

TREATY ON FREE TRADE AND PREFERENTIAL TRADE PRACTICES BETWEEN THE REPUBLICS OF PANAMA AND COSTA RICA

[TRANSLATION]

The governments of the Republics of Panama and Costa Rica, desirous of strengthening the long-standing ties of fraternal friendship between the two countries and sharing the view that there is a need to broaden their markets, increase output in a way that will best promote trade between them while creating shared economic benefits and ensuring as far as possible that the scope of those benefits is similar for both in order to best foster their active, voluntary and ongoing participation and to improve the standard of living and employment opportunities of their peoples, have decided to enter into this Treaty on Free Trade and Preferential Trade Practices.

Article 1

The Contracting Parties agree to continue the free trade and preferential trade practices system established by the treaty they signed on 2 August 1961 and extended through the Protocol of 22 June 1972, in accordance with the provisions that follow. They also agree to take measures to regulate the movement and transport of goods between the two countries.

Article 2

The natural or manufactured goods originating in the respective territories of the Contracting Parties that figure in the lists annexed to this Treaty, or that are added to such lists in the future, shall be freely traded, enjoy preferential treatment or be subject to quantitative controls. Products that are merely assembled, packed, packaged, mixed, cut or diluted in the exporting country shall not be considered to originate there. Notwithstanding, whenever any doubt arises concerning the origin of a good and that doubt cannot be resolved bilaterally, the Joint Standing Committee (JSC) established through later provisions of this Treaty will be charged with making a final determination.

The lists annexed to this treaty and any additions or modifications to them shall be considered parts of the Treaty and shall be duly classified with seven digit code numbers in accordance with the tariff classifications officially used by both countries.

Article 3

Goods coming under the free trade system will be exempt from all import and export duties.

Article 4

Goods traded under the preferential trade system shall be subject to only a percentage of the customs duties established in the countries' respective general tariffs. The exact percentage shall be specified in the lists annexed to this Treaty and in any additions to them. Any preferential treatment must be established on a product by product basis.

Article 5

Goods traded under either the free trade or preferential trade system shall be exempt from consular duties and any other taxes, surcharges or fees attached to the act of importing or exporting or that is levied on imports or exports.

Article 6

The exemptions mentioned in the preceding articles do not include fees or duties for barge transport, docking, storage and handling of goods, or any other such fees that are legally payable for port, storage, security, transport or similar services.

Article 7

The Parties agree to review the trade situation every two years through the JSC, which will examine the evolution of trade over the previous biennium, evaluate the results of the system established by the Treaty and review the lists so that, if necessary, any measures needed to increase reciprocal trade or to ensure compliance with the spirit of equity at the heart of the Treaty can be instituted.

Article 8

A Contracting Party wanting to add one or more products to the lists mentioned in Article 3, or wanting to modify preferential treatment previously agreed upon, shall present a written request to the other Party at least thirty days before the matter is to be taken up by the JSC. If the Committee accepts the request, it shall inform the governments of the products to be added to the lists or of the modification in preferential treatment. Such addition or modification will enter into force after the corresponding exchange of notes between the Ministries of Foreign Affairs has been verified.

Article 9

When one of the Signatory States finds serious problems of competition for a specific enterprise or branch of industry, it shall submit the matter to the JSC for consideration. The JSC may agree to impose quantitative measures or modify those already existing for goods included on the list, or it may delete the items in question from the list.

Such changes will take effect as of the date established by the JSC.

Upon the request of one of the Contracting Parties, the JSC shall meet within a period of 30 calendar days to rule on the adoption of the measures referred to in this article. If the Committee does not meet within that period, the requesting Party shall take it that it was not possible to reach an agreement and can impose unilateral measures.

If the JSC should meet but not reach agreement, the affected Party may resort to provisional measures, such as suspension of free trade for the good in question or the establishment of a quota or other restriction, until such time as the JSC takes pertinent action.

In the case of a suspension of free trade, the suspension shall enter into force one year after it has been announced.

Quotas or other restrictions shall enter into force 60 calendar days after the date on which they were announced. Such measures shall in no way move toward eliminating trade that is being carried out between the Parties.

Article 10

Products originating in the territory of one of the Contracting Parties and deposited in a duty-free zone located in the territory of the other Party will be treated according to the regime figuring in the lists referred to in Article 3 once their admission to the customs area of the importing country is final.

