

PART TWO
TRADE IN GOODS

Chapter Three

National Treatment and Market Access for Goods

Subchapter A - National Treatment

Article 301: National Treatment

1. Each Party shall accord national treatment to the goods of another Party in accordance with Article III of the General Agreement on Tariffs and Trade (GATT), including its interpretative notes, and to this end Article III of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this Agreement.

2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a province or state, treatment no less favorable than the most favorable treatment accorded by such province or state to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part.

3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 301.3.

Subchapter B - Tariffs

Article 302: Tariff Elimination

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule set out in Annex 302.2 or as otherwise indicated in Annex 300-B.

3. At the request of any Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules. An agreement between any two or more Parties to accelerate the elimination of a customs duty on a good shall supersede any prior inconsistent duty rate or staging category in their Schedules for such good when approved by each such Party in accordance with Article 2202(2) (Amendments).

Article 303: Restriction on Drawback and Duty Deferral Programs

1. Except as otherwise provided in this Article, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its

territory that is:

- (a) subsequently exported to the territory of another Party,
- (b) used as a material in the production of another good that is subsequently exported to the territory of another Party, or
- (c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party,

in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory, or the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

2. No Party may, by reason of an exportation described in paragraph 1, refund, waive or reduce:

- (a) an antidumping or countervailing duty that is applied pursuant to a Party's domestic law and that is not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters);
- (b) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;
- (c) a fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture); or
- (d) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party.

3. Where a good is imported into the territory of a Party pursuant to a duty deferral program and is subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, the Party from whose territory the good is exported:

- (a) shall assess the customs duties as if the exported good had been withdrawn for domestic consumption; and
- (b) may waive or reduce such customs duties to the extent permitted under paragraph 1.

4. In determining the amount of customs duties that may be refunded, waived or reduced pursuant to paragraph 1 on a good imported into its territory, each Party shall require presentation of satisfactory evidence of the amount of customs duties paid to another Party on the good that has been

subsequently exported to the territory of that other Party.

5. Where satisfactory evidence of the customs duties paid to the Party to which a good is subsequently exported under a duty deferral program described in paragraph 3 is not presented within 60 days after the date of exportation, the Party from whose territory the good was exported:

(a) shall collect customs duties as if the exported good had been withdrawn for domestic consumption; and

(b) may refund such customs duties to the extent permitted under paragraph 1 upon the timely presentation of such evidence under the laws and regulations of the Party.

6. This Article shall not apply to:

(a) a good entered under bond for transportation and exportation to the territory of another Party;

(b) a good exported to the territory of another Party in the same condition as when imported into the territory of the Party from which the good was exported (processes such as testing, cleaning, repacking or inspecting the good, or preserving it in its same condition, shall not be considered to change a good's condition). Where originating and non-originating fungible goods are commingled and exported in the same form, the origin of the good may be determined on the basis of the inventory methods provided for in the Uniform Regulations;

(c) a good imported into the territory of the Party that is deemed to be exported from the territory of a Party, or used as a material in the production of another good that is deemed to be exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is deemed to be exported to the territory of another Party, by reason of

(i) delivery to a duty-free shop,

(ii) delivery for ship's stores or supplies for ships or aircraft, or

(iii) delivery for use in joint undertakings of two more of the Parties and that will subsequently become the property of the Party into whose territory the good was imported;

(d) a refund of customs duties by a Party on a particular good imported into its territory and subsequently exported to the territory of another Party, where that refund is granted by reason of the failure of such good to conform to sample or specification, or by reason of the shipment of such good without the consent of the consignee;

(e) a dutiable originating good that is imported into the territory of a Party and is subsequently exported to the territory of another Party, or used as a material in the production of another good that is subsequently

exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party; or

(f) a good set out in Annex 303.6.

7. This Article shall apply as of the date set out in each Party's section of Annex 303.7.

8. Notwithstanding any other provision of this Article and except as specifically provided in Annex 303.8, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a non-originating good provided for under tariff provision 8540.xx (cathode-ray color television picture tubes, including video monitor tubes, with a diagonal exceeding 14") that is imported into the Party's territory and subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party.

Article 304: Waiver of Customs Duties

1. Except as set out in Annex 304.1, no Party may adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, upon the fulfillment of a performance requirement.

2. Except as set out in Annex 304.2, no Party may, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of any existing waiver of customs duties.

3. If a waiver or a combination of waivers of customs duties granted by a Party with respect to goods for commercial use by a designated person, and thus not generally available to all importers, can be shown by another Party to have an adverse impact on the commercial interests of a person of that Party, or of a person owned or controlled by a person of that Party that is located in the territory of the Party granting the waiver, or on the other Party's economy, the Party granting the waiver shall either cease to grant it or make it generally available to any importer.

4. This Article shall not apply to measures covered by Article 303 (Restriction on Drawback and Duty Deferral).

Article 305: Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for:

(a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter 16 (Temporary Entry for Business Persons),

(b) equipment for the press or for sound or television broadcasting and cinematographic equipment,

(c) goods imported for sports purposes and goods intended for display and demonstration, and

(d) commercial samples and advertising films,

imported from the territory of another Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.

2. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in subparagraph 1(a), (b), or (c), other than to require that such good:

(a) be imported by a national or resident of another Party who seeks temporary entry;

(b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person;

(c) not be sold or leased while in its territory;

(d) be accompanied by a bond in an amount no greater than 110 percent of the charges that would otherwise be owed upon entry or final importation, or by another form of security, releasable upon exportation of the good, except that a bond for customs duties shall not be required for an originating good;

(e) be capable of identification when exported;

(f) be exported upon the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and

(g) be imported in no greater quantity than is reasonable for its intended use.

3. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in subparagraph 1(d), other than to require that such good:

(a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or non-Party;

(b) not be sold, leased, or put to any use other than exhibition or demonstration while in its territory;

(c) be capable of identification when exported;

(d) be exported within such period as is reasonably related to the purpose of the temporary admission; and

(e) be imported in no greater quantity than is reasonable for its intended use.

4. A Party may impose the customs duty and any other charge on

a good temporarily admitted duty-free under paragraph 1 that would be owed upon entry or final importation of such good if any condition that the Party imposes under paragraph 2 or 3 has not been fulfilled.

5. Subject to Chapters Eleven (Investment) and Twelve (Cross-Border Trade in Services):

- (a) each Party shall allow a locomotive, truck, truck tractor, or tractor trailer unit, railway car, other railroad equipment, trailer ("vehicle") or container, used in international traffic, that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
- (b) no Party may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;
- (c) no Party may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and
- (d) no Party may require that the vehicle or carrier bringing a container from the territory of another Party into its territory be the same vehicle or carrier that takes such container to the territory of another Party.

Article 306: Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of another Party, regardless of their origin, but may require that:

- (a) such samples be imported solely for the solicitation of orders for goods of, or services provided from, the territory of another Party or non-Party; or
- (b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 307: Goods Re-entered after Repair or Alteration

1. Except as set out in Annex 307.1, no Party may apply a customs duty on a good, regardless of its origin, that re-enters its territory after that good has been exported from its territory to the territory of another Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.

2. Notwithstanding Article 303 (Duty Drawback), no Party shall apply a customs duty to a good, regardless of its origin,

imported temporarily from the territory of another Party for repair or alteration.

3. Each Party shall act in accordance with Annex 307.3 respecting the repair and rebuilding of vessels.

Article 308: Most-Favored-Nation Rates of Duty on Certain Goods

1. Each Party shall act in accordance with Annex 308.1 respecting certain automatic data processing goods and their parts.

2. Each Party shall act in accordance with Annex 308.2 respecting certain color television tubes.

3. Each Party shall accord most-favored-nation duty-free treatment to Local Area Network (LAN) apparatus imported into its territory as set out in each Party's section of Annex 308.3.

Subchapter C - Non-Tariff Measures

Article 309: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction on the importation of any good of another Party or on the exportation or sale for export of any good destined for the territory of another Party, except in accordance with Article XI of the GATT, including its interpretative notes, and to this end Article XI of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this Agreement.

2. The Parties understand that the GATT rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:

(a) limiting or prohibiting the importation from the territory of another Party of such good of that non-Party; or

(b) requiring as a condition of export of such good of the Party to the territory of another Party, that the good not be re-exported to that non-Party, directly or indirectly, without having been increased in value and improved in condition [subject to review].

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Parties, upon request of any Party, shall consult with a view to avoiding undue interference with or distortion of pricing,

marketing and distribution arrangements in another Party.

5. Paragraphs 1 through 4 shall:

(a) not apply to the measures set out in Annex 301.3;

(b) apply to automotive goods as modified in Annex 300-A
(Trade and Investment in the Automotive Sector); and

(c) apply to trade in textile and apparel goods, as
modified in Annex 300-B (Textile and Apparel Goods).

6. For purposes of this Article, goods of another Party shall
mean [under review].

Article 310: Non-Discriminatory Administration of Restrictions (GATT Article XIII)

[need for this Article is under review]

Article 311: Customs User Fees

1. No Party may adopt any customs user fee of the type referred
to in Annex 311 for originating goods.

2. Each Party may maintain existing such fees only in
accordance with Annex 311.2.

Article 312: Country of Origin Marking

Each Party shall comply with Annex 312 with respect to its
measures relating to country of origin marking.

Article 313: Blending Requirements

No Party may adopt or maintain any measure requiring that
distilled spirits imported from the territory of another Party
for bottling be blended with any distilled spirits of the Party.

Article 314: Distinctive Products

Each Party shall comply with Annex 314 respecting standards
and labelling of the distinctive products set out therein.

Article 315: Export Taxes

Except as set out in Annex 315 or Article 604 (Energy -
Export Taxes), no Party may adopt or maintain any duty, tax, or
other charge on the export of any good to the territory of
another Party, unless such duty, tax, or charge is adopted or
maintained on:

(a) exports of any such good to the territory of all other
Parties; and

(b) any such good when destined for domestic consumption.

Article 316: Other Export Measures

1. Except as set out in Annex 316, a Party may adopt or maintain a restriction otherwise justified under the provisions of Articles XI:2(a) or XX(g), (i) or (j) of the GATT with respect to the export of a good of the Party to the territory of another Party, only if:

(a) the restriction does not reduce the proportion of the total export shipments of the specific good made available to that other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36-month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree;

(b) the Party does not adopt any measure, such as a license, fee, tax or minimum price requirement, that has the effect of raising the price for exports of a good to that other Party above the price charged for such good when consumed domestically, except that a measure taken pursuant to subparagraph (a) that only restricts the volume of exports shall not be considered to have such effect; and

(c) the restriction does not require the disruption of normal channels of supply to that other Party or normal proportions among specific goods or categories of goods supplied to that other Party.

