

TREATY BETWEEN THE REPUBLICS OF PANAMA AND THE REPUBLIC OF EL SALVADOR ON  
FREE TRADE AND PREFERENTIAL TREATMENT

[TRANSLATION]

The Governments of the Republics of Panama and El Salvador, determined to strengthen the traditional ties of brotherhood and friendship between their two countries and convinced of the need to progressively integrate their economies, expand their markets, increase their production, and promote coordination of their customs policies and fiscal incentives for industrial development so as to maximize trade between the two countries, raise standards of living, and create employment for their respective peoples, have decided to enter into this treaty on free trade and preferential treatment, to which effect, they have designated their respective plenipotentiaries:

Mr. Fernando Manfredo, Jr., Minister of Commerce and Industry, designated by the Provisional Government Council of the Republic of Panama;

Dr. Armando Interiano, Minister of Economic Affairs, designated by the President of the Republic of El Salvador;

who, having provided their credentials, which were found in proper order, have agreed to the following:

Article 1

The Contracting States agree to establish a free-trade and preferential-treatment regime under the terms of this Treaty. Accordingly, the natural and manufactured products originating in the territories of the Contracting Parties, indicated in the basic list to be prepared in accordance with article 10 of this Treaty, as well as those to be added subsequently, shall be accorded free trade and/or preferential treatment.

The basic list, with subsequent additions or modifications, once approved, shall enter into force upon the exchange of notes by the Foreign Ministers.

Article 2

Goods to be traded under the free trade regime shall be exempt from import and export duties, including consular duties and all other import- or export-related taxes, surcharges, fiscal levies, or other levies.

Article 3

Trade in the specific goods listed under preferential treatment shall be subject to payment of the percentages indicated in the list, solely in respect of duties established in the general schedule of customs duties of the country concerned. These percentages shall apply to all taxes indicated in the corresponding policies or customs declarations, but not to service fees or charges.

The preferential treatment referred to in this article shall be established specifically in respect of each product, but may also extend generally to a group of articles or customs categories which, by their nature or as a matter of convenience to the Parties, lend themselves to such a system.

#### Article 4

Notwithstanding the Free Trade and Preferential Treatment regime agreed to, the States Parties may by common agreement establish import and export quotas or restrictions for certain products included in the list referred to in article 1.

The addition or modification of quantitative restrictions referred to in this article shall be rendered effective by a recommendation of the Permanent Joint Committee provided for in this Treaty.

Conversely, any restrictive measure may be unilaterally eliminated without the need for a recommendation of the Joint Committee.

#### Article 5

Natural or manufactured products originating in the territory of the States Parties shall be accorded national treatment in the territories of all States Parties and shall be exempt from quantitative restrictions or measures of any kind, with the exception of the controls referred to in the preceding article and health, security, or police measures legally applicable within the territories of the States Parties.

#### Article 6

The exemptions set forth in the preceding articles shall not apply to duties or charges for lighterage, moorage, warehousing and handling of goods, or any legally applicable port, custodial, transport, or other service fees.

#### Article 7

Products originating from the Contracting Parties shall be accorded national treatment in respect of taxes or municipal or fiscal levies on production, sales, trade, or consumption.

In the case of consumption taxes established or to be established in respect of specific products not produced in the importing country, the conversion of such taxes into import duties obstructing trade shall be avoided. In any case, the importing country must apply such taxes in equal amounts and on the same basis, at a minimum, to imports of similar products originating in third countries.

#### Article 8

In the event that a Party should enter into trade treaties or agreements with non-Central American countries on the basis of a most-favored-nation clause, the Parties undertake to exempt from said clause concessions accorded by the Contracting States mutually or to any other Central American country.

## Article 9

A technical Permanent Joint Committee is hereby established. It shall be composed of public- and private-sector representatives of each country, to be appointed by the Minister of Trade and Industry in the case of the Republic of Panama and by the Minister of Economic Affairs the case of the Republic of El Salvador. In all cases, delegations shall be headed by an official of the aforementioned ministries who shall provide accreditation for all members of his delegation in accordance with the domestic laws of the country concerned.

