No. 24695

MEXICO
and
PERU

Agreement on economic complementarity (with annexes and appendices). Signed at Mexico City on 25 March 1987

Authentic text: Spanish.
Registered by Mexico on 27 April 1987.

MEXIQUE
et
PÉROU

Accord relatif à la complémentarité économique (avec annexes et appendices). Signé à Mexico le 25 mars 1987

Texte authentique : espagnol.
Enregistré par le Mexique le 27 avril 1987.

[TRANSLATION — TRADUCTION]

AGREEMENT[1] ON ECONOMIC COMPLEMENTARITY BETWEEN THE GOVERNMENT OF THE UNITED MEXICAN STATES AND THE GOVERNMENT OF THE REPUBLIC OF PERU

The Government of the United Mexican States and the Government of the Republic of Peru,

Inspired by the goal of strengthening regional integration;

Desiring to stimulate the individual and collective growth of the economies of both countries through actions designed to increase reciprocal trade and economic complementarity;

Aware that that requires a stable framework for trade and use of a variety of forms of trade;

Motivated by a common interest both in orienting their respective purchasing capabilities towards the acquisition of goods originating in their territories and in promoting the greatest possible usufruct of the Latin American market by regional producers;

Mindful of the need to encourage economic co-operation, investments and technological exchange;

Agree to sign an Agreement on Economic Complementarity, in accordance with the provisions of the Treaty of Montevideo of 1980[2] and Resolution 2 of the Council of Ministers of the Latin American Integration Association. This Agreement shall be governed by the aforementioned provisions and by the following provisions:

CHAPTER I. PURPOSE OF THE AGREEMENT

Article 1. The purpose of this Agreement is to:

(*a*) Intensify economic and trade relations between the signatory countries in the context of the integration process established by the Treaty of Montevideo of 1980;

(*b*) Increase to the greatest extent possible and to diversify reciprocal trade between the signatory countries, based on a reasonable equilibrium in the balance of trade taking into account both quantitative and qualitative factors;

(*c*) Facilitate the establishment of special programmes, such as countertrade programmes and programmes involving other forms of trade;

(*d*) Co-ordinate and complement economic activities, especially industrial activities and related technologies, improving production systems and scales of operation;

(*e*) Stimulate investment aimed at making the most of the signatory countries' markets and their capacity to compete in international trade; and

(*f*) Facilitate the establishment and operation of regional binational and multinational enterprises.

[1] Came into force on 25 March 1987 by signature, in accordance with article 34.
[2] United Nations, *Treaty Series*, vol. 1329, p. 225.

CHAPTER II. SCOPE OF APPLICATION

Article 2. This Agreement covers:

(*a*) Products included in annexes I and II, whose import shall be governed by the preferences and other conditions recorded in the aforesaid annexes; and

(*b*) Any product subject to the import tariffs of the signatory countries, namely the General Import Tax Schedule of the United Mexican States and the General Customs Tariffs of the Republic of Peru; imports of such products shall be governed by the provisions of the chapter on countertrade transactions.

Countertrade transactions may include products referred to in paragraphs (*a*) and (*b*).

CHAPTER III. LIBERALIZATION PROGRAMME

Article 3. The Liberalization Programme contained in this Agreement shall be achieved by the following means:

(*a*) Transactions covered by selective preferences negotiated between the signatory countries, which are shown in annexes I and II; and

(*b*) Transactions included in Countertrade Programmes.

Article 4. For the purposes of this Agreement, the term "levies" shall mean customs duties and any other equivalent charges of a fiscal, monetary or other nature which are imposed on imports. This definition does not include duties and charges relating to costs for services rendered.

The term "restrictions" shall mean any administrative, financial, foreign-exchange or other measure whereby a signatory country unilaterally impedes or hampers its imports. The foregoing does not apply to measures adopted regarding the situations referred to in article 50 of the Treaty of Montevideo of 1980.

