

CHAPTER ONE

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A - Initial Provisions

Article 101: 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 102: 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 such Parties are party.

2.# In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

Article 103: Relation to Multilateral Environmental Agreements

In the event of any inconsistency between this Agreement and the specific trade obligations set out in the Multilateral Environmental Agreements (MEAs) referred to in Annex 103, such 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 104: 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 by the sub-national governments and authorities within its territory.

Section B - General Definitions

Article 105: Definitions of General Application

For purposes of this Agreement, unless otherwise specified:

Agreement on the Environment means the Agreement on the Environment between Canada and the Republic of Peru;

Commission means the Joint Commission established under Article 2001 (Joint Commission);

Coordinators means the Agreement Coordinators established under Article 2002 (Agreement Coordinators);

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;

Dispute Settlement Understanding (DSU) means the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes*;

enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any 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 any four-digit number, or the first four digits of any number, used in the nomenclature of the Harmonized System;

measure includes any 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 107, or is a permanent resident of a Party;

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;

preferential tariff treatment means the application of the respective duty rate under this Agreement pursuant to the tariff elimination schedule to an originating good;

sanitary or phytosanitary measure means any 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 any six-digit number, or the first six digits of any 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 the provisions of Annex 203.2;

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

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

Article 106: Reference to Other Agreements

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

Article 107: 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.

natural person who has the nationality of a Party means with respect to Peru, Peruvians by birth, naturalization or option in accordance with Articles 52 and 53 of the *Constitución Política del Perú*.

national government means:

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

sub-national government means:

- (a) with respect to Canada, provincial, territorial, or local governments;
and
- (b) with respect to Peru, regional or 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* of 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 Peru, the mainland territory, the islands, the maritime zones and the air space above them, over which Peru exercises sovereignty or sovereign rights and jurisdiction, in accordance with its domestic law and international law.

Annex 103

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; and
- (e) the *Stockholm Convention on Persistent Organic Pollutants*, done at Stockholm on 22 May 2001.