No. 24616

MEXICO
and
NICARAGUA

Limited Scope Agreement (with annexes and appendix). Signed at Mexico City on 8 April 1985

Authentic text: Spanish.
Registered by Mexico on 4 February 1987.

MEXIQUE
et
NICARAGUA

Accord de portée partielle (avec annexes et appendice). Signé à Mexico le 8 avril 1985

Texte authentique : espagnol.
Enregistré par le Mexique le 4 février 1987.

[TRANSLATION — TRADUCTION]

LIMITED SCOPE AGREEMENT[1] BETWEEN THE UNITED MEXICAN STATES AND THE REPUBLIC OF NICARAGUA

The Plenipotentiaries of the United Mexican States and the Republic of Nicaragua, duly authorized by their respective Governments, as attested to by credentials presented in good and due form:

Considering

That the United Mexican States is a signatory to the Montevideo Treaty of 1980;[2] that reference is made, in Articles 7, 8 and 9 of the third section thereof, to limited scope agreements; and that Article 25 thereof provides that such agreements may be concluded with other countries not members of LAIA and economic integration areas of Latin America, and that the provisions in resolution 2 of the Council of Ministers establish the guidelines for such agreements;

That Nicaragua is an integral part of the Central American Common Market and that the conclusion of this Limited Scope Agreement does not violate the commitments entered into under the existing regional agreements;

That the conclusions of the second meeting of the Council of Ministers of the Latin American Integration Association take into account the recommendations of the Quito Plan of Action, approved at the Latin American Economic Conference (these recommendations deal with economic co-operation, the expansion and diversification of trade and the elimination of non-tariff restrictions, and approve the granting of preferences in accordance with the spirit of Latin American economic integration); and

That the Agreement on Co-operation between the Government of the United Mexican States and the Government of the Republic of Nicaragua recognizes the need of both countries to establish mechanisms to strengthen their public-and private-sector relations in the various areas of economic co-operation;

Agree to enter into this Limited Scope Agreement, which shall be governed by the following provisions:

CHAPTER I. PURPOSE OF THE AGREEMENT

Article 1. The purpose of this Agreement, concluded pursuant to Article 25 of the Montevideo Treaty of 1980, shall be to promote the Latin American integration process through the granting between the Parties of concessions which take into account the degree of economic development of the two Parties and which:

a) Strengthen and vitalize reciprocal trade flows;

b) Increase the proportion of trade in basic commodities and manufactured goods;

c) Reflect the special situation of certain goods of interest to the signatory countries; and

[1] Came into force on 12 August 1986 by the exchange of the instruments of ratification, which took place at Managua, in accordance with article 25.

[2] United Nations, *Treaty Series*, vol. 1329, p. 225.

d) Facilitate the adoption of whatever measures and actions are needed to energize the Latin American integration process; to that end, economic co-operation and complementarity shall be encouraged between the two countries.

CHAPTER II. TARIFF AND NON-TARIFF PREFERENCES

Article 2. The underlying principle of this Agreement shall be to grant preferences in respect of the levies and other restrictions imposed by the Parties on such imports negotiated under the Agreement as originate in and are imported from their respective territories.

Article 3. The term "levies" shall mean customs duties and any other equivalent charges imposed on imports. This definition shall not include duties and charges relating to approximate costs for services rendered.

Article 4. The term "restrictions" shall mean any non-tariff measure of any nature whereby either signatory country unilaterally impedes or hampers its imports from the other signatory country. The foregoing shall not apply to measures regarding the situations referred to in Article 50 of the Montevideo Treaty of 1980, or to measures of a general and non-discriminatory nature.

Article 5. The tariff preferences granted under this Agreement shall consist of percentage reductions, the amounts of which shall be applied to import tariffs applicable to third countries.

Article 6. Tariff preferences, the period of validity of concessions, quotas, legal regulations and other negotiated terms pertaining to goods originating in and imported from the territory of the Parties are recorded in Annex I of this Agreement.

CHAPTER III. MAINTENANCE OF AGREED PREFERENCES

Article 7. The signatory countries undertake to maintain the agreed preference percentages, irrespective of their tariff levels for the products concerned *vis-a-vis* third countries. They also agree not to adopt any measures that would render the concessions inoperative.

In the event of a change in tariffs for third countries, the import levy on products covered under this Agreement shall be adjusted automatically in order to maintain the agreed preference percentage.

Article 8. Should the change in the tariff for third countries alter the effectiveness of the concession, negotiations shall be initiated at the express request of the country affected, to restore its effectiveness.

