central, regional and local governments and authorities, and by non-governmental bodies in the exercise of governmental powers delegated to them by central, regional and local governments or authorities.

ARTICLE 6

Transparency

1. Each Party shall publish or otherwise make publicly available its laws, regulations, judicial decisions, administrative rulings of general application and the international agreements to which it is party that may affect the operation of this Agreement.

2. A Party shall promptly respond to specific questions and provide, upon request, information to another Party on matters referred to in paragraph 1. The Parties are not required to disclose confidential information.

CHAPTER 2

TRADE IN GOODS

ARTICLE 7

Scope

1. This Chapter applies to the following products:
   a. products classified under Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS), subject to Annex I;
   b. processed agricultural products specified in Annex II, with due regard to the arrangements provided for in that Annex; and
   c. fish and other marine products as provided for in Annex III.

2. Each EFTA State and Montenegro have concluded agreements concerning trade in agricultural products on a bilateral basis. These agreements form part of the instruments establishing a free trade area between the EFTA States and Montenegro.

ARTICLE 8

Rules of Origin and Administrative Cooperation

1. The rights and obligations of the Parties in respect of rules of origin and administrative cooperation between the customs authorities of the Parties shall be governed by the Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin (hereinafter referred to as the "Convention"), except as provided for under paragraph 2 and without prejudice to Article 15.

2. For processed agricultural products referred to in Annex II, Article 3 of Appendix I to the Convention shall apply, *mutatis mutandis*, allowing only for bilateral cumulation between the Parties.

3. If a Party withdraws from the Convention, the Parties shall immediately enter into negotiations on new rules of origin applicable to this Agreement. Until such rules enter into force, the rules of origin contained in the Convention shall apply to this Agreement, *mutatis mutandis,* allowing only for cumulation between the Parties.

ARTICLE 9

Customs Duties

1. Upon entry into force of this Agreement, the Parties shall abolish all customs duties and charges having equivalent effect to customs duties on imports and exports of products originating in an EFTA State or in Montenegro covered by subparagraph 1 (a) of Article 7. No new customs duties shall be introduced.

2. Customs duties and charges having equivalent effect to customs duties include any duty or charge of any kind imposed in connection with the importation or exportation of a product, including any form of surtax or surcharge, but does not include any charge imposed in conformity with Articles III and VIII of the GATT 1994.

ARTICLE 10

Quantitative Restrictions

With respect to the rights and obligations of the Parties concerning quantitative restrictions, Article XI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 11

Internal Taxation and Regulations

1. The Parties commit themselves to apply any internal taxes and other charges and regulations in accordance with Article III of the GATT 1994 and other relevant WTO Agreements.

2. Exporters may not benefit from repayment of internal taxes in excess of the amount of indirect taxation imposed on products exported to the territory of a Party.

ARTICLE 12

Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties shall exchange names and addresses of contact points with sanitary and phytosanitary expertise in order to facilitate communication and the exchange of information.

ARTICLE 13

Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade.

2. The Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

ARTICLE 14

Trade Facilitation

With the aim to facilitate trade between the EFTA States and Montenegro in accordance with the provisions set out in Annex IV, the Parties shall:

a. simplify, to the greatest extent possible, procedures for trade in goods and related services;
b. promote cooperation among them in order to enhance their participation in the development and implementation of international conventions and recommendations on trade facilitation; and
c. cooperate on trade facilitation within the framework of the Joint Committee.

ARTICLE 15

Sub-Committee on Rules of Origin, Customs Procedures and Trade Facilitation

1. With reference to Articles 8 and 14, a Sub-Committee of the Joint Committee on Rules of Origin, Customs Procedures and Trade Facilitation (hereinafter referred to as the "Sub-Committee") is hereby established.

2. The mandate of the Sub-Committee is set out in Annex V.

ARTICLE 16

State Trading Enterprises

With respect to the rights and obligations of the Parties concerning state trading enterprises, Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 17

Rules of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between an EFTA State and Montenegro:
    a. all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition; and
    b. abuse by one or more undertakings of a dominant position in the territory of a Party as a whole or in a substantial part thereof.

2. The provisions of paragraph 1 shall apply to the activities of public undertakings and undertakings for which a Party grants special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. The provisions of paragraphs 1 and 2 shall not be construed to create any direct obligations for undertakings.

