No. 24615

MEXICO
and
CUBA

Limited Scope Agreement (with annexes and appendices). Signed at Havana on 11 March 1985

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

MEXIQUE
et
CUBA

Accord de portée partielle (avec annexes et appendices). Signé à La Havane le 11 mars 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 CUBA

The Plenipotentiaries of the United Mexican States and the Republic of Cuba, duly authorized by their respective Governments, as attested to by credentials presented in good and due form, have agreed to enter into the present Limited Scope Agreement, on the basis of the Trade Agreement signed on 21 November 1984 in the City of Mexico.

Considering

(1) 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 the conclusions of limited scope agreements; and that Article 25 thereof provides that such agreements may be concluded with other countries and economic integration areas of Latin America; and that the provision in resolution 2 of the Council of Ministers establishes the guidelines for such agreements.

(2) 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).

CHAPTER I. PURPOSE OF THE AGREEMENT

Article 1. The purpose of this Agreement shall be to promote the Latin American integration process on the basis of the Montevideo Treaty of 1980 and, taking into account the degree of economic development of both Parties, to encourage the granting of concessions which:

(*a*) Strengthen and vitalize trade between the two countries;

(*b*) Increase to the greatest possible extent the proportion of trade in basic commodities and manufactured goods;

(*c*) Reflect, in so far as possible, the special situation of certain goods of interest to both countries;

(*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;

(*e*) Promote trade between the two countries at the highest level by reducing or eliminating levies and other import restrictions on products.

[1] Came into force on 28 May 1986 by the exchange of the instruments of ratification, which took place at Mexico City, in accordance with article 24.

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

CHAPTER II. TARIFF AND TRADE PREFERENCES

Article 2. The Parties agree to reduce or eliminate levies and other restrictions applied to the import of goods covered under this Agreement, in accordance with the standards set forth in this chapter.

The preferences granted may be of a permanent, temporary or seasonal nature, and may be subject to import quotas or applied to products under one or more headings of their respective tariff nomenclatures.

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

The term "restrictions" shall mean any non-tariff measure of any nature whereby either Party unilaterally impedes or hampers its imports from the other Party. The foregoing shall not apply to measures adopted regarding the situations referred to in article 50 of the Montevideo Treaty of 1980.

From the date of signature of this Agreement, the Parties agree not to introduce new non-tariff restrictions on imports from the other Party.

Article 4. Under this Agreement, tariff preferences shall consist of percentage reductions, the amounts of which shall be applied to import tariffs applicable to third countries.

Article 5. Non-tariff restrictions, tariff and trade preferences, the period of validity of concessions, agreed quotas and other negotiated terms pertaining to goods originating in and imported from the territory of the Parties are recorded in Annexes I and II of this Agreement.

CHAPTER III. MAINTENANCE OF AGREED PREFERENCES

Article 6. Both Parties undertake to maintain the agreed preference percentages, irrespective of their tariff levels for the products concerned *vis-à-vis* third countries. They also agree not to adopt any measures of equivalent impact.

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 7. 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 8. 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 III.

Such products shall be covered by certificates of origin issued by the authorized public authorities.

CHAPTER V. SAFEGUARD CLAUSE

Article 9. 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 10. The safeguard measures referred to in article 9 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 11. For the purpose of correcting disequilibriums in their overall balance of payments, the Parties reserve the right to apply, unilaterally and on a provisional, non-discriminatory basis, safeguard measures for the import of products covered under this Agreement.

The importing country resorting to the application of safeguards shall advise all the other signatories of measures applied by virtue of this provision, informing them of the situation encountered and of the reasons for applying those measures.

CHAPTER VI. EVALUATION AND REVISION

Article 12. With effect from the entry into force of this Agreement, the Parties shall carry out a joint evaluation of progress each year in order to assess the results achieved and to make whatever adjustments they may deem advisable for improving its implementation.

Article 13. However, the Parties may, at the request of either Party and at any time, carry out together whatever revisions they may deem necessary.

