

No. 26129

**MEXICO
and
GUATEMALA**

Partial Scope Agreement (with annex). Signed at Guatemala City on 4 September 1984

Protocol amending the above-mentioned Agreement (with annex). Signed at Mexico City on 25 August 1987

Second Protocol amending the above-mentioned Agreement of 4 September 1984 (with annex). Signed at Cancún on 25 March 1988

Authentic texts: Spanish.

Registered by Mexico on 31 August 1988.

[TRANSLATION — TRADUCTION]

PARTIAL AGREEMENT¹ BETWEEN THE UNITED MEXICAN STATES AND THE REPUBLIC OF GUATEMALA

The Plenipotentiaries of the United Mexican States and the Republic of Guatemala, duly authorized by their respective Governments as witnessed by the credentials presented in good and due form, have agreed to conclude this Partial Agreement,

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 partial 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 provisions in Resolution 2 of the Council of Ministers establish the guidelines for such agreements;

2. That Guatemala forms part of the Central American common market and that the conclusion of this Partial Agreement does not contravene the obligations assumed under the regional agreements in force;

3. That the conclusions of the Second Meeting of the Council of Ministers of the Latin American Integration Association took into account the recommendations of the Quito Plan of Action, adopted during the Latin American Economic Conference, concerning economic cooperation trade expansion and diversification and the removal of non-tariff barriers, the Parties have agreed to grant preferences which are in the spirit of Latin American economic integration.

CHAPTER I. PURPOSE OF THE AGREEMENT

Article 1. Having regard to the level of economic development of both Parties, the purpose of this Agreement shall be to promote the Latin American integration process, pursuant to the provisions of the Montevideo Treaty of 1980, and to grant concessions conducive to:

- (a) Enhancing and increasing trade flows between the two countries;
- (b) Promoting, to the greatest possible extent, the role of raw materials and manufactured goods in such trade;
- (c) Taking into consideration, to the extent possible, the special situation of some products which are of interest to the signatory countries; and
- (d) Adopting and furthering the requisite measures to enhance the Latin American integration process; to that end, economic cooperation and follow-up activities shall be developed between the two countries.

CHAPTER II. TARIFF AND NON-TARIFF PREFERENCES

Article 2. The underlying principle of the Agreement shall be to grant preferences in respect of the levies and other restrictions imposed by the Parties

¹ Came into force provisionally on 4 September 1984, the date of signature, and definitively on 7 June 1985 by the exchange of the instruments of ratification, in accordance with article 23.

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

on such imports negotiated under the Agreement as originate in and are imported from their respective territories.

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

Article 3. The term “levies” shall mean customs duties and any other equivalent charges which are 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 whereby either signatory country unilaterally impedes or hampers its imports from the other signatory country. The foregoing shall not apply to measures adopted 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 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. Where products originating in and imported from the territory of the Parties are concerned, the non-tariff restrictions, the tariff preferences granted, the period of validity of concessions, the import quotas agreed upon, and any other terms pertaining to the transaction shall be recorded in annex I forming part of this Agreement.

CHAPTER III. MAINTENANCE OF AGREED PREFERENCES

Article 6. The signatory countries undertake to maintain the percentage preferences agreed upon, irrespective of their tariff levels for the products concerned *vis-à-vis* third countries, and not to adopt any measure having equivalent effects.

Should the tariffs *vis-à-vis* third countries be changed, the levy imposed on the importation of the products covered by this Agreement shall be automatically adjusted so as to maintain the percentage preference agreed upon.

Article 7. If changing the tariff *vis-à-vis* third countries impairs the effectiveness of the concession, negotiations to restore its effectiveness shall be initiated at the express request of the country concerned.

CHAPTER IV. RULES CONCERNING ORIGIN

Article 8. The benefits deriving from the preferences granted in the annexes to this Agreement shall apply only to products originating in and exported from the territory of the Parties, whose products shall be covered by the relevant certificates of origin.

In the case of Guatemala, such certificates shall be issued by the Domestic and Foreign Trade Office of the Ministry of Economic Affairs.

Article 9. For the purposes of the foregoing article, the Parties agree to adopt the rules concerning origin set forth in Resolutions 82 (III), 83 (III) and 84 (III) of the Latin American Free Trade Association (LAFTA) now in force in the Latin American Integration Association (LAIA).

Notwithstanding the provisions of the foregoing article, the Parties may establish specific requirements, in respect of origin, based on percentage or other

criteria, such as those set forth in the General Treaty on Central American Economic Integration.¹

Should either Party use inputs originating in and imported from the other Party in its production, such inputs shall be regarded as national inputs.

Article 10. Products imported from any country by either signatory country shall not be re-exported to another signatory country unless the Parties have agreed otherwise.

CHAPTER V. SAFEGUARD CLAUSES

Article 11. 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 damage to certain productive activities. Implementation of such measures shall not entail any payment of compensation by the implementing country to the country affected.

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

Article 12. The Parties reserve the right to apply, unilaterally and on a provisional and non-discriminatory basis, safeguard measures in respect of imports covered by this Agreement, with a view to rectifying imbalances in their overall balance of payments.