## Article 10

The functions of the Permanent Joint Committee shall be as follows:

- a. To prepare and propose the basic list referred to in article 1 of this Treaty, determining the applicable regime and corresponding percentages in the case of preferential treatment.
- b. Recommend additions or modifications to the list of traded products, determining the applicable regime and corresponding percentages in the case of preferential treatment.
- c. Propose amendments to this Treaty.
- d. Study problems pertaining to export subsidies, dumping, and other unfair trade practices, and propose solutions to such problems.
- e. Study and propose the trade regime to be applied to products manufactured in foreign trade zones in both countries.
- f. Perform all tasks and conduct all studies entrusted to them by their respective ministers.
- g. Propose regulations for the implementation of this Treaty, to be adopted through an exchange of notes between the respective Foreign Ministers. These regulations shall encompass, inter alia:
  1. The organization and functioning of the Committee.
  2. Procedures for the settlement of disputes concerning the application of this Treaty.

## Article 11

Products originating and transported from the other Party that are deposited in a foreign trade zone of the importing country, shall be accorded the treatment indicated in the list referred to in article 1 when finally imported into the customs territory of that country.

## Article 12

The Contracting States agree to avoid any possible discriminatory or preferential practice in favor of the importing country in respect of administrative and customs procedures and the application of import requirements.

## Article 13

Goods traded under the terms of this Treaty shall be accompanied by a customs form signed by the exporter, which shall contain the declaration of origin and shall be submitted for clearance to customs officials in the exporting and importing countries. This form shall be accompanied by the corresponding commercial invoice, and in the case of sea or air cargo shall indicate the point of embarkation.

## Article 14

A Party wishing to add one or more products to the list referred to in article 1, or to modify the preferential treatment previously agreed to, shall transmit a request to the other Party, and the request shall be referred to the Permanent Joint Committee for consideration. Subject to a prior favorable recommendation from the Committee, the list may be amended or the preferential treatment modified with effect upon a simple exchange of notes between the Foreign Ministers.

## Article 15

Traded products may not be unilaterally excluded from the lists without the prior agreement of both Parties and a ruling by the Joint Committee, subject to the procedure indicated in the preceding article. In the absence of agreement, the government concerned, taking into account the ruling of the Joint Committee, may take transitional measures, such as the establishment of quotas or the temporary suspension of preferential treatment, and ultimately exclusion of the product from the list.

To address these matters, the Joint Committee shall meet at the request of either Party within a period not to exceed 30 days. If the meeting does not take place within that period, the government concerned may consider that it has not been possible to reach agreement and may announce transitional measures, such as the establishment of quotas or the temporary suspension of preferential treatment, and ultimately exclusion of the product from the list.

## Article 16

The following time periods shall apply for enforcement of the measures referred to in article 15:

I. In the case of transitional measures where agreement has been reached between the Contracting Parties, the time period shall be established by the Joint Committee, based on the circumstances leading to the transitional measures and the nature of the product.

Otherwise, the transitional measures shall take effect 30 days after the time period for agreement has expired.

II. In all cases, exclusions shall produce effects only one year after they have been declared by the government concerned.

#### Article 17

Under treaties between the Republic of Panama and the United States of America, only natural or manufactured products originating from Panama or the United States of America may enter and be sold in portions of Panamanian territory subject to the limited jurisdiction of the United States of America, unless it is not possible to obtain them from those sources. Accordingly, the participation of the Republic of Panama in this Treaty during the time the aforementioned Treaties remain in effect, is subject to the condition that this Treaty shall apply throughout the territory of the Republic of Panama, with the exception of those areas subject to the limited jurisdiction of the United States of America.

#### Article 18

The States Parties agree to settle, in the brotherly spirit of this Treaty, disputes that may arise as to the interpretation or application of any provisions herein, in accordance with the Regulations.

In cases where an agreement cannot be reached through the procedure indicated in the Regulations, the Parties undertake to appoint and accept the ruling of an Arbitration Committee. Pending such a ruling, the effects of the matter in dispute shall be suspended. In no case shall the Parties take unilateral restrictive trade measures without prior consultation within the Permanent Joint Committee.

#### Article 19

Each of the Contracting States shall ensure freedom of transit through its territory for goods to or from the other state.

Such transits shall be ensured without discrimination or quantitative restrictions. In the event of cargo congestion and other cases of force majeure, each of the States Parties shall give equitable attention to the movement of goods to be supplied to its own population and goods in transit to the other State. Transit operations shall be conducted via routes legally authorized for such purpose and shall be subject to the applicable customs laws and regulations in the territory of transit.

Goods in transit shall be exempt from all duties, taxes, fiscal, municipal, or other levies, irrespective of their destination, but shall be subject to the payment of generally applicable service charges, as well as health, safety, and police measures.