Article 14. Agreements deriving from the measures and adjustments referred to in the preceding articles shall be formalized through the signing of additional or revised protocols, which shall enter into force through exchange of notes between the two Foreign Ministries.

CHAPTER VII. WITHDRAWAL OF CONCESSIONS

Article 15. As long as this Agreement remains in effect, the agreed preferences may not be withdrawn.

Article 16. Elimination of agreed fixed-term preferences shall not constitute withdrawal, for the purposes of this Agreement, if steps have been taken to renew them by the time the respective periods of validity expire; similarly discontinuance of preferences resulting from negotiations for the revision of this Agreement referred to in Chapter VI above shall not be deemed equivalent to withdrawal of concessions.

CHAPTER VIII. EXTENSION OF AGREED PREFERENCES

Article 17. In accordance with article 25 of the Montevideo Treaty of 1980, 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 18. The economically less developed countries of the Latin American Integration Association shall comply with the provisions of Chapter IV of this Agreement.

CHAPTER IX. ACCESSION

Article 19. This Agreement shall be open to signature by all the other member countries of the Latin American Integration Association, through negotiation, in accordance with Resolution 2 of the LAIA Council of Ministers.

Article 20. 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 Latin American Integration Association.

CHAPTER X. CONVERGENCE

Article 21. On the occasion of the sessions of the conference referred to in Article 33 of the Montevideo Treaty of 1980, negotiations shall be conducted with all the other member countries of the Latin American Integration Association for the purpose of achieving the gradual multilateralization of the preferences covered under this Agreement.

CHAPTER XI. ADMINISTRATION OF THE AGREEMENT

Article 22. This Agreement shall be administered by the Working Group on Foreign Trade, established within the framework of the Joint Mexican-Cuban General Inter-Governmental Commission, validated by the Trade Agreement signed by the two Governments on 21 November 1984 and chaired by representatives of the Secretariat of Trade and Industrial Development of Mexico and the Ministry of Foreign Trade of the Republic of Cuba.

Article 23. For the purpose of monitoring this Agreement, the Working Group on Foreign Trade shall meet from time to time or at the request of either of the Contracting Parties, alternately at Mexico City and Havana, on the dates it deems appropriate; its duties shall include the following:

(*a*) To propose the inclusion of new products and the granting of greater preferences — or withdrawal of the same — for negotiated products;

(*b*) In the event of the withdrawal of concessions, it shall negotiate their replacement;

(*c*) To propose the maximum monetary amounts that the country shall accept within the framework of preferential treatment;

(*d*) To propose whatever solutions it may consider appropriate when reciprocal trade is not tending towards greater equilibrium;

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

(*f*) To review the requirements in respect of origin established in accordance with Chapter IV;

(*g*) To ensure implementation of the provisions of the Agreement;

(*h*) To analyse the general evolution of this Agreement.

CHAPTER XII. PERIOD OF VALIDITY

Article 24. This Agreement shall remain in effect for a period of four years, renewable for further four-year periods, and it 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 25. 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. FINAL PROVISIONS

Article 26. Mexico shall report annually to the Committee of Representatives of the countries of the Latin American Integration Association on the implementation and functioning of this Agreement, as well as on any amendment constituting a substantial change in the text thereof.

DONE in the city of Havana on 11 March 1985, in two originals, 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 Cuba:

[*Signed*]

RICARDO CABRISAS RUIZ
Minister of Foreign Trade

ANNEX 1[1]

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

ANNEX 2[1]

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

ANNEX 3

CHAPTER I. DETERMINATION OF ORIGIN

Article 1. For the purposes of this Agreement, the following products shall be deemed to originate with the Parties:

(*a*) Products wholly manufactured or processed in the territory of either Party, provided that only materials originating in their respective countries are used in such manufacture or processing.

(*b*) Products listed in the annex to this Agreement solely by virtue of being produced in their respective territories.

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

(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 the territory of either Party, save when the aforesaid processes and 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 their respective countries, provided that they undergo processing in one of these territories and thereby acquire a new identity as indicated by their classification in the Tariff Nomenclature under a heading different from that of the aforesaid materials, except in the case of simple mounting, division, bottling, assembly, packaging, selection, classification, marking, washing, easy mixing processes and other similar operations.