Article 5. In the event of legislation or administrative regulations requiring import licences or permits, such licenses or permits shall be granted and delivered within no more than 20 working days.

Article 6. If measures adopted by the signatory countries are found to burden reciprocal trade, consultations shall be initiated at the request of the affected country for the purpose of resolving these problems. Such consultations shall be concluded within a period of no more than 20 working days counting from the date of the request by the affected country.

Article 7. The signatory countries condemn dumping and other unfair trade practices and agree that, should such practices be found to exist in the trade of negotiated products, that they are or could be harmful to domestic industry and should it be proved, in accordance with the national laws and regulations of the signatory countries, the signatory countries may, following consultation, take the corrective measures needed to eliminate them.

The signatory countries shall be informed immediately of such corrective measures.

Article 8. Implementation of the liberalization programme referred to in this chapter shall be based on an acceptable reciprocity of results and shall take into account that the Republic of Peru is a country that has attained an intermediate level of development in the region, in accordance with the provisions of Resolution 6 of the Council of Ministers of the countries of the Association.

First Section. CONCERNING TRANSACTIONS INVOLVING AGREED TARIFF PREFERENCES

Article 9. The tariff and other preferences granted by the signatory countries for the import of negotiated products originating in their respective territories are recorded in annexes I and II of this Agreement and are classified in accordance with the Tariff Nomenclature of the Association.

The preferences referred to in this article consist of percentage reductions *vis-à-vis* the levies in effect for third countries in their respective import tariffs.

Second Section. CONCERNING TRANSACTIONS INVOLVING COUNTERTRADE

Article 10. The signatory countries shall grant a 100 percent tariff preference for commercial transactions conducted under Countertrade Programmes.

Article 11. Countertrade Programme transactions shall be based on case-by-case negotiations, to be held every four months.

Lists shall be submitted; these shall be evaluated and authorized jointly by the signatory countries.

Article 12. The signatory countries shall approve transactions conducted under Countertrade Programmes covered by this Agreement within a period of 20 working days counting from the date on which they are submitted.

The signatory countries shall also provide the custom-houses of their respective territories with a list of approved transactions, which shall be exempt from all levies.

Third Section. MAINTENANCE OF AGREED PREFERENCES

Article 13. The signatory countries undertake to maintain the preference percentages selectively granted for the import of the negotiated products listed in annexes I and II, irrespective of their tariff levels for the import of products from third countries.

Article 14. If a signatory country changes the tariff level for imports from third countries of any negotiated product listed in annexes I and II, thereby altering the effectiveness of the agreed concession, it shall consult, when so requested, with the signatory countries that consider themselves to be affected, for the purpose of restoring the negotiated terms.

CHAPTER IV. RULES CONCERNING ORIGIN

Article 15. Until such time as the new LAIA rules concerning origin are approved, this Agreement on Economic Complementarity shall be governed by the existing LAIA rules, in accordance with annex III. Once they have been approved, the new rules shall automatically be considered a part of this Agreement. However, the foregoing shall not prevent the countries from agreeing on specific or sectoral requirements in addition to those established in the general rules.

CHAPTER V. SAFEGUARD CLAUSES

Article 16. The signatory countries adopt the regional safeguard regulations approved by the Council of Ministers at its third meeting.

Until such time as the Committee of Representatives approves the regional regulations for trade in agricultural products, the signatory countries shall apply their national regulations governing such trade.

CHAPTER VI. WITHDRAWAL OF CONCESSIONS

Article 17. The signatory countries may withdraw any preferences they may have granted for the import of the products negotiated in this Agreement, provided that, prior to so doing, they have applied safeguard clauses to the import of such products under the conditions stipulated in the preceding paragraph.

Article 18. Where a signatory country resorts to the withdrawal of concessions it shall initiate negotiations with the other signatory within 30 days counting from the date on which it informs the latter of its decision.