2. The Parties shall cooperate in the maintenance and development of effective controls on the export of each other's goods to a non-Party in implementing this Article.

Subchapter D - Consultations

Article 317: Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.

2. The Committee shall meet at the request of any Party or the Commission to consider any matter arising under this Chapter.

Article 318: Third-Country Dumping

1. The Parties affirm the importance of cooperation with respect to actions under Article 12 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

2. Where a Party presents an application to another Party requesting anti-dumping action on its behalf, those Parties shall consult within 30 days respecting the factual basis of the request, and the requested Party shall give full consideration to the request.

Subchapter E - Definitions

Article 319: Definitions

For purposes of this Chapter:

advertising films means recorded visual media, with or without sound-tracks, consisting essentially of images showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film and that do not form part of a larger consignment;

commercial samples of negligible value means commercial samples having a value (individually or in the aggregate as shipped) of not more than one U.S. dollar, or the equivalent amount in the currency of another Party, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

customs duty includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT, or any equivalent provision of a successor agreement to which all Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(b) antidumping or countervailing duty that is applied pursuant to a Party's domestic law and not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters);

(c) fee or other charge in connection with importation commensurate with the cost of services rendered;

(d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions or tariff rate quotas or tariff preference levels; and

(e) fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture);

distilled spirits include distilled spirits and distilled spirit-containing beverages;

duty deferral program includes measures such as those governing foreign-trade zones, temporary importations under bond, bonded warehouses, "maquiladoras", and inward processing programs;

duty-free means free of customs duty;

goods imported for sports purposes means sports requisites for use in sports contests, demonstrations or training in the territory of the Party into whose territory such goods are imported;

goods intended for display or demonstration includes their component parts, ancillary apparatus and accessories;

item means a tariff classification item at the eight- or ten-digit level set out in a Party's tariff schedule;

material means "material" as defined in Chapter Four (Rules of Origin);

most-favored-nation rate of duty does not include any other concessionary rate of duty;

performance requirement means a requirement that:

(a) a given level or percentage of goods or services be exported;

(b) domestic goods or services of the Party granting a waiver of customs duties be substituted for imported goods or services;

(c) a person benefitting from a waiver of customs duties purchase other goods or services in the territory of the Party granting the waiver or accord a preference to domestically produced goods or services; or

(d) a person benefitting from a waiver of customs duties produce goods or provide services, in the territory of the Party granting the waiver, with a given level or percentage of domestic content; or

(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;

printed advertising materials means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicize or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

repair or alteration does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good;

satisfactory evidence means:

(a) a receipt, or a copy of a receipt, evidencing payment of customs duties on a particular entry;

(b) a copy of the entry document with evidence that it was received by a customs administration;

(c) a copy of a final customs duty determination by a customs administration respecting the relevant entry; or

(d) any other evidence of payment of customs duties acceptable under the Uniform Regulations developed in accordance with Chapter Five (Customs Procedures);

total export shipments means all shipments from total supply to users located in the territory of another Party;

total supply means all shipments, whether intended for domestic or foreign users, from:

(a) domestic production;

(b) domestic inventory; and

(c) other imports as appropriate; and

waiver of customs duties means a measure that waives otherwise applicable customs duties on any good imported from any country, including the territory of another Party.

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ANNEX 301.3

Exceptions to Articles 301 and 309

[subject to review]

Section A - Canadian Measures

1. Articles 301 and 309 shall not apply to:

(a) controls by Canada on the export of logs of all species;

(b) controls by Canada on the export of unprocessed fish pursuant to the following existing statutes:

(i) New Brunswick Fish Processing Act, R.S.N.B. c. F-18.01 (1982), as amended, and Fisheries Development Act, S.N.B. c. F-15.1 (1977), as amended;

(ii) Newfoundland Fish Inspection Act, R.S.N. 1970, c. 132, as amended;

(iii) Nova Scotia Fisheries Act, S.N.S. 1977, c. 9, as amended;

(iv) Prince Edward Island Fish Inspection Act, R.S.P.E.I. 1988, c. F-13, as amended; and

(v) Quebec Marine Products Processing Act, No. 38, S.Q. 1987, c. 51, as amended;

(c) measures by Canada respecting the importation of certain items on the Prohibited Goods List in Schedule VII of the Customs Tariff, R.S.C. 1985, c. 41 (3rd

supp.), as amended, as of July 1, 1991;

(d) except as provided in Chapter Seven (Agriculture), measures by Canada respecting the importation of grains taken with respect to the United States, (Canadian Wheat Board Act, R.S.C. 1985, c. C-24, as amended);

(e) measures by Canada respecting the exportation of liquor for delivery into any country into which the importation of liquor is prohibited by law under the existing provisions of Export Act, R.S.C. 1985, c. E-18, as amended;

(f) measures by Canada respecting the importation and distribution of imported liquor by designated government agencies under the existing provisions of Importation of Intoxicating Liquors Act, R.S.C. 1985, c. I-3, as amended, to the extent that it creates an import monopoly consistent with Articles II:4 and XVII of the GATT and Article 31 of the Havana Charter;

(g) except as provided in Chapter Seven (Agriculture), measures by Canada respecting preferential freight rates for grain originating in certain Canadian provinces under the existing provisions of Western Grain Transportation Act, R.S.C. 1985, c. W-8, as amended;