Article 11

A customs form signed by the exporter must accompany goods traded under the provisions of this Treaty. Said form must include a declaration of origin and will be subject to examination and approval by customs officials of both countries.

Article 12

With the exception stated in Article 13, the natural goods or manufactured products originating in the territory of one Signatory State shall be treated as domestic goods in the territory of the other for purposes of national or municipal taxes and fees on production, sale, trade or consumption. They shall not be subjected to any kind of quantitative measures except for health, security or law enforcement controls applicable in the territories of the Contracting Parties.

In regard to domestic taxes already existing or that may be imposed in the future on specific goods not produced in the importing country, efforts will be made to ensure that such taxes do not become de facto import duties that tend toward eliminating trade. In such cases, the importing country should impose the same tax for at least the same amount on similar imported goods originating in third countries.

Article 13

The participation of the Republic of Panama in this Treaty is subject to the condition that the Treaty will apply to all the territory of the Republic of Panama except for those land and water-covered areas that the Republic of Panama has placed under the jurisdiction of the United States of America for the effective periods of treaties and conventions signed with that country for the construction, maintenance and cleaning, running and protection of the Panama Canal.

Article 14

The Contracting Parties agree not to grant, through a most favored nation clause, the concessions they grant to each other through this Treaty now or in the future to third countries from outside Central America with whom they may sign trade treaties or conventions.

Article 15

Given that unfair trade practices go against the very purpose of this Treaty, each Contracting Parties shall use the legal means at its disposal to keep goods from being exported at a price below normal value. The purpose of this is to avoid distorting production and commerce in the importing country.

When either of the Contracting Parties believes there is evidence of unfair practices, it shall submit the case to the JSC for consideration. Within five days of receiving such a request, the JSC shall give a ruling or authorize a temporary suspension of the Free Trade or Preferential Treatment regime, as appropriate. In the latter case, trade would be allowed only after a security deposit equal to the customs duties in effect in the pertinent general tariff is made. Suspension will be granted for a maximum of 30 days. During that period the JSC will have to resolve the question. If a country receives no initial decision from the JSC in the five days mentioned above, it may proceed to demand the above-mentioned security deposit. If the JSC rules that unfair trade practices do in fact exist, the affected Party will be entitled to the security deposit and moreover can charge the relevant customs duties retroactively to one month prior to the date on which it lodged the complaint.

If the unfair trade practice continues, the duties set in the pertinent tariff go on being charged.

Article 16

The Contracting Parties agree to provide the facilities needed to ensure that present and future trade between them can be carried out smoothly and discriminatory practices of an administrative or customs nature are avoided.

Article 17

To facilitate trade growing out of this Treaty and to improve competitiveness between the two countries, the Contracting Parties shall appropriately establish any mechanisms needed to achieve full use of financial, transport, storage and duty-free zone facilities. They shall also implement a payment clearance system.

Article 18

If one of the Parties modifies its exchange system, it shall notify the other Party as expeditiously as possible.

If one of the Parties believes that an enterprise or branch of industry is affected by such measures, it shall so inform the JSC so that pertinent measures to correct the situation may be adopted. Such corrective measures can be provisional and shall never go beyond what is strictly necessary to re-establish the competitive relationship that existed prior to the implementation of the exchange measures.

Article 19

Each Signatory State shall grant full freedom of transit through its territory for goods going to or coming from the other State. Such transit shall not be subject to any discrimination or quantitative restriction.

When faced with freight back up or situations of force majeure, the Contracting Parties will provide equitable treatment for the movement of goods to its own population and to goods in transit to the other State.

Transit operations will be effected through the legally approved channels and be subject to the laws and customs regulations in effect in the transit territory. Nonetheless, efforts will be made to streamline procedures for goods in transit.

Goods in transit, wherever they are going and even if not included in the free trade and preferential treatment agreement, will be exempted from payment of any kind of duties, taxes or national and municipal fees. They will, however, be subject to fees for services and to compliance with all health, security and law enforcement requirements.

Article 20

The Signatory States commit to improving their communications systems as far as possible in order to facilitate and increase traffic between them. They also agree to negotiate the levelling of transport rates between their respective territories and related legal and regulatory provisions.