#### Article 20

The States Parties undertake to improve their communication systems in order to facilitate and increase the flow of traffic between their territories.

They shall also seek to harmonize transport rates between the two countries as well as the related legal and regulatory provisions.

Commercial and private marine vessels and aircraft from either of the Contracting States shall be accorded the same treatment at ports and airports open to international traffic from the other State as the latter's own vessels and aircraft.

Surface transport vehicles registered in one of the States Parties shall be accorded the same treatment in the territory of the other State as vehicles registered in the latter.

Coastwise trade vessels of either of the Parties shall be accorded national treatment at ports of the other Party, and a manifest signed by the owner of the vessel shall be deemed sufficient for the purposes of customs cargo receipts. Such manifests shall be exempt from consular clearance.

The provisions of this article are without prejudice to compliance with the registration and control formalities applied by each country to the entry, presence, or departure of vessels, aircraft, and vehicles for reasons of health, safety, and police and the protection of public and fiscal interests.

Nor shall this article be construed as conferring to aircraft from either of the Parties the right to make commercial stopovers for the purpose of taking on or leaving passengers in the territory of the other Party without the applicable authorization, nor does it affect article 7 of the Chicago Convention on International Civil Aviation.

#### Article 21

The list and other annexes prepared in conjunction with this Treaty, as well as those subsequently approved by the Permanent Joint Committee that enter into force in accordance with the procedural formalities already indicated shall form an integral part of this Treaty.

#### Article 22

Final decisions in respect of the provisions of this Treaty shall be taken in common agreement by the States Parties, which, until agreed otherwise, shall take such measures by means of a joint act of the Minister of Trade and Industry of Panama and the Minister of Economic Affairs of El Salvador, who may delegate their respective representatives before the Permanent Joint Committee.

#### Article 23

This Treaty shall be of indefinite duration, with effect from the date on which the instruments of ratification are exchanged, and shall remain in force until such time as the States Parties do not rescind it subject to three years notice.

Article 24

This Treaty shall be subject to ratification in accordance with the procedures established in each of the Contracting States and the instruments of ratification shall be exchanged in Panama City, Republic of Panama.

In witness whereof, the respective Plenipotentiaries have signed two copies of this Treaty, in the city of San Salvador, on June 2, 1970.

FOR THE  
GOVERNMENT OF  
EL SALVADOR  
Fernando Manfredo Jr.  
Minister of Trade and Industry

FOR THE  
GOVERNMENT OF  
PANAMA  
Armando Interiano  
Minister of Economic Affairs

To continue with: "Implementing Regulations for the Treaty between the Republics of Panama and El Salvador on Free Trade and Preferential Treatment"

Implementing Regulations for the Treaty between the Republics of Panama and El Salvador on Free Trade and Preferential Treatment

[TRANSLATION]

DECREE NO. 41

(July 14, 1986)

Approval of the Implementing Regulations for the Treaty between the Republics of Panama and El Salvador on Free Trade and Preferential Treatment.

The President of the Republic, by virtue of the powers invested in him, decrees:

DECREE:

Article 1: All provisions of the implementing regulations for the Treaty between the Republics of Panama and El Salvador on Free Trade and Preferential Treatment, agreed to by the Permanent Joint Committee in the City of San Salvador, on December 14, 1985, and set forth below, are hereby approved.

"Implementing Regulations for the Treaty between the Republics of Panama and El Salvador on Free Trade and Preferential Treatment"

CHAPTER I: DEFINITIONS

Article 1: For the purposes of these Regulations, the following terms shall be defined as indicated:

a. "Treaty": The Treaty between the Republics of Panama and El Salvador on Free Trade and Preferential Treatment, signed in the city of San Salvador, on June 2, 1970.

b. "Party", "Contracting Parties" and "States Parties": The Republics of Panama and El Salvador.

c. "The Governments": The Governments of the Republics of Panama and El Salvador.

d. "The Permanent Joint Committee", "The Joint Committee", "The Committee": The Permanent Joint Committee established under Article 9 of the Treaty.

e. "Administrative Authorities": Department of Exports and Imports of the Ministry of Foreign Trade of El Salvador and the Panamanian Institute of Foreign Trade.

f. "List" or "Lists": The list of traded products subject to the Treaty.

g. "National Treatment" and "Equal Treatment": The treatment accorded to goods originating in the territory of each of the Contracting Parties, as referred to in Articles 5 and 20 of the Treaty.

h. "Minister" or "Ministers": The Minister of Foreign Trade of the Republic of El Salvador and the Minister of Trade and Industry of Panama.

i. "Representative": The person representing, and designated by, the Minister before the Permanent Joint Committee.

j. "Advisors": Public officials and private sector representatives accompanying the Minister or his representative at meetings of the Permanent Joint Committee, duly accredited as such.

k. "Normal Value of Goods": The sum of the production cost, sales cost, and derived profits for the products in question.

