

PART ONE GENERAL ASPECTS

CHAPTER 1 INITIAL PROVISIONS

Article 1.01 Establishment of the Free Trade Area

Through this Agreement and consistent with Article XXIV of the General Agreement on Tariffs and Trade of 1994 and Article V of the General Agreement on Trade in Services, the Parties hereby establish a free trade area.

Article 1.02 Enforcement

Each Party shall ensure the adoption of all necessary measures in accordance with its constitutional rules in order to comply with the provisions of this Agreement in its territory and in all levels of its government.

Article 1.03 Relation to Other International 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 the provisions of this Agreement and the provisions of the agreements referred to in paragraph 1, the provisions of this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

3. In the event of any inconsistency between this Agreement and the specific trade obligations set forth in:

- (a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), done at Washington, March 3, 1973, as amended June 22, 1979;
- (b) the Montreal Protocol on Substances that Deplete the Ozone Layer done at Montreal, September 16, 1987, as amended June 29, 1990; or
- (c) the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal, done at Basel, March 22, 1989,

these obligations shall prevail to the extent of the inconsistency, provided that where a

Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

Article 1.04 Successor Agreement

Any reference in this Agreement to any other treaty or international agreement shall be made in the same terms to its successor treaty or international agreement to which the Parties are party.

CHAPTER 2 GENERAL DEFINITIONS

Article 2.01 Definitions of General Application

For purposes of this Agreement, except as otherwise provided for in another Chapter, the following terms shall be understood as:

chapter: the first two digits of the Harmonized System;

Commission: the Administrative Commission of the Agreement established pursuant to Article 18.01 (Administrative Commission of the Agreement);

customs duty: any customs or import duty and charges of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but not including any:

- (a) charge equivalent to an internal tax imposed consistently with Article III: 2 of GATT 1994;
- (b) antidumping or countervailing duty that is applied pursuant to a Party's legislation and applied consistently with Chapter 7 (Unfair Trade Practices);
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered; and
- (d) premium offered or collected on or in connection with 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: the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, including its interpretative notes which forms part of the WTO Agreement;

days: calendar days, including Saturdays, Sundays and holidays;

enterprise: any legal entity constituted or organized under the applicable laws of a Party, whether or not for profit, and whether privately-owned or governmentally-owned, including any company, corporation, foundation, trust, partnership, sole proprietorship, joint venture or other association;

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

GATS: the General Agreement on Trade in Services, which forms part of the WTO Agreement;

GATT 1994: the General Agreement on Tariffs and Trade 1994, which forms part of the WTO Agreement;

goods: any material, substance, product or part;

goods of a Party: domestic products as understood in GATT 1994, or goods granted with this characterization by the Parties, including goods originating in that Party. Goods of a Party may incorporate materials from non-Parties;

Harmonized System: the “Harmonized Commodity Description and Coding System” as in effect, including its general rules of interpretation and the legal notes of its sections, chapters, headings and subheadings, as adopted and implemented by the Parties in their respective laws;

heading: the first four digits of the Harmonized System;

measures: any law, regulation, procedure, requirement, provision, or practice among other measures;

national: a natural person in accordance with Annex 2.01;

originating goods: goods that qualify as originating under the rules set out in Chapter 4 (Rules of Origin);

person: a natural person or an enterprise;

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

Party: the Republic of Panama or the Republic of China;

producer: a person who manufactures, produces, processes or assembles a good; or who cultivates, grows, breeds, mines, extracts, harvests, fishes, traps, gathers, collects, hunts or captures a good;

Secretariat: "Secretariat" as established in accordance with Article 18.03 (Secretariat);

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

subheading: the first six digits of the Harmonized System;

tariff reduction schedule: “tariff reduction schedule” as established in accordance with Annex 3.04 (Tariff Reduction Schedule);

territory: the terrestrial, maritime and air space of each Party as well as its exclusive economic zone and its continental shelf over which it exercises its sovereign rights and jurisdiction according to its domestic legislation and international law;

TRIPS: the Agreement on Trade-Related Aspects of Intellectual Property Rights, which forms part of the WTO Agreement;

Uniform Regulations: "Uniform Regulations" as established in accordance with Article 5.12 (Uniform Regulations); and

WTO Agreement: the Marrakesh Agreement Establishing the World Trade Organization (WTO) on April 15, 1994.

ANNEX 2.01
COUNTRY-SPECIFIC DEFINITIONS

For purposes of this Agreement, unless otherwise specified in other Chapters, it shall be understood as:

National:

in the case of Panama:

- (a) a Panamanian national by birth according to Article 9 of the Constitution of the Republic of Panama;
- (b) a Panamanian national by naturalization according to Article 10 of the Constitution of the Republic of Panama; or
- (c) a Panamanian national by adoption according to Article 11 of the Constitution of the Republic of Panama; and

in the case of the ROC:

- a person who has the nationality of the Republic of China by birth or naturalization according to Article 3 of the Constitution and Article 2 of the Nationality Law of the Republic of China.