Article 19. Where a signatory country resorts to the withdrawal of a preference, it shall, by means of negotiations, grant compensation ensuring the maintenance of a value equivalent to that of the trade flows affected by the withdrawal.

If no agreement is reached regarding the compensation referred to in the preceding paragraph, the affected signatory may withdraw from the importing country concessions equivalent in value to those which the latter has withdrawn.

Article 20. The exclusion of a concession as a consequence of negotiations for the revision of this Agreement does not constitute unilateral withdrawal.

CHAPTER VII. DIFFERENTIAL TREATMENT

Article 21. This Agreement recognizes the principle of differential treatment established in the Treaty of Montevideo of 1980 and reiterated in Resolutions 1 and 2 of the Council of Ministers.

This principle shall also be taken into account in any amendments made to this Agreement under the terms of article 35.

Article 22. Should any signatory country grant equal or greater tariff preference, in respect of one of the products negotiated in this Agreement, to a non-signatory country that is more highly developed than the country benefiting from the preference, that preference shall be increased for the signatory country in such a way as to maintain a differential margin with respect to the more highly developed country, thereby preserving the effectiveness of the preference. The size of this differential margin shall be agreed upon through negotiations between the signatory countries; such negotiations shall begin within 30 days of the date of the complaint of the affected country and shall be concluded within 60 days of the aforesaid date.

Differential treatment may be restored, in any case, through negotiation on any other item of the Agreement, if it is not possible to agree on the tariff margin.

Should a non-signatory country in the same development category as the beneficiary of the preference be accorded more favourable treatment than that accorded to the latter, the signatory countries shall negotiate for the granting of equivalent treatment to the beneficiary within the time periods stipulated in the first paragraph of this article.

In the event that no agreement is reached through the negotiations stipulated in the preceding paragraphs, the signatory countries shall revise this Agreement in accordance with the terms of article 35.

Article 23. The provisions of articles 21 and 22 shall apply to the multilateral evaluation referred to in the third and sixth articles of Resolution 1 of the Council of Ministers and to any preferences which the signatory countries may grant to non-signatory countries following that evaluation.

The preceding paragraph notwithstanding, the signatory countries may revise the provisions referred to in articles 21 and 22 on the occasion of the revision of the Agreement.

CHAPTER VIII. RECIPROCITY

Article 24. Implementation of this Agreement shall be governed by the principles of balanced trade and equity of benefits resulting from its execution.

The domestic added value components of the traded goods shall be taken into account in evaluating balance and equity of benefits.

Article 25. The signatory countries shall evaluate the implementation of this Agreement every two years. If any imbalances and inequities of benefits are noted they shall be corrected through one or more of the following procedures:

(*a*) Establishment of more favourable conditions for the import of products included in the liberalization programme;

(*b*) Inclusion of new products in the aforementioned programme;

(*c*) Use of financial instruments and payment mechanisms that promote the import of products originating in the territory of the affected Party;

(*d*) Adoption, in accordance with the respective national regulations, of measures to encourage the purchase by government organizations of products originating in the territory of the affected Party; and

(*e*) Other procedures acceptable to the signatory countries.

CHAPTER IX. PETROLEUM AND PETROLEUM DERIVATIVES

Article 26. Trade in petroleum is exempt from the provisions of this Agreement and shall be governed by the relevant laws in force in the two signatory countries.

CHAPTER X. ECONOMIC CO-OPERATION

Article 27. Efforts to stimulate economic co-operation activities between the signatory countries shall take into account their respective national and sectoral development policies and plans, the objectives and programmes of the regional integration process and existing possibilities for complementarity, with a view to achieving a fair balance in bilateral relations reflecting the different degrees of development of their economies.

Article 28. The signatory countries shall support each other's trade promotion and dissemination programmes and efforts, and shall facilitate the activities of official and private missions and also the organization of fairs and exhibitions, information seminars, market research and other measures designed to take full advantage of the liberalization programme and of the opportunities provided by the agreed trade procedures.