4. If a Party considers that a given practice is incompatible with the provisions of paragraphs 1 and 2, it may request consultations in the Joint Committee. The Parties concerned shall give to the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party concerned fails to put an end to the practice objected to within the period set by the Joint Committee, or if the Joint Committee fails to reach an agreement after consultations, or after 30 days following referral for such consultations, the Party requesting consultations may adopt appropriate measures to deal with the difficulties resulting from the practice in question.

ARTICLE 18

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as provided for in paragraph 2.

2. Before an EFTA State or Montenegro, as the case may be, initiates an investigation to determine the existence, degree and effect of any alleged subsidy in an EFTA State or in Montenegro, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 45-day period with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if any Party so requests within 20 days from the date of receipt of the notification.

ARTICLE 19

Anti-dumping

A Party shall not apply anti -dumping measures as provided for under Article VI of the GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994 in relation to products originating in another Party.

ARTICLE 20

Global Safeguard Measures

The rights and obligations of the Parties in respect of global safeguards shall be governed by Article XIX of the GATT 1994 and the WTO Agreement on Safeguards. In taking global safeguard measures, a Party shall exclude imports of an originating product from one or several Parties if such imports do not in and of themselves cause or threaten to cause serious injury. The Party taking the measure shall demonstrate that such exclusion is in accordance with WTO rules and practice.

ARTICLE 21

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial

cause of serious injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of paragraphs 2 to 10.

2. Bilateral safeguard measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

3. The Party intending to take a bilateral safeguard measure under this Article shall immediately, and in any case before taking a measure, make notification to the other Parties. The notification shall contain all pertinent information, including evidence of serious injury or threat thereof caused by increased imports, a precise description of the product concerned and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure.

4. If the conditions set out in paragraph 1 are met, the importing Party may increase the rate of customs duty for the product to a level not exceeding the lesser of:
   a. the MFN rate of duty applied at the time the action is taken; or
   b. the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

5. Bilateral safeguard measures shall be taken for a period not exceeding one year. In very exceptional circumstances, after review by the Joint Committee, measures may be taken up to a total maximum period of three years. No bilateral safeguard measure shall be applied to the import of a product which has previously been subject to such a measure.

6. The Joint Committee shall, within 30 days from the date of notification referred to in paragraph 3, examine the information provided in order to facilitate a mutually acceptable resolution of the matter. In the absence of such resolution, the importing Party may adopt a measure pursuant to paragraph 4 to remedy the problem. The bilateral safeguard measure shall be immediately notified to the other Parties and shall be the subject of periodic consultations in the Joint Committee, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit. In the selection of the bilateral safeguard measure, priority must be given to the measure which least disturbs the functioning of this Agreement.

7. Upon termination of the bilateral safeguard measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

8. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional bilateral safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to its

domestic industry. The Party intending to take such a measure shall immediately notify in writing the other Parties. Within 30 days of the date of the notification, the procedures set out in paragraphs 2 to 6 shall be initiated.

9. Any provisional bilateral safeguard measures shall be terminated within 200 days at the latest. The period of application of any such provisional bilateral safeguard measure shall be counted as part of the duration of the bilateral safeguard measure set out in paragraph 5 and any extension thereof. Any tariff increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

10. Five years after the date of entry into force of this Agreement, the Parties shall review in the Joint Committee whether there is need to maintain the possibility to take bilateral safeguard measures between them. If the Parties decide, after the first review, to maintain such possibility, they shall thereafter conduct biennial reviews of this matter in the Joint Committee.

ARTICLE 22

Exceptions

With respect to the rights and obligations of the Parties under this Chapter concerning general and security exceptions, Articles XX and XXI of the GATT 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

CHAPTER 3

PROTECTION OF INTELLECTUAL PROPERTY

ARTICLE 23

Protection of Intellectual Property

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex VI and the international agreements referred to therein.

2. The Parties shall accord to each other's nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Articles 3 and 5 of the WTO Agreement of 15 April 1994 on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "TRIPS Agreement").

3. The Parties shall grant to each other's nationals treatment no less favourable than that accorded to nationals of any other State. Exemptions from this obligation

must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. The Parties agree, upon request of any Party, to review this Article and Annex VI with a view to further improving the levels of protection and to avoiding or remedying trade distortions caused by the current levels of protection of intellectual property rights.