## CHAPTER II: THE REGIME FOR TRADE IN PRODUCTS

Article 2: Products originating in the territories of the Contracting Parties shall be accorded precisely the treatment indicated in the list attached to the Treaty.

Products added subsequently, and modifications of the list of traded products, shall be accorded the treatment agreed to by the Joint Committee in accordance with Articles 2 and 3 of the Treaty.

Article 3: The list of traded products attached to the Treaty, as well as additions to or modifications of the aforementioned list, form an integral part of the Treaty. The specific traded product must be classified in accordance with the customs nomenclatures in effect in both countries.

For the purposes of trade, the specific description of the product shall take precedence, and shall be consistent with its customs classification. When the classification under customs nomenclature is not consistent with the indications in the list, it shall be understood that only products specified on the list shall form parts of the trade operation.

In the event that one of the Parties should modify its customs nomenclature, the administrative authorities of each of the Parties shall make the necessary corrections in the customs groups and sub-groups identifying the products included in the list of traded products attached to the Treaty, subject to approval by the Permanent Joint Committee.

Article 4: In order to add one or more products to the list attached to the Treaty or modify the previously agreed trade regime, the Contracting Party concerned, through its administrative authority, shall present to the other Party for consideration a written request accompanied by the necessary basic information. In the event that products are added, it will be necessary to include the following information: name of the company; specific description of the product; treatment requested; general description of the production process.

With respect to modifications of established treatment, the following information must be included: production levels and sales of the product over the three years prior to presentation of the request; the volumes of trade recorded during that same period; and installed and utilized capacity.

The request shall be presented no fewer than 30 days prior to consideration by the Permanent Joint Committee. If the Committee's ruling is favorable, it shall notify the governments as to the addition of the approved products to the list, or the modifications to the preferential treatment agreed to. These agreements shall enter into force following verification of the corresponding exchange of notes between the Ministers of Foreign Affairs.

Article 5: With the exception indicated in articles 8 and 17 of the Treaty, natural or manufactured products originating in the territory of one of the Parties shall be accorded national treatment in the territory of the other Party in respect of the amounts, forms, and terms of payment for taxes, or fiscal or municipal levies on production, commercial sales, consumption, or any other levies, irrespective of their category or denomination. They shall be subject to no form of quantitative measure, with the exception of health, safety, or police controls applicable within the territories of the Contracting Parties.

In the case of domestic taxes established or to be established in respect of specific products not produced in the importing country, the conversion of such taxes into import duties obstructing trade shall be avoided. In any case, the importing country must apply such taxes in equal amounts and on the same basis, at a minimum, to imports of similar products originating in third countries.

When one of the Parties establishes domestic taxes that constitute a duty on imported products subject to the Treaty, and such taxes do not affect the products manufactured in that country, the Joint Committee shall, within a period of 30 calendar days, determine and specify measures to correct the problem. If compensatory measures cannot be determined through the Joint Committee, the affected Party may impose an equivalent duty on all imports from the other Party or other such measures as it considers appropriate.

Article 6: The products included in the list of traded products subject to the Treaty originating in one of the Contracting Parties and deposited in foreign trade zones within the territory of the other Contracting Party shall be accorded the regime specified in Articles 2 and 3 of the Treaty, as appropriate, when entry into the customs territory of the importing country is finalized.

The Administrative Authorities of the importing country shall establish mechanisms to ensure the proper entry of products subject to the Treaty that have been deposited in foreign trade zones.

### CHAPTER III: PRODUCT ORIGIN

Article 7: Products native to or manufactured in the territories of the Contracting Parties as well as handcrafted products composed mainly of national materials shall be considered to have their origin in the Contracting Parties.

Products that are simply assembled, packaged, placed in containers, mixed, cut, or diluted in the exporting country shall not be considered to have their origin in the Contracting Parties.