The importing country which has recourse to the application of safeguard measures shall inform the other signatory countries of the steps taken under this provision, bringing to their attention the situation which has arisen and the reasons for the measures.

CHAPTER VI. EVALUATION AND REVISION

Article 13. 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 the two Parties may deem advisable for improving its implementation.

Article 14. Notwithstanding the above, the Parties may, at the request of either Party and at any time, carry out together whatever adjustments may be necessary for improving the implementation of this Agreement.

Article 15. The agreements deriving from the measures and adjustments referred to in the preceding articles shall be finalized through the signing of additional protocols or amendments, which shall enter into force by means of an exchange of notes between the respective Ministries of Foreign Affairs.

CHAPTER VII. WITHDRAWAL OF CONCESSIONS

Article 16. During the period of validity of this Agreement, the preferences agreed upon may not be withdrawn.

Article 17. The dropping of preferences agreed upon for a fixed term, if they have not been renewed by the time their respective periods of validity expire, and

¹ United Nations, *Treaty Series*, vol. 455, p. 3.

denial of preferences, which may occur during the course of the negotiations on revision referred to in chapter VI of this Agreement, shall not be considered to be withdrawn for purposes of this Agreement.

CHAPTER VIII. EXTENSION OF THE PREFERENCES AGREED UPON

Article 18. The preferences granted by Mexico under this Agreement shall automatically be extended to Bolivia, Ecuador and Paraguay, without compensation being granted, regardless of any negotiations or accession thereto, in accordance with the provisions of article 25 of the Montevideo Treaty of 1980.

Article 19. Countries at a relatively less advanced stage of economic development which are members of the Latin American Integration Association shall comply with the provisions of chapter IV of this Agreement.

CHAPTER IX. ACCESSION

Article 20. This Agreement shall be open to accession, through negotiations, by the other member countries of the Latin American Integration Association, in accordance with the provisions of Resolution 2 of the Council of Ministers.

Article 21. Once the terms and conditions of accession have been negotiated by the signatory countries and the acceding country, accession shall be finalized through the signing of an additional protocol, which shall enter into force 30 days after its deposit with the General Secretariat of the Association.

CHAPTER X. MULTILATERALIZATION

Article 22. On the occasion of the Conferences referred to in article 33 of the Montevideo Treaty of 1980, efforts shall be made to hold negotiations with the other member countries of the Association, with a view to the progressive multilateralization of the preferences covered by this Agreement.

CHAPTER XI. PERIOD OF VALIDITY

Article 23. This Agreement, which shall be concluded for four years, shall apply provisionally from the date of its signature and shall definitively enter into force on the date on which the instruments of ratification are exchanged, i.e., after the Contracting Parties have obtained the approval which each of them requires in accordance with their respective constitutional procedures.

CHAPTER XII. TERMINATION

Article 24. Either Party may terminate this Agreement by notifying the other Parties 90 days in advance.

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

CHAPTER XIII. ADMINISTRATION OF THE AGREEMENT

Article 25. In order to ensure the optimum implementation of this Agreement, the Parties agree to establish a Joint Trade Commission, composed of representatives of the Department of Trade and Industrial Development of Mexico and the Ministry of Economic Affairs of Guatemala.

The Commission shall be constituted within 30 days following the date of signature and shall establish its own rules of procedure.

The Commission shall have the following functions, *inter alia*:

- (a) To ensure implementation of the provisions of this Agreement;
- (b) To recommend to the Governments of the Parties amendments to this Agreement;
- (c) 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;
- (d) To propose and revise the requirements in respect of origin which are provided for in this Agreement, and to propose amendments thereto;
- (e) To establish specific requirements in respect of origin;
- (f) To submit to the Parties a periodic report on the assessment and implementation of this Agreement.

CHAPTER XIV. FINAL PROVISIONS

Article 26. Mexico shall report each year to the Committee of Representatives of the member countries of the Latin American Integration Association concerning the implementation of this Agreement and any amendment which may require a substantial change in its text.

Article 27. For its part, Guatemala shall report to the Permanent Secretariat of the General Treaty on Central American Economic Integration concerning the implementation of this Agreement and the amendments thereto.

DONE at Guatemala City, Guatemala, on 4 September 1984, 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 Guatemala:

[Signed]

LEONEL HERNÁNDEZ CARDONA
Minister of Economic Affairs

ANNEX I¹

PREFERENCES GRANTED BY MEXICO FOR THE IMPORTATION OF PRODUCTS ORIGINATING IN AND IMPORTED FROM GUATEMALA

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.

PROTOCOL¹ AMENDING THE PARTIAL AGREEMENT BETWEEN
THE UNITED MEXICAN STATES AND THE REPUBLIC OF
GUATEMALA²

SECOND PROTOCOL³ AMENDING THE PARTIAL AGREEMENT
BETWEEN THE UNITED MEXICAN STATES AND THE RE-
PUBLIC OF GUATEMALA²

¹ Came into force on 25 August 1987 by signature.

² 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.

³ Came into force on 25 March 1988 by signature.