CHAPTER 4

INVESTMENT, SERVICES AND GOVERNMENT PROCUREMENT

ARTICLE 24

Investment

1. The Parties shall endeavour to provide stable, equitable and transparent investment conditions for investors of the other Parties that are making or seeking to make investments in their territories.

2. The Parties shall admit investments by investors of the other Parties in accordance with their laws and regulations. They recognise that it is inappropriate to encourage investment by relaxing health, safety or environmental standards.

3. The Parties recognise the importance of promoting investment and technology flows as a means for achieving economic growth and development. Cooperation in this respect may include:
    a. appropriate means of identifying investment opportunities and information channels on investment regulations;
    b. exchange of information on measures to promote investment abroad; and
    c. the furthering of a legal environment conducive to increased investment flows.

4. The Parties affirm their commitment to reviewing issues related to investment in the Joint Committee no later than five years after the entry into force of this Agreement, including the right of establishment of investors of a Party in the territory of another Party.

5. Iceland, Liechtenstein and Switzerland, on the one part, and Montenegro, on the other, shall refrain from arbitrary or discriminatory measures regarding investments by investors of another Party mentioned in this paragraph and shall observe obligations they have entered into with regard to specific investments by an investor of another Party mentioned in this paragraph.

ARTICLE 25

Trade in Services

1. The Parties shall aim at gradually liberalising and opening their markets for trade in services in accordance with the provisions of the General Agreement on Trade in Services (hereinafter referred to as the "GATS"), taking into account ongoing work under the auspices of the WTO.

2. If a Party grants to a non-Party, after the entry into force of this Agreement, additional benefits with regard to the access to its services markets, it shall agree to enter into negotiations with a view to extending these benefits to another Party on a reciprocal basis.

3. The Parties undertake to keep under review paragraphs 1 and 2 with a view to establishing an agreement liberalising trade in services between them in accordance with Article V of the GATS.

ARTICLE 26

Government Procurement

1. The Parties shall enhance their mutual understanding of their government procurement laws and regulations with a view to progressively liberalising their respective procurement markets on the basis of non-discrimination and reciprocity.

2. Each Party shall publish its laws, or otherwise make publicly available its laws, regulations and administrative rulings of general application as well as the international agreements to which it is party that may affect its procurement markets. Each Party shall promptly respond to specific questions and provide, upon request, information to another Party on such matters.

3. If a Party grants to a non-Party, after the entry into force of this Agreement, additional benefits with regard to the access to its procurement markets, it shall agree to enter into negotiations with a view to extending these benefits to another Party on a reciprocal basis.

CHAPTER 5

PAYMENTS AND CAPITAL MOVEMENTS

ARTICLE 27

Payments for Current Transactions

Subject to the provisions of Article 29, the Parties undertake to allow all payments for current transactions to be made in a freely convertible currency.

ARTICLE 28

Capital Movements

1. Subject to the provisions of Article 29, the Parties shall ensure that capital for investments made in companies formed in accordance with their respective laws, any returns stemming therefrom, and the amounts resulting from liquidations of investments are freely transferable.

2. The Parties shall hold consultations with a view to facilitating the movement of capital between the EFTA States and Montenegro and achieving its complete liberalisation as soon as conditions permit.

ARTICLE 29

Balance of Payments Difficulties

Where a Party is in serious balance of payments difficulties, or under threat thereof, it may, in conformity with the conditions laid down within the framework of the GATT 1994, the GATS and the Agreement of the International Monetary Fund, take restrictive measures with regard to current payments and capital movements if such measures are strictly necessary. Such measures shall be applied on a temporary, equitable and non-discriminatory basis. The Party concerned shall inform the other Parties immediately of such measures and shall provide as soon as possible a timetable for their removal.

ARTICLE 30

Exceptions

With respect to the rights and obligations of the Parties under this Chapter concerning general and security exceptions, subparagraphs (a) to (c) of Article XIV and paragraph 1 of Article XIV *bis* of the GATS shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

CHAPTER 6

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 31

Context and Objectives

1. The Parties recall the Stockholm Declaration on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006 and the ILO Declaration on Social Justice for a Fair Globalization of 2008.

2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually supportive components of sustainable development. They underline the benefit of cooperation on trade-related labour and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties reaffirm their commitment to promote the development of international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties' trade relationship.