Article 8: The following products are considered to have their natural origin in each of the Contracting Parties:

- a. Products extracted from their atmosphere, soil, sub-soil, or continental shelf;
- b. Agricultural products cultivated or harvested in its territory;
- c. Animals born or raised in its territory;
- d. Products obtained from the animals referred to in the preceding paragraph;
- e. Products obtained from hunting and fishing within its territory;
- f. Products of the sea captured by vessels owned by or in the service of the Contracting Party, or natural or legal persons that are nationals of the State Party;
- g. Products referred to in the preceding paragraph that are processed on board processing vessels, provided that such vessels are owned by or in the service of the Contracting State or natural or legal persons that are nationals of the Contracting State.

h. Unused and national articles that serve only for the recovery of raw materials, provided that they have been used within the territory of the Contracting Parties; and

i. By-products and waste resulting from manufacturing operations conducted in the territory of the Contracting Parties.

Article 9: Manufactured products shall be considered to have their origin in the Contracting Party if they are made with raw materials of national origin or imported from a State Party.

Products containing imported raw materials which have been substantially transformed in a Contracting Party so as to constitute a new product, shall also be considered to have their origin in that Contracting Party; the same applies to products whose national added value is 35% or more.

Article 10: Traded goods subject to this Treaty shall be accompanied by a customs form signed by the Exporter, containing a Declaration of Origin and subject to clearance by customs officials in the country of origin as well as destination. The customs form shall contain a specific description of the product, its gross and net weight in kilos and its FOB and CIF value per product.

Article 11: Traded products subject to the Treaty shall bear the label, in Spanish: "Hecho en [made in] ...(country of origin)..." or "Producido en [produced in]...(country of origin)" in plain sight.

The above notwithstanding, if the nature, size, or form of the traded product is such that it cannot bear a label of origin, such label shall appear on the wrapping, boxes, containers, packages, or recipients containing the product.

This article is not applicable to products marketed in bulk or without packaging, boxes, or wrapping, for which presentation of the customs form shall suffice. The registration with health authorities of the importing country shall in addition be required for products intended for human consumption.

Article 12: In case of doubt as to origin of a good, the customs office at point of entry shall immediately refer the matter to the appropriate Administrative Authority, which shall have a period of no more than 30 calendar days, including any consultations with the Administrative Authority of the exporting country, to reach a final determination as to the origin of the good concerned. Such determination shall be binding. Pending clarification of the matter, at the request of the interested Party, customs shall permit customs clearance of the product, subject to a bond or deposit guaranteeing the amount of the import duties and other charges in connection with the product's entry into the country.

If the exporter considers that it has been unfairly affected by the decision of the Administrative Authority of the importing country, it may file a request with its respective authorities for convocation of the Permanent Joint Committee for the purpose of issuing an Opinion on the origin of the good in question. The Commission

shall meet within 30 calendar days of receipt of such request, which shall contain, at a minimum:

- a. The description and characteristics, class, commercial name, trademark (if any), and all other information serving to identify the goods of whose origin verification is requested;
- b. The origin of the raw materials, semi-finished products, and packaging used;
- c. A description of the phases of the production process for the product;
- d. A specific statement as to the nature of the request; and
- e. Place, date, and signature of the Minister or his designated representative.

Article 13: Doubt as to the origin of a product shall be considered to exist if there is sufficient reasonable evidence that it has not originated in a Contracting Party based on one or more of the following circumstances:

- a. When it appears evident that the good concerned does not meet the requisites for national origin;
- b. When it is generally known that the good in question is not produced in any of the States Parties;
- c. When the containers, packaging, or products bear labels other than those required under Article 10 of these Regulations;
- d. When such labels show evident signs of having been altered or superimposed over others identifying the product as originating in a third country;
- e. When the customs form accompanying the good shows additions, interlineations, or any other correction not stipulated prior to signature or not identical to declarations appearing in the original document and its respective copies; and
- f. Any other circumstance analogous to the above.

Article 14: For the purposes of this Chapter, the Contracting Parties, and the producers and/or exporters shall cooperate by providing information required to verify the origin of the product, permitting such inspections as may be considered appropriate for such purpose. The producers shall not be required to give specific information as to formulas which constitute manufacturing secrets.

#### CHAPTER IV: PROBLEMS RELATED TO COMPETITION

Article 15: When, subject to confirmation by the country affected, a State Party encounters serious problems of competition for a particular company or branch of industry, because of measures that place it at a competitive disadvantage, the affected

party shall submit the matter for review to the Permanent Joint Committee, which may agree to the adoption or modification of quantitative measures applied to the product or products at issue that are included on the list of traded goods, or may agree to exclude them from the list.