CHAPTER IV. RULES CONCERNING ORIGIN

Article 9. The benefits deriving from the preferences granted under this Agreement shall apply to products originating in and exported from the territory of the Parties, in accordance with the provisions of Annex II.

Such products shall be covered by certificates of origin issued by public-sector organizations designated for that purpose by the Governments of the signatory countries.

Article 10. The Parties may establish specific requirements in respect of origin, based on percentages or other criteria.

Each Party concerned shall propose, with supporting data, the specific requirements which, in its opinion, should be applied to the products in question. Priority shall be given to establishing such requirements, for which purpose the Party shall collect information on the production conditions prevailing in the zone with respect to such products.

Article 11. If, in the production of such products, either Party uses imports originating in and imported from the other Party or from the member countries of the Central American Common Market and the Latin American Integration Association, these materials shall be considered domestic inputs.

CHAPTER V. SAFEGUARD CLAUSES

Article 12. The Parties reserve the right to apply, unilaterally and on a provisional basis, safeguard measures in respect of imports covered by this Agreement, where such imports cause, or threaten to cause, serious harm to certain productive activities. Implementation of such measures shall not entail any payment by the country applying the measures of compensation to the affected country.

Once the safeguards are in force, the Parties shall hold consultations with a view to ensuring that the measures adopted have the least possible effect on reciprocal trade flows.

Article 13. The safeguard measures referred to in article 12 may not be applied to products for which tariff preferences have been agreed upon either under quota conditions or for a period which expires before the revision of the Agreement.

Article 14. The signatory countries may, on a provisional and non-discriminatory basis, extend to the import of the negotiated products any general measures they may have taken for the purpose of correcting disequilibriums in their overall balance of payment.

The importing country shall advise its counterpart of measures applied by virtue of this provision, informing it of the situation encountered and of the reasons for applying those measures.

CHAPTER VI. EVALUATION AND REVISION

Article 15. Each year the Parties shall carry out a joint evaluation of the effectiveness of the Agreement in order to assess the results achieved and to make whatever adjustments they may deem advisable to meet its objectives.

For such purposes, they may, *inter alia*, take the following actions:

(*a*) Broaden the scope of the Agreement by including new products or by replacing existing ones;

(*b*) Grant new or greater tariff or trade preferences for the import of products covered under this Agreement; and

(*c*) Propose the maximum monetary amounts for certain products that the countries shall accept within the framework of preferential treatment.

Without prejudice to the foregoing and for the same purposes, the Parties may carry out, together and at any time whatever, adjustments they may deem necessary for improving implementation of this Agreement.

Article 16. Agreements deriving from the revision and the adjustments referred to in the preceding article shall be formalized through the signing of additional protocols.

CHAPTER VII. WITHDRAWAL OF PREFERENCES

Article 17. As long as this Agreement remains in effect, the agreed preferences may not be withdrawn.

Article 18. Discontinuance of a concession as a consequence of negotiations for the revision of this Agreement shall not constitute unilateral withdrawal. Similarly, elimination of agreed fixed-term or quota preferences shall not be deemed equivalent to withdrawal of concessions if their renewal has not been negotiated by the time the respective periods of validity expire.

CHAPTER VIII. EXTENSION OF AGREED PREFERENCES

Article 19. Tariff and trade preferences granted by Mexico under this Agreement shall automatically be extended to Bolivia, Ecuador and Paraguay, without compensation, irrespective of whether those countries have negotiated or acceded to the Agreement.

Article 20. The economically less developed countries of the Latin American Integration Association shall comply with the provisions of Chapter IV of this Agreement.

CHAPTER IX. TRADE PROMOTION

Article 21. In order to achieve the objectives of this Agreement as efficiently as possible, the Parties agree to work together with trade promotion organizations in both countries to grant each other the best possible facilities for promoting trade in their respective territories, such as the exchange of trade missions and delegations and the participation in fairs and exhibitions held in the territories of the signatory Parties.

CHAPTER X. ACCESSION

Article 22. This Agreement shall be open to signature by all the other member countries of the Association through negotiation.

Article 23. Once the signatory countries and the acceding country have negotiated the terms and conditions of accession, accession shall be formalized by the signing of an additional protocol; this protocol shall enter into force 30 days after it is deposited with the General Secretariat of the Association.

CHAPTER XI. CONVERGENCE

Article 24. On the occasion of the sessions of the Conference referred to in Article 33 of the Montevideo Treaty of 1980, Mexico shall conduct negotiations with all the other member countries of the Association for the purpose of achieving the gradual multilateralization of the preferences covered under this Agreement.

