

CHAPTER ONE

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A – General Definitions

Article 1.01: Definitions of General Application

1. For purposes of this Agreement, unless otherwise specified:

Agreement on the Environment means the *Agreement on the Environment between Canada and the Republic of Panama*;

Commission means the Joint Commission established under Article 21.01 (Administration of the Agreement – Joint Commission);

Coordinators means the Agreement Coordinators established under Article 21.02 (Administration of the Agreement – Agreement Coordinators);

customs duty includes a customs or import duty and a charge of any kind imposed on or in connection with the importation of a good, including a form of surtax or surcharge in connection with that importation, but does not include:

- (a) a charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) an anti-dumping or countervailing duty that is applied pursuant to a Party's domestic law;
- (c) a fee or other charge imposed consistent with Article 2.11 (National Treatment and Market Access for Goods – Customs User Fees and Similar Charges); and
- (d) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

Customs Valuation Agreement means the *WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*;

days means calendar days, including weekends and holidays;

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

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

GATS means the *WTO General Agreement on Trade in Services*;

GATT 1994 means the *WTO General Agreement on Tariffs and Trade 1994*;

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 (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading notes;

heading means a four-digit number, or the first four digits of a number, used in the nomenclature of the Harmonized System;

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

national means a natural person who has the nationality of a Party or is a citizen according to Article 1.02, or is a permanent resident of a Party;

New York Convention means the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done at New York on 10 June 1958;

originating means qualifying under the rules of origin set out in Chapter Three (Rules of Origin);

person means a natural person or an enterprise;

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

sanitary or phytosanitary measure means a measure referred to in Annex A, paragraph 1 of the SPS Agreement;

SPS Agreement means the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures*;

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

subheading means a six-digit number, or the first six digits of a number, used in the nomenclature of the Harmonized System;

tariff classification means the classification of a good or material under a chapter, heading or subheading of the Harmonized System;

tariff elimination schedule means Annex 2.04 (National Treatment and Market Access for Goods – Tariff Elimination);

telecommunications means the transmission and reception of signals by electromagnetic means;

Tribunal means an arbitration tribunal established under Article 9.23 or 9.27 (Investment – Submission of a Claim to Arbitration and Consolidation);

TPA means the *Trade Promotion Agreement between Panama and the United States of America*, done on June 28, 2007;

TRIPS Agreement means the *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights*;

Uniform Regulations means “Uniform Regulations” established under Article 4.12 (Customs Procedures – Uniform Regulations); and

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

2. For purposes of this Agreement, a word in the singular includes that word in the plural, except where otherwise indicated.

Article 1.02: Country-specific Definitions

For purposes of this Agreement, unless otherwise specified:

citizen means, with respect to Canada, a natural person who is a citizen of Canada under Canadian legislation;

national government means:

- (a) with respect to Canada, the Government of Canada; and
- (b) with respect to Panama, the national level of government;

natural person who has the nationality of a Party means, with respect to Panama, Panamanians by birth, naturalization or adoption, in accordance with Articles 9, 10, and 11 of the Constitution of the Republic of Panama;

sub-national government means:

- (a) with respect to Canada, provincial, territorial, or local governments; and
- (b) with respect to Panama, local governments;

territory means:

- (a) with respect to Canada, (i) the land territory, air space, internal waters and territorial sea of Canada; (ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the *United Nations Convention on the Law of the Sea* done at Montego Bay on 10 December 1982 (UNCLOS); and (iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS;
- (b) with respect to Panama, the land, maritime, and air space under its sovereignty; the exclusive economic zone, and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with its domestic law and international law.

Section B – Initial Provisions

Article 1.03: Establishment of the Free Trade Area

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

Article 1.04: Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which the Parties are party.
2. In the event of any inconsistency between this Agreement and the agreements referred to in paragraph 1, this Agreement shall prevail, except as otherwise provided in this Agreement.

3. The WTO Agreement exclusively governs the rights and obligations of the Parties regarding subsidies and the application of anti-dumping and countervailing measures, including the settlement of any disputes about those matters. This paragraph does not apply to Articles 2.04(5) and 2.13 (National Treatment and Market Access for Goods - Tariff Elimination and Agricultural Export Subsidies).

Article 1.05: Extent of Obligations

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 observance of the provisions of this Agreement, except as otherwise provided in this Agreement, by the sub-national governments and authorities within its territory.

Article 1.06: Relation to Environmental and Conservation Agreements

In the event of an inconsistency between an obligation in this Agreement and an obligation of a Party under an agreement listed in Annex 1.06, the latter obligation shall prevail provided that the measure taken is necessary to comply with that obligation, and is not applied in a manner that would constitute, where the same conditions prevail, arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Article 1.07: Reference to Other Agreements

Where this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include related footnotes, interpretative and explanatory notes. Except where the reference affirms existing rights, such references also include, as the case may be, successor agreements to which the Parties are party or amendments binding on the Parties.

Annex 1.06

Multilateral Environmental Agreements

- (a) The *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington on 3 March 1973, as amended on 22 June 1979.
- (b) The *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal on 16 September 1987, as amended 29 June 1990, as amended 25 November 1992, as amended 17 September 1997, as amended 3 December 1999.
- (c) The *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*, done at Basel on 22 March 1989.
- (d) The *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, done at Rotterdam on 10 September 1998.
- (e) The *Stockholm Convention on Persistent Organic Pollutants*, done at Stockholm on 22 May 2001.