Such agreements shall enter into force on the date determined by the Committee.

To decide on the adoption of measures referred to in this article, and at the request of one of the Contracting Parties, the Joint Committee shall meet within a period of no more than 30 calendar days reckoned from the date of receipt of the request.

If the Committee does not meet within that period, the interested Party may consider that it has not been possible to reach an agreement and may take such unilateral transitional measures as may be necessary to normalize trade in the products concerned until such time as the Joint Committee adopts measures on the matter.

If the Joint Committee meets and does not reach an agreement, the Party concerned may take such transitional measures as the suspension of free trade in the product concerned or the establishment of a quota or other restrictions, until such time as the Joint Committee takes the appropriate measures. In the case of suspension of free trade, the measure adopted shall enter into force one year after its adoption.

In the case of quotas or other restrictions, these would enter into force within 60 calendar days reckoned from the date of adoption of the measure in question. In no case shall the adoption of such measures have the effect of nullifying the trade that is taking place between the Parties.

Article 16: Considering that unfair trade is contrary to the aims pursued through signature of the Treaty, each of the Contracting Parties shall take available legal measures to prevent the export of goods at prices below normal value, and thus avoid the creation of production and trade distortions in the importing country.

When one of the Contracting Parties considers that there is evidence of unfair trade, it shall submit the case to the Permanent Joint Committee for consideration and--within five working days of receipt of the request--the issuance of an opinion on the matter or authorization of temporary suspension of the treatment accorded. Pending such ruling, importation shall be permitted only subject to the deposit of a bond in the amount of the duties specified in the general schedule of customs duties of the country concerned. Such suspension shall be authorized for a maximum period of 30 days, within which time the Committee shall issue its definitive ruling. In the absence of such ruling by the Committee within the aforementioned five days, the State concerned may in any case require the deposit of the bond.

In the event that the Joint Committee confirms the existence of unfair trade, the Party affected may redeem the bond and, in addition, charge custom duties retroactively for a period of one month reckoned from the date on which the complaint was submitted.

If the Joint Committee confirms the existence of unfair trade, payment of the duties established in the aforementioned schedule of customs duties shall be claimed.

Article 17: For the purposes of articles 15 and 16 of these Regulations, when a company encounters problems of unfair competition or trade it shall present a written study to the Administrative Authority of the State Party of which it is a national, stating the problem. The aforementioned authority shall verify the evidence in the case and, if it confirms the existence of the problem, the aforementioned State Party shall submit the matter to the Joint Committee, which shall resolve it in accordance with the applicable provisions of the Treaty.

Upon submission of the matter to the Joint Committee, the Party affected shall transmit a written study to the other State Party on the problem concerned.

Article 18: In the event that one of the Parties should modify its existing currency exchange regime, it shall formally notify the other Party accordingly, in writing, in the most expeditious possible manner.

If one of the Parties considers that a company or branch of industry is being affected by the adoption of such measures, it shall submit the problem to the Permanent Joint Committee for review and the adoption of appropriate measures to correct the situation. The Committee shall meet within a period of no more than 20 calendar days reckoned from the date of receipt of the request. In the absence of such a meeting, or of agreement on appropriate corrective measures, the affected Party may take such transitional measures as may have the effect of normalizing the trade affected by the aforementioned currency exchange measures, until such time as the Joint Committee adopts a final decision to correct the situation.

The measures adopted by the Committee may be transitional in character and shall in no case go beyond those necessary to re-establish the relative competitive positions, or the overall trade balance, existing prior to the adoption of the currency exchange measures in question.

#### CHAPTER V: WITH THE PERMANENT JOINT COMMITTEE

Article 19: The Permanent Joint Committee shall be composed of the Minister of Foreign Trade of El Salvador and the Minister of Trade and Industry of Panama, or their representatives, as well as public and private sector advisors designated by each Contracting Party.

The Committee members must be duly accredited.

At the request of one of the Parties, other persons affected by the problems under review by the Committee may participate in the Committee meetings for the purpose of providing any information that may contribute to the most appropriate decision on the problem.