[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.

(*d*) Products resulting from assembly operations, carried out in the territory of one of the Parties using materials originating in its territory 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.

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

Article 3. In determining the requirements in respect of origin referred to in article 2 of this annex and in revising such requirement as have been established, the Parties 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 pieces 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 third countries to total product value, calculated according to the procedure agreed upon in each case.

Article 4. There may not be different requirements in respect of origin for a single product.

Article 5. Either Party 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 in question.

Article 6. 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 Parties or in the Latin American Integration Association and have been incorporated by the other Party in the manufacture of a specific product shall be considered to have originated in the territory of the other Party.

Article 7. The criterion of maximum use of materials or other inputs originating with the Parties or the Latin American Integration Association shall not be applied for determining requirements that involve the imposition of materials or other inputs from these countries if, in the opinion of the aforesaid countries, such materials are not acceptable in terms of supply, quality and price.

Article 8. The term "materials" shall mean the raw materials, intermediate products and parts or pieces used in manufacturing the products.

Article 9. The Parties may revise the established requirements in respect of origin for the purpose, *inter alia*, of meeting the following objectives:

(*a*) Adapting them to technological advances; and

(*b*) Adapting them to changes in production conditions.

CHAPTER II. DECLARATION, CERTIFICATION AND VERIFICATION

Article 10. For imports of products covered under this Agreement to benefit from the tax reductions and easing of restrictions granted each other by the Parties, the documentation concerning exports of such products shall include a statement or certificate of origin attesting to compliance with the official departments or agencies authorized to issue certificates of origin, and in the respective authorized signatures, shall be communicated to the other Party no less than three days in advance of the aforementioned amendment.

Article 11. In the case of the United Mexican States, 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 authorized for this purpose.

In the case of the Republic of Cuba, the certificate of origin referred to in the preceding article shall be issued, at the request of the producer or exporter of the goods, by the Chamber of Commerce of the Republic of Cuba in accordance with the official established model, and shall indicate the classification of the goods according to the Brussels Tariff Nomenclature.

Article 12. In the case of the United Mexican States, the standard form contained in Appendix 1 shall be used.

The Republic of Cuba shall use the official model established for this purpose, contained in Appendix 2.

Article 13. The two Parties shall transmit to each other in writing details of the official departments and trade associations authorized to issue the certification or certificate referred to in article 10, together with the list of corresponding authorized signatures.

Article 14. Any change that one of the Parties may wish to make in the list of official departments or associations authorized to issue certificates of origin, and in the respective authorized signatures, shall be communicated to the other Party no less than 30 days before the change comes into effect.

Article 15. Should one of the Parties find that the certificates issued by the official agency of the exporting country do not comply with the provisions of this Agreement, it shall so inform the other Party, which shall take whatever measures it may deem necessary to resolve the problems in question.

APPENDIX 1. CERTIFICATE OF ORIGIN

Committee of Representatives ALADI Latin American Integration Association

SOLE FORM FOR CERTIFICATION OF ORIGIN OF NEGOTIATED GOODS

ALADI/CR/Acuerdo 25
15 de setiembre de 1983

AGREEMENT 25

The Committee of Representatives,

Aware of the need to adopt a common form for the certification of origin of goods negotiated in the regional and limited scope agreements of the member countries of the Association,

Agrees:

1. To adopt the form annexed to this Agreement for the certification of origin of negotiated goods.

The format shall be international format ISO/A4 (210 × 297 mm).

2. The member countries of the Association shall take whatever steps they deem necessary to introduce the above-mentioned form by 1 January 1984 at the latest.

CERTIFICATE OF ORIGIN
LATIN AMERICAN INTEGRATION ASSOCIATION

EXPORTING COUNTRY: 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 the Agreement (2) ....., 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.

APPENDIX 2. CERTIFICATE OF ORIGIN[1]

[1] See p. 114 of this volume.