(h) measures by Canada respecting preferential rates for goods originating in certain Canadian provinces under the existing provisions of Maritime Freight Rate Act, R.S.C. 1985, c. M-1, as amended;

(i) Canadian excise taxes on absolute alcohol used in manufacturing under the existing provisions of Excise Tax Act, R.S.C. 1985, c. E-15, as amended;

(j) except as provided for in Chapter Seven (Agriculture), import restrictions imposed under Section 5(1)(b) and (d) of the Export and Import Permits Act, R.S.C. 1985, c. E-19, as amended, as of January 1, 1994, that are in accordance with the provisions of Article XI:2(c)(i) of the GATT; and

(k) quantitative import restrictions on goods that originate in the territory of the United States, considering operations performed in, or materials obtained from, Mexico as if they were performed in, or obtained from, a non-Party, and that are indicated by asterisks in Chapter 89 in Annex 401.2 (Tariff Schedule of Canada) of the Canada - United States Free Trade Agreement for as long as the measures taken under the Merchant Marine Act of 1920, (46 U.S.C. App. 883) and the Merchant Marine Act of 1936, (46 U.S.C. App. 1171, 1176, 1241 and 1241o) apply with quantitative effect to comparable Canadian origin goods sold or offered for sale into the United States market.

2. Notwithstanding any provision of this Agreement, any measure related to the internal sale and distribution of wine and distilled spirits, other than those covered by Article 313 (Blending Requirements) or Article 314 (Distinctive Products) shall, as between Canada and the United States, be governed under

this Agreement exclusively in accordance with the relevant provisions of the Canada - United States Free Trade Agreement which for this purpose are hereby incorporated into this Agreement.

3. In respect of any measure related to the internal sale and distribution of wine and distilled spirits, the provisions of Articles 301 and 309 shall not apply as between Canada and Mexico to:

- (a) a non-conforming provision of any existing measure;
- (b) the continuation or prompt renewal of a non-conforming provision of any existing measure;
- (c) an amendment to a non-conforming provision of any existing measure to the extent the amendment does not decrease its conformity with the provisions of Article 301 or 309; or
- (d) measures set out in paragraphs 4 and 5.

4. Further to paragraph 3(d):

- (a) automatic listing measures in the province of British Columbia may be maintained provided they apply only to existing estate wineries producing less than 30,000 gallons of wine annually and meeting the existing content rule;
- (b) Canada may
 - (i) adopt or maintain a measure limiting on-premise sales by a winery or distillery to those wines or distilled spirits produced on its premises, and
 - (ii) maintain a measure requiring existing private wine store outlets in the provinces of Ontario and British Columbia to discriminate in favor of wine of those provinces to a degree no greater than the discrimination required by such existing measure; and
- (c) nothing in this Agreement shall prohibit the Province of Quebec from requiring that any wine sold in grocery stores in Quebec be bottled in Quebec, provided that alternative outlets are provided in Quebec for the sale of wine of the other Parties, whether or not such wine is bottled in Quebec.

5. As between Canada and Mexico:

- (a) any measure related to listing of wine and distilled spirits of the other Party shall
 - (i) conform with Article 301,
 - (ii) be transparent, non-discriminatory and provide for prompt decision on any listing application, prompt written notification of such decision to the applicant, and in the case of a negative decision, provide for a statement of the reason for refusal,

- (iii) establish administrative appeal procedures for listing decisions that provide for prompt, fair and objective rulings,
 - (iv) be based on normal commercial considerations,
 - (v) not create disguised barriers to trade, and
 - (vi) be published and made generally available to persons of Mexico;
- (b) where the distributor is a public entity, the entity may charge the actual cost-of-service differential between wine and distilled spirits of the other Party and domestic wine and distilled spirits. Any such differential shall not exceed the actual amount by which the audited cost-of-service for the wine or distilled spirits of the exporting party exceeds the audited cost-of-service for the wine and distilled spirits of the importing party;
- (c) notwithstanding Articles 301 and 309, Article I (Definitions), Article IV.3 (Wine), and Annexes A, B and C of the Agreement between Canada and the European Economic Community Concerning Trade and Commerce in Alcoholic Beverages dated February 28, 1989 shall apply with such modifications as may be necessary as between Canada and Mexico;
- (d) all discriminatory mark-ups on distilled spirits shall be eliminated immediately upon the date of entry into force of this Agreement. Cost-of-service differential mark-ups as described in subparagraph (b) shall be permitted;
- (e) any other discriminatory pricing measure shall be eliminated upon the date of entry into force of this Agreement;
- (f) any measure related to distribution of wine or distilled spirits of the other Party shall conform with Article 301; and
- (g) unless otherwise specifically provided in this Annex, the Parties retain their rights and obligations under the GATT and agreements negotiated under the GATT.

(The intention of paragraphs 3, 4, and 5 is to grant Mexico the same concessions granted to the U.S. under the Canada - United States Free Trade Agreement respecting wine and distilled spirits.)