Article 20: The Permanent Joint Committee shall have the following functions:

- a. Administering the Treaty, these Regulations, and norms derived therefrom;
- b. Approving the lists of freely traded products, as well as additions to and modifications of those lists;
- c. Approving the lists and applicable percentages of products subject to preferential treatment, and additions to or modifications of said lists;
- d. Examining and approving import quotas or controls and other quantitative measures for products subject to a free-trade or preferential-treatment regime.
- e. Studying and resolving problems and disputes with regard to application of the Treaty and these Regulations, as well as unfair trade practices affecting the trade regime established in the Treaty;
- f. Proposing to the States Parties:
  - 1. Amendments to or extension of the Treaty
  - 2. Amendments to these Regulations;
- g. Meeting, at alternating venues, when requested to do so by one of the Parties;
- h. Meeting every two years to examine the trade situation in accordance with Article 28 of the Regulations;
- i. Establishing the criteria and standards to be adopted for the determination of product origin;
- j. Recommending mechanisms to promote joint investment in the development of new activities of particular interest to both countries;
- k. Promoting the adoption of supplementary industrial agreements to facilitate and expand reciprocal trade;
- l. Adopting measures with respect to the effective application of the Compensation and Reciprocal Credit Agreement between the two Parties;
- m. Performing all functions, tasks and studies entrusted to it by the States Parties pursuant to the Treaty or these Regulations;
- n. Evaluating and ensuring compliance with any agreement signed by the Parties to maintain or improve trade subject to the Treaty.

Article 21: The Permanent Joint Committee shall meet at the request of one of the Contracting Parties. Once the date of the meeting has been agreed to, it may be

changed only by mutual agreement for justified cause, except in cases for which these Regulations specify otherwise.

Article 22: Committee meetings shall be convened by means of certified letter, telegram, telex, or even telephone, but in the latter three cases must be confirmed by a certified letter received 48 hours prior to the date of the meeting. The convocation and confirmation shall indicate the matters to be considered.

Article 23: The Minister of the host country or his Representative shall chair the meetings of the Permanent Joint Committee and perform the functions of that position to ensure an effective meeting.

During the meetings of the Permanent Joint Committee, the Administrative Authority of the host country shall serve as Secretariat.

Article 24: Advisors to the Minister of each Contracting Party, or the Minister's duly accredited Representative, shall have a voice in Committee meetings. Representatives of the affected companies shall have a voice when the Chairman of the meeting determines it to be appropriate, or when requested of the Minister of the other Contracting Party or his Representative.

Article 25: The decisions and agreements of the Permanent Joint Committee shall be signed by the Ministers or their Representatives. Such decisions and agreements are binding on the States Parties and shall enter into force on the date of exchange of notes between the foreign ministers, in cases where the Treaty so provides, or on the date agreed to by the Permanent Joint Committee in all other cases.

Article 26: The Permanent Joint Committee may create and designate, on a permanent or a temporary basis, Working Groups entrusted with preparing studies or performing tasks considered appropriate by the Committee and shall report to the Committee as stipulated within an agreed period of time.

Article 27: The minutes of all Permanent Joint Committee meetings shall be recorded in two originals to be signed by the Minister of each Contracting Party or his Representative.

Any correction or amendments to the minutes shall be made prior to signature.

Article 28: The Permanent Joint Committee shall be required to meet every two years to study the trade situation and/or specific problems with regard to application of the Treaty and its Regulations, with a view to evaluating the effects of the Treaty and reviewing the lists in order to adopt such measures as may be necessary to increase reciprocal trade or abide by the spirit of equity inspiring the Treaty. The Committee shall also meet at the request of either Party to address specific matters.

The biennial meetings shall be held during the second semester of each year.

Article 29: To facilitate trade operations under the Treaty and improve the conditions for competition in the two countries, the Contracting Parties shall in due course establish the mechanisms necessary to take full advantage of financial, transport, storage, and free-trade-zone facilities.

#### CHAPTER VI: THE SETTLEMENT OF DISPUTES

Article 30: Differences and disputes arising between the Parties from the interpretation or application of the Treaty or Regulations shall, in the first instance, be settled by the States Parties through direct settlement between the Administrative Authorities.

If such settlement should not prove possible, the matter shall be referred to the Joint Committee. Persons with a direct interest in the matter in dispute may not take part in its review as members of the Committee.

Article 31: Presentation and direct settlement of the problem between the Administrative Authorities may take the following forms:

- a. Verbal, telephone, telegraph, or other similar forms of communication confirmed in writing by certified letter;
- b. Meetings agreed to by the Administrative Authorities.

