

CHAPTER 1

INITIAL PROVISIONS AND DEFINITIONS

Article 1.1: Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area.

Article 1.2: Objectives

1. The objectives of this Agreement are to:
 - (a) encourage expansion and diversification of trade between the Parties;
 - (b) facilitate trade in goods and services by promoting conditions of fair competition in the free trade area;
 - (c) promote conditions of fair competition in the free trade zone.
 - (d) establish comprehensible rules in order to ensure a regulated and transparent environment for the trade of goods and services between the Parties;
 - (e) increase investment opportunities in the territories of the Parties;
 - (f) ensure an adequate and effective protection of intellectual property rights in the territories of the Parties, taking into consideration the economic situation and the social or cultural need of each Party; as well as to promote technological innovation and the transfer and dissemination of technology between the Parties;
 - (g) confirm their commitment to the promotion of trade and reaffirm their aspiration to achieve an appropriate balance between the economic, social and environmental components of sustainable development;
 - (h) create effective procedures for the implementation and application of this Agreement, for its joint administration, and for the resolution of disputes; and
 - (i) establish a framework for further bilateral cooperation to expand and enhance the benefits of this Agreement.

2. The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 and in accordance with customary rules of interpretation of Public International Law.

Article 1.3: Relation to Other Agreements

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

2. In the event of any inconsistency between this Agreement and any other agreement to which the Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution in accordance with customary rules of interpretation of public international law.

Article 1.4: Geographical Applicability¹

1. With regard to China, this Agreement shall apply to the entire customs territory of China, including land territory, territorial airspace, internal waters and territorial sea as well as their bed and subsoil, and any area beyond its territorial sea within which it may exercise sovereign rights and/or jurisdiction in accordance with international law and its domestic law.

2. With regard to Nicaragua, the territory of the Republic of Nicaragua, in accordance with its national legislation and international law.

3. Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by local governments and authorities in its territory.

Article 1.5: General Definitions

For the purposes of this Agreement, unless otherwise specified:

Agreement on Safeguards means Agreement on Safeguards; contained in Annex 1A to the WTO Agreement;

¹ This Article is for the implementation of this Agreement only.

customs administration means:

- (a) for China, the General Administration of Customs of the People's Republic of China (GACC) or its successor; and
- (b) for Nicaragua, the General Directorate of Customs Services (*la Dirección General de Servicios Aduaneros* (DGA)) or its successor;

customs duty includes any duty or charge of any kind imposed in connection with the importation of a good, but does not include:

- (a) any charge equivalent to an internal tax imposed consistently with Article III.2 of GATT 1994;
- (b) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement or the *Agreement on Subsidies and Countervailing Measures*, contained in Annex 1A to the WTO Agreement any duty applied consistently with Article XIX of GATT 1994 and *Agreement on Safeguards*; and
- (c) any fee or other charge in connection with importation commensurate with the cost of services rendered;

Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

days means calendar days;

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

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

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

FTA Joint Commission means the China-Nicaragua Free Trade Agreement Joint Commission established under Article 20.1 (FTA Joint Commission);

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

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

goods of a Party means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party;

Harmonized System or HS means the Harmonized Commodity Description and Coding System, as adopted and administered by the World Customs Organization, set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on 14 June 1983, as may be amended, adopted and implemented by the Parties in their respective law;

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

national means:

- (a) for China, a natural person who has the nationality of China according to the Laws of China; and
- (b) for Nicaragua, a Nicaraguan (nicaragüense) as defined in Article 15 of the Political Constitution of the Republic of Nicaragua (*Constitución Política de la República de Nicaragua*);

originating means qualifying under the provisions of origin set out in Chapter 3 (Rules of Origin and Implementation Procedures);

Party means any State for which this Agreement is in force;

person means a natural person or an enterprise;

TRIPS Agreement means the Agreement on Trade-related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement;

WTO means the World Trade Organization; and

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