Article 21

Commercial and private seagoing vessels and airplanes of one Contracting Party shall receive the same treatment as domestic ships and airplanes in the ports and airports of the other Party. In like manner, any land vehicles registered in one of the Signatory States shall receive equal treatment in the territory of the other.

Cabotage vessels will also receive equal treatment in ports of both Parties. Presentation of the bill of lading by the ship's captain shall be sufficient for customs purposes and a visa issued by a consulate will not be required.

Article 22

The stipulations of Article 21 do not imply that the registration and control procedures that a country has in place regarding the entry, circulation, stay or exit of ships, air planes and vehicles for health, security, law enforcement and protection of public interest reasons need not be complied with. Equally it does not imply that air planes have the right to make commercial stopovers without the corresponding authorization and it in no way affects Article VII of the Chicago Convention on International Civil Aviation.

Article 23

This Treaty and any regulations growing out of it will be administered by a Joint Standing Committee (JSC) made up of the Ministers of Industry and Commerce or their representatives and any advisors from the public and private sectors that the Contracting Parties may name. Decisions of the JSC shall be binding on the Signatory States.

Article 24

The Joint Standing Committee shall have the following powers and duties:

To approve the lists of goods to be put under the free trade regime and any additions to them;

To approve the lists and percentages for goods subject to preferential tariffs, and any additions or changes to them;

To examine and approve import quotas or controls and other quantitative measures for products that benefit from the free trade regime or preferential tariffs;

To study and resolve any problems and conflicts related to the implementation of this treaty and any unfair trade practices that may affect the trade regime established by the treaty;

To propose to the Signatory States: (1) modifications to or broadening of the treaty; (2) adaptation of the Rules of Procedure signed on 12 October 1969 to bring them into line with this treaty;

To meet whenever convened by one of the Parties, but to meet on its own every two years in accordance with the provisions of Article 7;

To set the criteria and standards to be used for determining the origin of goods;

To recommend ways to promote joint investments in order to develop new activities of special interest to both countries. It should also foster complementary industries agreements to facilitate and increase reciprocal trade;

To enact within 120 days of this treaty entering into force the Rules of Procedure that will govern its own organization and work;

To carry out any functions, tasks and studies assigned to it by the Signatory States, as well as those emanating directly from this treaty.

Article 25

The Signatory States agree to resolve any differences that may come up regarding the interpretation or implementation of any of the clauses of this treaty within the spirit of the treaty and in accordance with the provisions of its Rules of Procedure.

If they do not reach an agreement through the steps set out in the Rules of Procedure, the Contracting Parties agree to name an Arbitration Board and accept its ruling. While waiting for such a ruling, the matter in dispute will be put on hold for all effects and purposes.

Article 26

This treaty will enter into force upon the exchange of the instruments of ratification and will remain in force until renounced by one of the Signatory States. Renunciation will take effect three years after it is declared.

Article 27

The Signatory States agree to review this treaty every five years.

Article 28

This Treaty will be submitted for ratification in accordance with the procedures existing in each of the Signatory States. The instruments of ratification shall be exchanged in Panama City, Republic of Panama, and a certified copy will be sent to the General Secretariat of the United Nations for registration, as stipulated in Article 102 of the United Nations Charter.

Article 29

The lists of goods in force between the countries by virtue of the treaty signed on 22 August 1961 and extended by the Protocol of 22 June 1972 shall be part of the treaty as of the exchange of the instruments of ratification referred to in Article 28.

Nonetheless, some goods are hereby provisionally added to the list subject to the free trade regime and others are to be subject to provisional quotas equal to the average level of imports in 1971 and 1972. Within a reasonable period of time, the JSC will decide upon the definitive treatment of said goods.

GOODS TO BE SUBJECTED TO THE PROVISIONAL TRADE REGIME:

To be included provisionally in the free trade regime:

- Orange and lemon pulp
- Tuna and shrimp nets
- Trunks, suitcases and small cases
- Steel posts
- Cast aluminium and aluminium sheet and accessories
- Everyday candles and all classes of ornamental, special, votive and liturgical candles

Provisional quotas in both directions equal the average trade levels of 1971 and 1972:

- Fluorescent lamps
- Polyurethane foam
- Yeast

The respective Plenipotentiaries hereby sign this treaty, in two exact copies, in Panama City on the eighth day of June, Nineteen Hundred and Seventy Three (8 June 1973).