Article 32: The Administrative Authority to whom the request is submitted shall attend to the matter raised by its counterpart and respond within 15 calendar days reckoned from the date of the written communication.

If, after such period of time, a satisfactory settlement has not been reached, the matter may be brought by either Party before the Joint Committee for review and decision, in accordance with Article 12 of these Regulations.

Article 33: Agreements reached through direct settlement, as well as matters pending a solution and the arguments of the Administrative Authorities shall be recorded in writing. Such agreements shall contain a succinct account of the facts and points of law.

Article 34: In the event that an agreement cannot be reached by the Joint Committee through the procedure set forth in these regulations, the Contracting Parties undertake to appoint and accept the ruling of an Arbitration Committee definitively resolving the differences of interpretation or application of provisions governing trade between the two countries under the Treaty.

The Arbitration Committee shall be composed of three members: one arbitrator appointed by each of the Governments of the Contracting Parties, and a third arbitrator, to serve as President, chosen by the arbitrators representing the Governments.

Pending the ruling of the Arbitration Committee, the effects of the matter at issue shall remain in suspense.

## CHAPTER VII: CUSTOMS FACILITIES

Article 35: The Contracting States, through the intermediary of the Administrative Authorities, agree to provide such facilities as may be necessary to ensure that established trade, and trade to be established, between them is conducted as smoothly as possible, avoiding any discriminatory administrative or customs practice.

The two Parties shall exchange up-to-date information on a quarterly basis on all aspects pertaining to application of the Treaty and activities pursuant to these instruments.

## CHAPTER VIII: TRANSPORT

Article 36: Each State Party shall accord complete freedom of transit throughout its territory for goods en route to or from the other State. Such transit shall not be subject to discrimination or restrictions of any kind, with the exception of health, safety, or police control applicable within the territories of the Contracting Parties.

In cases of cargo congestion or force majeure, each Contracting Party shall attend to the movement of goods to be supplied to its own population and goods in transit towards the other State on an equitable basis.

Transit operations shall be conducted over routes legally authorized for this purpose and subject to the customs laws and regulations applicable within the territory of transit. That notwithstanding, efforts shall be made to facilitate procedures for the goods in transit.

Even when not accorded free trade and preferential treatment, the goods in transit shall be exempt from duties, taxes, or fiscal and municipal levies of any kind, irrespective of their destination, but shall be subject to the payment of applicable service charges and compliance with health, safety, and police measures.

Article 37: Commercial and private marine vessels and aircraft from either of the Contracting States transporting goods subject to the Treaty shall be accorded the same treatment at the ports and airports of the other Contracting State as the latter's own vessels and aircraft. Similarly, surface transport vehicles registered in one of the States Parties shall be accorded equal treatment in the territory of the other State Party.

Coastwise trade vessels of either of the Parties shall be accorded national treatment at ports of the other Party. A manifest signed by the owner of the vessel shall suffice for the purposes of customs cargo receipts. Such manifests shall be exempt from consular clearance.

Article 38: The provisions of this article are without prejudice to compliance with health, safety, and police registration and control formalities, or those established for the protection of public and fiscal interests, applied by each country to the entry, circulation, presence, or departure of vessels, aircraft, and vehicles. Nor shall this article be construed as conferring to aircraft the right to make commercial stopovers without

the applicable authorization, or as affecting article VII of the Chicago Convention on International Civil Aviation.

#### CHAPTER IX: FINAL PROVISIONS

Article 39: These Regulations shall enter into force once they have been promulgated by the States' Parties in accordance with the formalities of their domestic legislation and the exchange of notes between Foreign Ministers has been completed.

These Regulations have been approved by the Permanent Joint Committee for the Treaty between the Republics of El Salvador and Panama on Free Trade and Preferential Treatment, in the city of San Salvador, on December 14, 1985.

FOR THE REPUBLIC OF PANAMA FOR THE REPUBLIC OF EL SALVADOR Rubén Dario Ortega-Vieto Roberto Canas Alarcón

Article 2: This Decree supersedes, in its entirety, Decree No. 57 of November 11, 1976.

Article 3: This Decree shall take effect following its publication in the Official Gazette and the corresponding exchange of notes between foreign ministers.

Done in Panama City on July 14, 1986.

#### FOR NOTIFICATION AND PUBLICATION

ERIC ARTURO DEL VALLE JOSE BERNARDO CARDENAS President of the Republic Minister of Commerce and Industry