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Section B - Mexican Measures

1. Articles 301 and 309 shall not apply to:

- (a) controls by Mexico on the export of logs of all species;

(b) measures under the existing provisions of Articles 192 through 194 of the General Ways of Communication Act ("Ley de Vías Generales de Comunicación") reserving exclusively to Mexican vessels all services and operations not authorized for foreign vessels and empowering the Mexican Ministry of Communications and Transportation to deny foreign vessels the right to perform authorized services if their country of origin does not grant reciprocal rights to Mexican vessels;

(c) measures taken in accordance with Annex 300-A (Trade in Automotive Goods) and measures taken in accordance with existing provisions of Articles 1, 4 and 5 of the Mexican Foreign Trade Act ("Ley Reglamentaria del Artículo 131 de la Constitución Política de los Estados Unidos Mexicanos en Materia de Comercio Exterior") with respect to automotive goods referred to in Annex 300-A (Trade in Automotive Goods);

(d) measures taken in accordance with Sections 3 (Import and Export Restrictions), 5 (Bilateral Emergency Actions-Quantitative Restrictions), 6 (Rules of Origin), and 8 (Trade in Worn Clothing) of Annex 300-B (Textile and Apparel Goods) and measures taken in accordance with existing provisions of Articles 1, 4 and 5 of the Mexican Foreign Trade Act ("Ley Reglamentaria del Artículo 131 de la Constitución Política de los Estados Unidos Mexicanos en Materia de Comercio Exterior") with respect to textile and apparel goods referred to in Annex 300-B;

(e) measures taken in accordance with Articles 703 (Market Access) and Annex (permits for Dairy, Poultry and Eggs) of Chapter Seven (Agriculture) and measures taken in accordance with existing provisions of Articles 1, 4 and 5 of the Mexican Foreign Trade Act ("Ley Reglamentaria del Artículo 131 de la Constitución Política de los Estados Unidos Mexicanos en Materia de Comercio Exterior") with respect to agricultural goods referred to in Chapter Seven;

(f) measures covered by Chapter Six (Energy) and measures taken in accordance with existing provisions of Articles 1, 4 and 5 of the Mexican Foreign Trade Act ("Ley Reglamentaria del Artículo 131 de la Constitución Política de los Estados Unidos Mexicanos en Materia de Comercio Exterior") with respect to energy and basic petrochemical goods referred to in Chapter 6;

(g) export permit measures taken in accordance with existing provisions of Articles 1, 4 and 5 of the Mexican Foreign Trade Act ("Ley Reglamentaria del Artículo 131 de la Constitución Política de los Estados Unidos Mexicanos en Materia de Comercio Exterior") with respect to goods subject to quantitative restrictions, tariff rate quotas or tariff preference levels adopted or maintained by another Party; and

(h) with respect to existing provisions, the continuation or prompt renewal of a non-conforming provision of any of the above provisions or an amendment to a non-conforming provision of any of the above provisions to the extent that the amendment does not decrease its

conformity with the provisions of Articles 301 and 309.

2. Notwithstanding Article 309, and without prejudice to other rights and obligations under this Agreement concerning import and export restrictions, for the first 10 years after the date of entry into force of this Agreement, Mexico may require permits for the importation of used goods provided for in the following existing items in the Tariff Schedule of the General Import Duty Act ("Tarifa de la Ley del Impuesto General de Importaci3n"). For purposes of reference, the goods covered by those items are broadly identified next to the corresponding item.

Item Description

8407.3499 Gasoline engines of more than 1,000 cm3, except for motorcycles.

8413.11.01 Pumps fitted with a measuring device even if it includes a totalizing mechanism.

8413.40.01 Concrete pumps for liquids, not fitted with a measuring device from 36 up to 60 m3/hr capacity.

8426.12.01 Mobile lifting frames on tires and straddle carriers.

8426.19.01 Other (overhead travelling cranes, transporter cranes, gantry cranes, bridge cranes, mobile lifting frames and straddle carriers.

8426.30.01 Portal or pedestal jib cranes.

8426.41.01 Derricks, cranes and other lifting machinery on tires, self-propelled with mechanical working and carrying capacity less than 55 tons.

8426.41.02 Derricks, cranes and other lifting machinery on tires, self-propelled with hydraulic working and carrying capacity more than 9.9 up to 30 tons.

8426.41.99 Other (Machinery, self propelled, on tires.)

8426.49.01 Derricks, cranes and other lifting machinery (other than on tires), self-propelled with mechanical working and carrying capacity less than 55 tons.

8426.49.02 Derricks, cranes and other lifting machinery (other than on tires), self-propelled with hydraulic working and carrying capacity more than 9.9 up to 30 tons.

8426.91.01 Derricks, cranes and other lifting machinery except items 8426.91.02, 03 and 04.

8426.91.02 Derricks, cranes and other lifting machinery for mounting on road vehicles, with hydraulical working and carrying capacity up

to 9.9 tons.

8426.91.03 Derricks, cranes and other lifting machinery (basket type) for mounting on road vehicles, with carrying capacity up to 1 ton and 15 meters lift.