ARTICLE 32

Scope

Except as otherwise provided for in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related and investment-related aspects of labour [1] and environmental issues.

ARTICLE 33

Right to Regulate and Levels of Protection

1. Recognising the right of each Party, subject to the provisions of this Agreement, to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, each Party shall seek to ensure that its laws, policies and practices provide for and encourage high levels of environmental and labour protection, consistent with standards, principles and

agreements referred to in Articles 35 and 36, and shall strive to further improve the levels of protection provided for in those laws and policies.

2. The Parties recognise the importance, when preparing and implementing measures related to the environment and labour conditions that affect trade and investment between them, of taking account of scientific, technical and other information, and relevant international standards, guidelines and recommendations.

ARTICLE 34

Upholding Levels of Protection in the Application and Enforcement of Laws, Regulations or Standards

1. A Party shall not fail to effectively enforce its environmental and labour laws, regulations or standards in a manner affecting trade or investment between the Parties.

2. Subject to Article 33, a Party shall not
   a. weaken or reduce the levels of environmental or labour protection provided by its laws, regulations or standards with the sole intention to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory; or
   b. waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, regulations or standards in order to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory.

ARTICLE 35

International Labour Standards and Agreements

1. The Parties recall the obligations deriving from membership of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up adopted by the International Labour Conference at its 86th Session in 1998, to respect, promote and realise the principles concerning the fundamental rights, namely:
   a. the freedom of association and the effective recognition of the right to collective bargaining;
   b. the elimination of all forms of forced or compulsory labour;
   c. the effective abolition of child labour; and
   d. the elimination of discrimination in respect of employment and occupation.

2. The Parties reaffirm their commitment, under the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006,

to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation, and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all.

3. The Parties recall the obligations deriving from membership of the ILO to effectively implementing the ILO Conventions which they have ratified and to make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other Conventions that are classified as "up-to-date" by the ILO.

4. The violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage. Labour standards shall not be used for protectionist trade purposes.

ARTICLE 36

Multilateral Environmental Agreements and Environmental Principles

The Parties reaffirm their commitment to the effective implementation in their laws and practices of the multilateral environmental agreements to which they are party, as well as their adherence to environmental principles reflected in the international instruments referred to in Article 31.

ARTICLE 37

Promotion of Trade and Investment Favouring Sustainable Development

1. The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services beneficial to the environment, including environmental technologies, sustainable renewable energy, energy-efficient and eco-labelled goods and services, including through addressing related non-tariff barriers.

2. The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services that contribute to sustainable development, including goods and services that are the subject of schemes such as fair and ethical trade.

3. For the purposes of paragraphs 1 and 2, the Parties agree to exchange views and may consider, jointly or bilaterally, cooperation in this area.

4. The Parties shall encourage cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development and are beneficial to the environment.

ARTICLE 38

Cooperation in International Fora

The Parties shall strive to strengthen their cooperation on trade- and investment-related labour and environmental issues of mutual interest in relevant bilateral, regional and multilateral *fora* in which they participate.

ARTICLE 39

Implementation and Consultations

1. The Parties shall designate the administrative entities which shall serve as contact points for the purpose of implementing this Chapter.

2. A Party may, through the contact points referred to in paragraph 1, request expert consultations or consultations within the Joint Committee regarding any matter arising under this Chapter. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. Where relevant, and subject to the agreement of the Parties, they may seek advice of the relevant international organisations or bodies.

3. If a Party considers that a measure of another Party does not comply with the obligations under this Chapter, it may have recourse to consultations according to paragraphs 1 to 3 of Article 42.

ARTICLE 40

Review

The Parties shall periodically review in the Joint Committee progress achieved in pursuing the objectives set out in this Chapter, and consider relevant international developments to identify areas where further action could promote these objectives.

CHAPTER 7

INSTITUTIONAL PROVISIONS

ARTICLE 41

Joint Committee

1. The Parties hereby establish the EFTA-Montenegro Joint Committee. It shall be composed of representatives of the Parties which shall be headed by senior officials.

2. The Joint Committee shall:
    a. supervise and review the implementation of this Agreement, *inter alia* by means of a comprehensive review of the application of the provisions of this Agreement, with due regard to any specific reviews provided for in this Agreement;
    b. keep under review the possibility of further removal of barriers to trade and other restrictive measures concerning trade between the EFTA States and Montenegro;
    c. oversee the further development of this Agreement;
    d. supervise the work of any sub-committees and working groups established under this Agreement;
    e. endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement; and
    f. consider any other matter that may affect the operation of this Agreement.

3. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks. Except where otherwise provided for in this Agreement, the sub-committees and working groups shall work under a mandate established by the Joint Committee.

4. The Joint Committee may take decisions as provided for in this Agreement. On other matters the Joint Committee may make recommendations.

5. The Joint Committee shall take decisions and make recommendations by consensus.

6. The Joint Committee shall meet whenever necessary upon mutual agreement but normally every two years. Its meetings shall be chaired jointly by one of the EFTA States and Montenegro. The Joint Committee shall establish its rules of procedure.

7. Each Party may request at any time, through written notice to the other Parties, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days from the date of receipt of the request, unless the Parties agree otherwise.

8. The Joint Committee may decide to amend the Annexes to this Agreement, including their Appendices. Subject to paragraph 9, the Joint Committee may set a date for the entry into force of such decisions.

9. If a representative of a Party in the Joint Committee has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force on the date the last Party notifies that its internal requirements have been fulfilled, unless the decision itself specifies a later date. The Joint Committee may decide that the decision shall enter into force for those Parties that have fulfilled their internal requirements, provided that Montenegro is one of those Parties. A Party may apply a decision of the Joint Committee provisionally until

such decision enters into force for that Party, subject to its constitutional requirements.

CHAPTER 8

DISPUTE SETTLEMENT

ARTICLE 42

Consultations

1. In case of any divergence with respect to the interpretation, implementation and application of this Agreement, the Parties shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory solution.

2. A Party may request in writing consultations with any other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement. The Party requesting consultations shall at the same time notify the other Parties in writing thereof and supply all relevant information.

3. The consultations shall take place in the Joint Committee if any of the Parties so requests within 20 days from the date of receipt of the notification referred to in paragraph 2, with a view to finding a commonly acceptable solution.

4. If the Party to which a request is made in accordance with paragraph 2 does not reply within ten days or does not enter into consultations within 20 days from the date of receipt of the request, the Party making the request is entitled to request the establishment of an arbitration panel in accordance with Article 43.

ARTICLE 43

Arbitration

1. Disputes between the Parties relating to the interpretation of rights and obligations under this Agreement, which have not been settled through direct consultations or in the Joint Committee within 60 days from the date of receipt of the request for consultations, may be referred to arbitration by the complaining Party by means of a written request to the Party complained against. A copy of this request shall be communicated to all other Parties so that they may determine whether to participate in the arbitration.

2. Where more than one Party requests the establishment of an arbitration panel relating to the same matter, or where the request involves more than one Party complained against, a single arbitration panel should, whenever feasible, be established to consider such disputes.

3. A Party that is not a party to the dispute shall be entitled, on delivery of a written request to the parties to the dispute, to make written submissions to the arbitration panel, receive written submissions, including annexes, from the parties to the dispute, attend hearings and make oral statements.

4. The arbitration panel shall comprise three members, who shall be nominated in accordance with the "Optional Rules for Arbitrating Disputes between Two States of the Permanent Court of Arbitration", effective 20 October 1992 (hereinafter referred to as the "Optional Rules").

5. The arbitration panel shall examine the matter referred to it in the request for the establishment of an arbitration panel in light of the provisions of this Agreement applied and interpreted in accordance with the rules of interpretation of public international law. The ruling of the arbitration panel shall be final and binding upon the parties to the dispute. Any ruling of the arbitration panel shall be made public, unless the parties to the dispute agree otherwise.

6. The language of any proceedings shall be English. The hearings of the arbitration panel shall be open to the public, unless the parties to the dispute agree otherwise. Each Party shall treat as confidential the information submitted by any other Party to the arbitration panel which that Party has designated as confidential.

7. There shall be no *ex parte* communications with the arbitration panel concerning matters under its consideration.

8. The ruling of the arbitration panel shall be rendered within 180 days of the date on which the presiding arbitrator of the panel was appointed. This period may be extended by a maximum of 90 days, if the parties to the dispute so agree.

9. The expenses of the arbitration panel, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

10. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the Optional Rules shall apply, *mutatis mutandis*.