CHAPTER XII. PERIOD OF VALIDITY

Article 25. This Agreement shall remain in effect for a period of four years, renewable for further four-year periods, and shall enter into force on the date on which the instruments of ratification are exchanged; such exchange shall take place once the Contracting Parties have obtained the approval required by each in accordance with their respective constitutional procedures.

CHAPTER XIII. DENUNCIATION

Article 26. Once the initial four-year period of validity has expired, either Party may denounce this Agreement by notifying the other in writing 90 days in advance.

Once such denunciation is finalized, the rights acquired and obligations assumed under this Agreement shall automatically cease to apply for the denouncing Government, except in respect of the tariff preferences and other agreed treatments, which shall remain in force for a period of one year counting from the date on which the denunciation was finalized.

CHAPTER XIV. ADMINISTRATION OF THE AGREEMENT

Article 27. This Agreement shall be administered by an *ad hoc* Sub-Commission on Trade, established within the framework of the Joint Mexican-Nicaraguan Co-operation Commission under the terms of Article VII of the Bilateral Agreement on Co-operation of 28 October 1983[1] and chaired by representatives of the Secretariat of Trade and Industrial Development and by representatives appointed by the Government of Nicaragua.

The Sub-Commission shall have, *inter alia*, the following duties:

(*a*) To ensure implementation of the provisions of this Agreement;

(*b*) To recommend amendments to this Agreement to the Governments of the Parties;

(*c*) To recommend broadening the scope of the Agreement by including new products or replacing existing ones;

(*d*) To recommend the granting of additional or greater tariff or trade preferences for import of the products covered under this Agreement;

(*e*) To submit to the Governments of the signatory countries whatever recommendations it may deem advisable for settling disputes which may arise from the interpretation and application of this Agreement;

[1] United Nations, *Treaty Series*, vol. 1398, No. I-23381.

(*f*) To revise the requirements in respect of origin established under this Agreement and to propose the amendment thereof, as well as to set specific requirements in respect of origin;

(*g*) To recommend quotas whenever necessary.

The Sub-Commission shall be constituted within 90 days following the date of signature of the Agreement and shall establish its own rules of procedure.

IN WITNESS WHEREOF, the respective Plenipotentiaries do sign this Agreement at Mexico City on 8 April 1985, in duplicate, in the Spanish language, both texts being equally authentic.

For the Government
of the United Mexican States:

[*Signed*]

HÉCTOR HERNÁNDEZ CERVANTES
Secretary of Trade and Industrial
Development

For the Government
of the Republic of Nicaragua:

[*Signed*]

EDMUNDO JARQUÍN CALDERÓN
Ambassador

ANNEX 1[1]

PREFERENCES GRANTED BY MEXICO FOR THE IMPORT OF PRODUCTS ORIGINATING IN NICARAGUA

ANNEX 2

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

[1] Not reproduced 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.

(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 the 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.

Article 3. In determining the requirements in respect of origin referred to in article 2 of this annex 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;
      (ii) Principal raw materials.
   (*b*) Parts or pieces:
      (i) Part or piece which gives the product its essential nature;
      (ii) Principal parts or pieces;
      (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, CERTIFICATION AND VERIFICATION

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 exportng 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.

[APPENDIX 1]

CERTIFICATE OF ORIGIN

LATIN AMERICAN INTEGRATION ASSOCIATION

EXPORTING COUNTRY: UNITED MEXICAN STATES IMPORTING COUNTRY:

Sequence No.

(1) NABALALC Description of merchandise

STATEMENT OF ORIGIN

We state that the goods indicated on this form, corresponding to commercial invoice No. ....., comply with the origin requirements established in Agreement (2) ..... as shown in the following breakdown:

Sequence No. Requirements (3)

Date .....

Style, seal and signature of exporter or producer:

Comments: .....

.....

.....

CERTIFICATE OF ORIGIN

I certify the truth of this statement, which I seal and sign in the city of .....
on .....

.....
Name, seal and signature

NOTES

(1) This column shows the order in which the goods covered by this certificate are listed. If you need more space, continue the list on additional, correctly numbered copies of this form.

(2) Indicate whether the agreement is a regional or limited scope agreement. Specify the registration number in the parentheses.

(3) Indicate in this column the origin requirements met by each piece of merchandise, indicated by its sequence number.

No erasures, deletions or corrections are permitted on this form.