8426.91.99 Other (machinery designed for mounting on road vehicles).

8426.99.01 Derricks, cranes and other lifting machinery except items 8426.91.02

8426.99.02 Swivel cranes.

8426.99.99 Other (derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane).

8427.10.01 Self-propelled work trucks powered by an electric motor, carrying capacity 3.5 tons.

8427.20.01 Other self-propelled trucks with combustion piston engines, carrying capacity up to 7 tons.

8428.40.99 Other (escalators and moving walkways).

8428.90.99 Other (continuous-action elevators and conveyors, for goods or materials).

8429.11.01 Self-propelled bulldozers and angledozers, for track laying.

8429.19.01 Other (bulldozers and angledozers).

8429.20.01 Self-propelled graders and levelers.

8429.30.01 Self-propelled scrapers.

8429.40.01 Self-propelled tamping machines and road rollers.

8429.51.02 Self-propelled front-end shovel loaders, wheel-type, less than 335 HP.

8429.51.03 Self-propelled front-end shovel loaders, wheel-type, other than item 8429.51.01.

8429.51.99 Other (mechanical shovels, excavators and shovel loaders).

8429.52.02 Self-propelled backhoes, shovels, clamshells and draglines, other than 8429.52.01.

8429.52.99 Other (machinery with a 360 revolving superstructure).

8429.59.01 Excavators.

8429.59.02 Track laying draglines, carrying capacity up to 4 tons.

8429.59.03 Track laying draglines, other than item
8429.59.04.

8429.59.99 Other (self-propelled bulldozers,
angledozers, graders, levellers, scrapers,
mechanical shovels, excavators, shovel
loaders, tamping machines and road rollers).

8430.31.01 Self-propelled tunneling machinery.

8430.31.99 Other (self-propelled coal or rock cutters
and tunnelling machinery).

8430.39.01 Sinking or boring shields.

8430.39.99 Other (coal or rock cutters and tunnelling
machinery).

8430.41.01 Self-propelled boring or sinking machinery,
other than item 8430.41.02.

8430.41.99 Other (self-propelled boring or sinking
machinery).

8430.49.99 Other (boring or sinking machinery).

8430.50.01 Self-propelled peat excavators, with frontal
carriers and hydraulic mechanism less than
335 hp capacity.

8430.50.02 Scrapers.

8430.50.99 Other (machinery self-propelled).

8430.61.01 Tamping machinery, not self-propelled.

8430.61.02 Compacting machinery, not self-propelled.

8430.61.99 Other (machinery, not self-propelled).

8430.62.01 Scarificationer machine.

8430.69.01 Threshers or scrapers machine.

8430.69.02 Trencher machine, other than 8430.69.03.

8430.69.99 Other (moving, grading, levelling, scraping,
excavating, tamping, compacting, extracting
or boring machinery).

8452.10.01 Sewing machines of the household type.

8452.21.04 Industrial machines, other than 845221.02, 03
and 05.

8452.21.99 Other (automatic sewing machines).

8452.29.05 Pending

8452.29.06 Industrial machines, other than 84522901, 03
and 05.

8452.29.99 Other (sewing machines).

8452.90.99 Other (parts of sewing machines).

8471.10.01 Analog or hybrid automatic data processing machines.

8471.20.01 Digital automatic data processing machines, containing in the same housing at least a central processing unit and an input and output unit, whether or not combined.

8471.91.01 Numerical or digital units entered with the rest of a system, which may contain in the housing one or two of the following types of units: storage units, input units, output unit.

8471.92.99 Other (input or output units whether or not entered with the rest of a system and whether or not containing storage units in the same housing).

8471.93.01 Storage units, including the rest of the system.

8471.99.01 Other (automatic data processing machines and units thereof).

8474.20.02 Crushing jawbone and grinding millstone.

8474.20.05 Drawer cone crushing, with diameter no more than 1200 millimeters.

8474.20.06 Grinding hammer percussion.

8701.30.01 Track-laying tractors with a net engine power more than 105 h.p. but less than 380 h.p. including pushing blade.

8701.90.02 Rail road tractors, on tires with mechanical mechanism for pavement.

8474.20.01 Crushing and grinding with two or more cylinders.

8474.20.03 Blades crushing machines.

8474.20.04 Blades XXX

8474.20.99 Other (crushing or grinding machines).

8474.39.99 Other (mixing machines).

8474.80.99 Other (kneading machines).

8475.10.01 Machines for assembling electric or electronic lamps, tubes.

8477.10.01 Injection-molding machines for working rubber or plastics, up to 5 kg capacity for one molding model.

8711.10.01 Motorcycles, mopeds and cycles fitted with an auxiliary motor with reciprocating internal combustion piston engine not exceeding 50 cm.³.

8711.20.01 Motorcycles, mopeds and cycles fitted with an auxiliary motor with reciprocating internal combustion piston engine over 50 cm.³ but not over 250 cm.³.

8711.30.01 Motorcycles, mopeds and cycles fitted with an auxiliary motor with reciprocating internal combustion piston engine over 250 cm.³ but not over 500 cm.³.

8711.40.01 Motorcycles, mopeds and cycles fitted with an auxiliary motor with reciprocating internal combustion piston engine over 500 cm.³ but less than 550 cm.³.

8711.90.99 Other (motorcycles, mopeds and cycles fitted with an auxiliary motor without an internal combustion piston engine, and sidecars which are not to be used with motorcycles and velocipedes of any kind).

8712.00.02 Bicycles, other than of the type for racing.

8712.00.99 Other (Cycles, not motorized, except bicycles, and tricycles for the transport of merchandise).

8716.10.01 Trailers and semi-trailers for housing and camping, not mechanically propelled.

8716.31.02 Tanker trailers and tanker semi-trailers for the transport of goods, not mechanically propelled, of the steel-tank type.

8716.31.99 Other (Tanker trailers and tanker semi-trailers for the transport of goods, not mechanically propelled, except of the steel-tank type, and of the thermal type for the transportation of milk).

8716.39.01 Trailers and semi-trailers for the transport of goods, not mechanically propelled, of the platform type (more detailed description pending).