ARTICLE 44

Implementation of the Ruling

1. The Party complained against shall promptly comply with the ruling of the arbitration panel. If it is impracticable to comply immediately, the parties to the dispute shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement within 30 days from the date of the ruling, either party to the dispute may, within ten days from the expiration of such period, request the original arbitration panel to determine the length of the reasonable period of time.

2. The Party concerned shall notify in writing the other party to the dispute of the measure adopted in order to implement the ruling.

3. If the Party concerned fails to comply with the ruling within a reasonable period of time and the parties to the dispute have not agreed on any compensation, the other party to the dispute may, until the ruling has been properly implemented or the dispute has been otherwise resolved, and subject to a prior notification of 30 days, suspend the application of benefits granted under this Agreement, but only equivalent to those affected by the measure that the arbitration panel has found to violate this Agreement.

4. Any dispute regarding the implementation of the ruling or the notified suspension shall be decided by the original arbitration panel upon request of either party to the dispute before suspension of benefits can be applied. The arbitration panel may also rule on the conformity with the ruling of any implementing measures adopted after the suspension of benefits and whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel under this paragraph shall normally be given within 45 days from the date of receipt of the request.

CHAPTER 9

FINAL PROVISIONS

ARTICLE 45

Fulfilment of Obligations

The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement.

ARTICLE 46

Annexes

The Annexes to this Agreement, including their Appendices, are an integral part thereof.

ARTICLE 47

Evolutionary Clause

The Parties undertake to review this Agreement in light of further developments in international economic relations, *inter alia* in the framework of the WTO, and to examine in this context and in light of any other relevant factor the possibility of further developing and deepening their cooperation under this Agreement and of extending it to

areas not covered therein. The Joint Committee shall regularly examine this possibility and, where appropriate, make recommendations to the Parties, particularly with a view to opening negotiations.

ARTICLE 48

Amendments

1. The Parties may agree on any amendment to this Agreement. Amendments to this Agreement other than those referred to in paragraph 8 of Article 41 shall be submitted to the Parties for ratification, acceptance or approval. Unless otherwise agreed by the Parties, amendments shall enter into force on the first day of the third month following the deposit of the last instrument of ratification, acceptance or approval.

2. The text of the amendments as well as the instruments of ratification, acceptance or approval shall be deposited with the Depositary.

ARTICLE 49

Accession

1. Any State becoming a member of the European Free Trade Association may accede to this Agreement, provided that the Joint Committee approves its accession, on terms and conditions to be agreed upon by the Parties. The instrument of accession shall be deposited with the Depositary.

2. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession, or the approval of the terms of accession by the existing Parties, whichever is later.

ARTICLE 50

Withdrawal and Expiration

1. A Party may withdraw from this Agreement by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.

2. On the day of accession of Montenegro to the European Union, this Agreement shall, *ipso facto*, cease to be effective.

3. Any EFTA State which withdraws from the Convention establishing the European Free Trade Association shall, *ipso facto*, on the same day as the withdrawal takes effect, cease to be a Party to this Agreement.

ARTICLE 51

Entry into Force

1. This Agreement is subject to ratification, acceptance or approval in accordance with the respective constitutional requirements of the Parties. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. This Agreement shall enter into force on 1 July 2012 in relation to those Parties which have deposited their instruments of ratification, acceptance or approval, or notified provisional application to the Depositary, at least two months before that date, and provided that at least one EFTA State and Montenegro are among them.

3. In case this Agreement does not enter into force on 1 July 2012, it shall enter into force on the first day of the third month after at least one EFTA State and Montenegro have deposited their instruments of ratification, acceptance or approval, or notified provisional application to the Depositary.

4. In relation to an EFTA State depositing its instrument of ratification, acceptance or approval after this Agreement has entered into force, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument of ratification, acceptance or approval.

5. If its constitutional requirements permit, a Party may apply this Agreement provisionally pending ratification, acceptance or approval by that Party. Provisional application of this Agreement shall be notified to the Depositary.

ARTICLE 52

Depositary

The Government of Norway shall act as Depositary.

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

Done at Geneva, this 14th day of November 2011, in one original in the English language. The Depositary shall transmit certified copies to all the Parties.

For Iceland For Montenegro

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For the Principality of Liechtenstein

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For the Kingdom of Norway

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For the Swiss Confederation

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