Article 29. The Parties shall facilitate the adoption of measures to encourage co-ordination and complementarity of the industrial activities of both countries, to stimulate investment and the establishment of joint ventures, in order to meet the demands of signatories and third countries.

To that end, they shall do their utmost, within the framework of co-participation to encourage investments designed to promote economic complementarity in the public sector for the purpose of improving the production infrastructure, and in the private

sector, for the purpose of promoting operations that take the fullest advantage of the Parties' production factors and technological resources.

Article 30. For the purpose of facilitating trade and consolidating the integration process between the Parties, the two Governments shall do their utmost to improve mutual communications, especially with respect to the shipment of goods, by air and by sea.

Article 31. They shall also promote understandings among the respective authorities of the two countries for the purpose of co-ordinating actions to permit optimum and appropriate implementation of the LAIA Agreement on Reciprocal Payment and Credit, as well as the most efficient financing of trade resulting from this Agreement.

CHAPTER XI. CONVERGENCE

Article 32. On the occasion of the sessions of the Evaluation and Convergence Conference referred to in article 33 of the Treaty of Montevideo of 1980, the signatory countries shall study the possibility of gradual multilateralization of the treatments included in this Agreement.

CHAPTER XII. ADMINISTRATION OF THE AGREEMENT

Article 33. Administration of this Agreement is entrusted to a Commission to be composed of representatives of the International Affairs and Economic Negotiations Division of the Secretariat of Trade and Industrial Development, on behalf of Mexico, and of the Foreign Trade Institute of Peru, on behalf of Peru.

CHAPTER XIII. PERIOD OF VALIDITY

Article 34. The Agreement shall enter into force on 25 March 1987 and shall be of indefinite duration.

The preceding paragraph notwithstanding, any preferences which the signatory countries may grant each other shall be valid for a period of six years counting from the date on which the Agreement enters into force, and shall be renewable for further six-year periods, unless either Party denounces the Agreement in accordance with the procedures set forth in chapter XVI.

CHAPTER XIV. REVISION OF THE AGREEMENT

Article 35. With effect from the entry into force of this Agreement, the signatory countries may revise its provisions and preferences at any time at the request of either Party, for the primary purpose of adopting measures designed to increase and diversify reciprocal trade flows in a balanced fashion, and to include and exclude goods, in order to maintain the balance and equity of the Agreement.

The signatories to this Agreement may also agree upon any adjustments they may deem necessary to improve its operation and implementation.

Any amendments or adjustments made to this Agreement by virtue of this article shall be recorded in additional or revised protocols signed by duly accredited plenipotentiaries of the Governments of the signatory countries.

CHAPTER XV. ACCESSION

Article 36. This Agreement is open to accession by all the other member countries of the Latin American Integration Association following negotiation.

Once the terms of accession have been negotiated between the signatory countries and the acceding country, accession shall be formalized by the signing of an Additional Protocol to this Agreement; this Protocol shall enter into force 30 days following its deposit with the Secretariat of the Association.

CHAPTER XVI. DENUNCIATION

Article 37. Any signatory country wishing to denounce this Agreement must inform the other signatory country of its decision 180 days prior to depositing the respective denunciation instrument with the General Secretariat of LAIA.

Once such denunciation is finalized, the rights acquired and obligations assumed under this Agreement shall automatically cease to apply for the denouncing country, except in respect of the treatments conceded or granted for the import of the negotiated goods, which shall remain in force for a period of one year counting from the date of the deposit of the respective denunciation instrument unless, on the occasion of the denunciation, the signatory countries agree upon a different time period.

TRANSITIONAL PROVISIONS

The signatory countries shall immediately begin procedures for formalizing this Agreement on Economic Complementarity within the Latin American Integration Association (LAIA) in accordance with the provisions of the Treaty of Montevideo of 1980 and the resolutions of the Council of Ministers.

They shall also complete the formalities needed to render null and void Limited Scope Agreement No. 32, signed by both countries within the LAIA framework.