8716.39.02 Trailers and semi-trailers for the transport of vehicles, not mechanically propelled.

8716.39.04 Trailers and semi-trailers for the transport of goods, not mechanically propelled, of the modular-platform type (more detailed description pending).

8716.39.05 Semi-trailers for the transport of goods, not mechanically propelled, of the low-bed type (more detailed description pending).

8716.39.06 Trailers and semi-trailers for the transport

of goods, not mechanically propelled, of the closed-box type, including those for refrigeration.

8716.39.07 Trailers and semi-trailers for the transport of goods, not mechanically propelled, of the steel-tank type.

8716.39.99 Other. (Trailers and semi-trailers for the transport of goods, not mechanically propelled, except those referred to in items 87163901, 02, 04, 05, 06 and 07, those with two levels which are recognizable as intended for use exclusively in the transportation of cattle, and carriages with solid rubber wheels).

8716.40.01 Other trailers and semi-trailers, not mechanically propelled. (Other than for the transport of goods).

8716.80.99 Other. (Vehicles not mechanically propelled, except trailers and semi-trailers, hand-wagons, and hand-wagons of hydraulic operation.

3. Notwithstanding Article 309, and without prejudice to other rights and obligations under this Agreement concerning import and export restrictions:

(a) for the first five years after the date of entry into force of this Agreement, Mexico may require permits for the importation of new automotive goods provided for in the following existing items in the Tariff Schedule of the General Import Duty Act ("Tarifa de la Ley del Impuesto General de Importaci3n"). For purposes of reference, the goods covered by those items are broadly identified next to the corresponding item;

Item Description

8701.20.01 Road Tractors for semi-trailers

8702.10.01 Public-transport type passenger vehicles, with diesel or semi-diesel engine, with body mounted on a chassis.

8702.10.02 Public-transport type passenger vehicles, with diesel or semi-diesel engine, with an integral body.

8702.90.03 Public-transport type passenger vehicles, with gasoline engine, with an integral body.

8703.10.99 Other special vehicles.

8704.22.99 Motor vehicles for the transport of goods with diesel engine and capacity of cargo of more than 5 tons but less than 20 tons.

8704.23.99 Motor vehicles for the transport of goods with diesel engine and capacity of cargo of more than 20 tons.

8704.32.99 Motor vehicles for the transport of goods with gasoline engine and with capacity of cargo of more than 5 tons.

8705.20.01 Mobile drilling derricks.

8705.40.01 Concrete mixers.

8706.00.01 Chassis fitted with gasoline engine.

8706.00.99 Other chassis fitted with gasoline engine.

(b) for the first 10 years after the date of entry into force of this Agreement, Mexico may require permits for the importation of new automotive goods provided for in the following existing items in the Tariff Schedule of the General Import Duty Act ("Tarifa de la Ley del Impuesto General de Importaci3n"). For purposes of reference, the goods covered by those items are broadly identified next to the corresponding item;

Item Description

8407.34.99 Gasoline engines of more than 1,000 cm³, except for motorcycles.

8702.90.02 Public-transport type passenger vehicles, with gasoline engine, with body mounted on a chassis.

8703.21.01 Passenger motor vehicles with gasoline engine of less than or equal to 1,000 cm³.

8703.22.01 Passenger motor vehicles with gasoline engine of more than 1,000 cm³ but less than 1,500 cm³.

8703.23.01 Passenger motor vehicles with gasoline engine of more than 1,500 cm³ but less than or equal to 3,000 cm³.

8703.24.01 Passenger motor vehicles with gasoline engine of more than 3,000 cm³.

8703.31.01 Passenger motor vehicles with diesel engine of less than or equal to 1,500 cm³.

8703.32.01 Passenger motor vehicles with diesel engine of more than 1,500 cm³ but less than or equal to 2,500 cm³.

8703.33.01 Passenger motor vehicles with diesel engine of more than 2,500 cm³.

8703.90.99 Other passenger vehicles.

8704.21.99 Motor vehicles for the transport of goods with diesel engine and with capacity of cargo of less than or equal to 5 tons.

8704.31.99 Motor vehicles for the transport of goods with gasoline engine and with capacity of cargo of less than or equal to 5 tons.

(c) for the first 25 years after the date of entry into force of this Agreement, Mexico may require permits for the importation of used automotive goods provided for in the following existing items in the Tariff Schedule of the General Import Duty Act ("Tarifa de la Ley del Impuesto General de Importaci3n"). As of the 26th year after the date of entry into force of this Agreement, Mexico may require permits for the importation of non-originating automotive goods provided for under such items. For purposes of reference, the goods covered by those items are broadly identified next to the corresponding item.

Item Description

8701.20.01 Road Tractors for semi-trailers

8702.10.01 Public-transport type passenger vehicles, with diesel or semi-diesel engine, with body mounted on a chassis.

8702.10.02 Public-transport type passenger vehicles, with diesel or semi-diesel engine, with an integral body.

8702.90.01 Trolleys.

8702.90.02 Public-transport type passenger vehicles, with gasoline engine, with body mounted on a chassis.

8702.90.03 Public-transport type passenger vehicles, with gasoline engine, with an integral body.

8703.10.01 Special vehicles with electric engine (snowmobiles, golf cart).

8703.10.99 Other special vehicles.

8703.21.01 Passenger motor vehicles with gasoline engine of less than or equal to 1,000 cm³.

8703.22.01 Passenger motor vehicles with gasoline engine of more than 1,000 cm³ but less than 1,500 cm³.

8703.23.01 Passenger motor vehicles with gasoline engine of more than 1,500 cm³ but less than or equal to 3,000 cm³.

8703.24.01 Passenger motor vehicles with gasoline engine of more than 3,000 cm³.

8703.31.01 Passenger motor vehicles with diesel engine of less than or equal to 1,500 cm³.

8703.32.01 Passenger motor vehicles with diesel engine of

more than 1,500 cm3 but less than or equal to
2,500 cm3.