DONE at Mexico City on 25 March 1987, in three originals, in the Spanish language, all three texts being equally authentic.

For the Government
of the United Mexican States:

[*Signed*]

LUIS BRAVO AGUILERA

Assistant Secretary
for Foreign Trade

For the Government
of the Republic of Peru:

[*Signed*]

ENRIQUE CORNEJO RAMÍREZ

President
of the Foreign Trade Institute

ANNEX I. PREFERENCES GRANTED BY MEXICO FOR THE IMPORT OF NEGOTIATED PRODUCTS[1]

ANNEX II. PREFERENCES GRANTED BY PERU FOR THE IMPORT OF NEGOTIATED PRODUCTS[1]

ANNEX III. RULES CONCERNING ORIGIN

CHAPTER I. DETERMINATION OF ORIGIN

Article 1. The following shall be deemed to originate in the signatory countries:

(*a*) Products wholly manufactured or processed in the territory of either Party, provided that only materials originating in the countries of the signatories to this Agreement are used in such manufacture or processing;

(*b*) Products included under headings or subheadings of the Tariff Nomenclature of the Association which are shown in appendix 1 of this annex, solely by virtue of being produced in their respective territories;

The following are considered to be produced in the territory of a signatory country:

(i) Products of the mineral, vegetable and animal kingdoms, including products of hunting and fishing, extracted, harvested, or gathered, or born and raised, in its territory or in its territorial waters;

(ii) Products of the sea extracted outside its territorial waters by vessels flying its flag or by vessels chartered by businesses established in its territory; and

(iii) Products which have acquired the definitive form in which they will be marketed as a result of operations or processes carried out in its territory, save when the aforesaid processes or operations consist solely of the simple assembly, packaging, separation into lots or volumes, selection and classification, marking, assembly of assortments of goods or other equivalent operations or processes;

(*c*) Products manufactured or processed using materials that do not originate in the countries that are signatories to this Agreement, provided that they undergo processing in one of these countries and thereby acquire a new identity, as indicated by their classification in the Tariff Nomenclature of the Association under a heading different from that of the aforesaid materials.

However, products resulting from operations or processes carried out in the territory of a signatory country whereby they acquire the definitive form in which they will be marketed shall not be deemed to originate in that country when the said operations or processes use only materials or inputs that do not originate in the respective countries and consist solely of assembly, packaging, separation into lots or volumes, selection, classification, marking, assembly of assortments of goods or other equivalent operations or processes;

(*d*) Products resulting from assembly operations carried out in the territory of a signatory country using materials originating in the signatory countries and in third countries, provided that the value CIF port of destination or the value CIF seaport of the materials originating in third countries does not exceed 50 (fifty) per cent of the FOB value of the products; and

(*e*) Products which, in addition to being produced in its territory, meet the specific requirements set forth in appendix 2 of this annex.

Article 2. The signatory countries may jointly establish specific requirements in respect of origin for the classification of the negotiated products.

The specific requirements in respect of origin shall take precedence over the general criteria for determination of origin established in article 1 of this annex.

[1] Not published herein, pursuant to the provisions of article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.

Article 3. In determining the requirements in respect of origin referred to in article 2 above and in revising such requirements as have been established, the signatory countries shall base their decisions on, inter alia, one or more of the following elements:

I. Materials and other inputs used in production

(*a*) Raw materials:

(i) Predominant raw material, or raw material which gives the product its essential nature; and

(ii) Principal raw materials.

(*b*) Parts or pieces:

(i) Parts or pieces which give the product its essential nature;

(ii) Principal parts or pieces; and

(iii) Percentage of parts or pieces in relation to total weight

(*c*) Other inputs.

II. Processing or manufacturing processes used.

III. Maximum ratio of the value of materials imported from non-signatory countries to total product value, calculated according to the procedure agreed upon in each case.

Article 4. Either signatory country may request the revision of requirements in respect of origin established in accordance with article 1 of this annex. In its request, it shall propose, with supporting data, the requirements to be applied to the product or products in question.

Article 5. For the purposes of compliance with the requirements in respect of origin established under this Agreement, materials and other inputs that originate in the territory of one of the signatory countries and have been incorporated by another signatory country in the manufacture of a specific product shall be considered to have originated in the territory of the latter country.

Article 6. The criterion of maximum use of materials or other inputs originating in the signatory countries shall not be applied for determining requirements that involve the imposition of materials or other inputs from these countries if, in their opinion, such materials are not acceptable in terms of supply, quality and price.

Article 7. The term "materials" shall mean the raw materials, intermediate products and parts or pieces used in product manufacture.

CHAPTER II. DECLARATION AND CERTIFICATION

Article 8. For imports of products covered under this Agreement to benefit from the tax reductions and easing of restrictions granted each other by the signatory countries, the documentation concerning exports of such products shall include a statement attesting to compliance with the requirements in respect of origin established in accordance with the preceding chapter.

Article 9. The statement referred to in the preceding article shall be issued by the final producer or the exporter of the goods and certified by an official department or legally competent trade-association agency, authorized by the exporting signatory country.

Article 10. The standard form contained in appendix 3 shall be used in all cases, unless it is officially replaced by another form approved by the Association.

Article 11. Through the General Secretariat of the Association, each signatory country shall transmit to all the other signatory countries a list of the official departments and trade-association agencies authorized to provide the certification referred to in article 9, together with the corresponding authorized signatures.

When authorizing trade-association agencies, the signatory countries shall ensure that they are entities which existed prior to the entry into force of this Agreement, which operate under national jurisdiction and which are entitled to delegate powers to other regional or local entities, but remain responsible for the veracity of certifications.

Article 12. Any change that a signatory country may wish to introduce in the list of official departments or agencies authorized to issue certificates of origin and in the respective authorized signatures shall be communicated to all the other signatory countries through the General Secretariat of the Association. This change shall enter into force 30 days after the formulation of the aforementioned communication.

Article 13. Should a signatory country find that the certificate issued by an official department or trade-association agency authorized by the exporting country does not comply with the provisions of this Agreement, it shall so inform the aforementioned exporting country, which shall adopt whatever measures it may deem necessary to resolve the problems in question.

In no case shall the importing country stop the import process for the goods covered under the certificates referred to in the preceding paragraph. However, in addition to requesting the government authorities of the exporting country to furnish it with the relevant additional information, it may take whatever action it deems necessary to safeguard the interest of the tax authorities.

CHAPTER III. VERIFICATION

Article 14. Should a signatory country find an authorized agency or department to be in breach of the rules or requirements in force, it shall so inform the exporting signatory country.

Where action has not been taken to rectify such a situation, and should the violations be repeated, the signatory country considering itself affected, having notified the other country and provided it with the relevant information, shall have the right, 15 days after the date of notification, not to accept for any import purposes the certificates of origin issued by the agency in question.

Article 15. Any additional proof required in the situations referred to in article 13 may be supplied by the producer through the competent authority of his country, which authority shall transmit the information resulting from its investigation. Such information shall be confidential.

On receipt of the additional proof referred to in the preceding paragraph, the importing signatory country shall issue its decision thereon within no more than 90 days, counting from the date of receipt.

APPENDIX 1. PRODUCTS CONSIDERED AS ORIGINATING PRODUCTS PURELY BY VIRTUE OF THE FACT THAT THEY WERE PRODUCED IN THE TERRITORY OF THE SIGNATORY COUNTRIES (ANNEX III, ARTICLE 1 (*b*))[1]

APPENDIX 2. SPECIFIC REQUIREMENTS AS TO ORIGIN (ANNEX III, ARTICLE 1 (*e*))[1]

APPENDIX 3. CERTIFICATE OF ORIGIN[1]

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[1] Not published herein, pursuant to the provisions of article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.