8703.33.01 Passenger motor vehicles with diesel engine of
more than 2,500 cm3.

8703.90.01 Electrical motor cars.

8703.90.99 Other passenger vehicles.

8704.21.99 Motor vehicles for the transport of goods with
diesel engine and with capacity of cargo of less
than or equal to 5 tons.

8704.22.99 Motor vehicles for the transport of goods with
diesel engine and capacity of cargo of more than 5
tons but less than 20 tons.

8704.23.99 Motor vehicles for the transport of goods with
diesel engine and capacity of cargo of more than
20 tons.

8704.31.99 Motor vehicles for the transport of goods with
gasoline engine and with capacity of cargo of less
than or equal to 5 tons.

8704.32.99 Motor vehicles for the transport of goods with
gasoline engine and with capacity of cargo of more
than 5 tons.

8705.10.01 Mobile crane vehicles.

8705.20.01 Mobile drilling derricks.

8705.20.99 Other drilling derricks.

8705.40.01 Concrete mixers.

8705.90.01 Spraying vehicles.

8705.90.99 Other special purpose vehicles.

8706.00.01 Chassis fitted with gasoline engine.

8706.00.99 Other chassis fitted with gasoline engine.

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Section C - United States Measures

Articles 301 and 309 shall not apply to:

(a) controls by the United States on the export of logs of
all species;

(b) taxes on imported perfume containing distilled spirits
under existing provisions of Section 5001(a)(3) and
5007(b)(2) of the Internal Revenue Code of 1986 (26
U.S.C. 5001(a)(3), 5007(b)(2));

(c) measures under existing provisions of section 27 of the Merchant Marine Act (46 U.S.C. App. 883), the Passenger Vessel Act of 1920 (46 U.S.C. App. 289), the Merchant Ship Sales Act of 1946 (46 U.S.C. App. 292, 316, and 46 U.S.C. 12108); and

(d) import restrictions with respect to Canada imposed under existing provisions of section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

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ANNEX 302.2

Tariff Elimination

1. Except as otherwise provided in a Party's Schedule attached to this Annex, the following staging categories apply to the elimination of customs duties by each Party pursuant to Article 302(2):

(a) duties on goods provided for in the items in staging category A in a Party's Schedule shall be eliminated entirely and such goods shall be duty-free, effective January 1, 1994;

(b) duties on goods provided for in the items in staging category B in a Party's Schedule shall be removed in 5 equal annual stages commencing on January 1, 1994, and such goods shall be duty-free, effective January 1, 1998;

(c) duties on goods provided for in the items in staging category C in a Party's Schedule shall be removed in 10 equal annual stages commencing on January 1, 1994, and such goods shall be duty-free, effective January 1, 2003;

(d) duties on goods provided for in the items in staging category C+ in a Party's Schedule shall be removed in 15 equal annual stages commencing on January 1, 1994, and such goods shall be duty-free, effective January 1, 2008; and

(e) goods provided for in the items in staging category D in a Party's Schedule shall continue to receive duty-free treatment.

(other staging categories will be displayed in the tariff schedules of each Party and may be incorporated here.)

2. The base rate of duty and staging category for determining the interim rate of duty at each stage of reduction for an item are indicated for the item in each Party's Schedule attached to this Annex. These rates generally reflect the rate of duty in effect on July 1, 1991, including rates under the U.S. Generalized System of Preferences and the General Preferential Tariff of Canada.

3. For the purpose of the elimination of customs duties in accordance with Article 302, interim staged rates shall be

rounded down, except as set out in each Party's Schedule attached to this Annex, at least to the nearest tenth of a percentage point or, if the rate of duty is expressed in monetary units, at least to the nearest .001 of the official monetary unit of the Party.

4. Canada shall apply the rate applicable under the staging category set out for an item in Annex 401.2, as amended, of the Canada - United States Free Trade Agreement which Annex is hereby incorporated into and made part of this Agreement, to an originating good provided that:

(a) notwithstanding any provision in Chapter Four of this Agreement, in determining whether such good is an originating good, operations performed in or materials obtained from Mexico are considered as if they were performed in or obtained from a non-Party; and

(b) any processing that occurs in Mexico after the good would qualify as an originating good in accordance with subparagraph (a) does not increase the transaction value of the good by greater than seven percent.

5. Canada shall apply the rate applicable under the staging category set out for an item contained in column I of section A of this Annex to an originating good provided that:

(a) notwithstanding any provision to the contrary in Chapter Four, in determining whether such good is an originating good, operations performed in or materials obtained from the United States are considered as if they were performed in or obtained from a non-Party; and

(b) any processing that occurs in the United States after the good would qualify as an originating good in accordance with subparagraph (a) does not increase the transaction value of the good by greater than seven percent.

6. Canada shall apply to an originating good to which neither paragraph 4 nor paragraph 5 applies, the applicable rate indicated for an item contained in column II, reduced in accordance with the staging category of column I of section A of this Annex except as otherwise indicated, or where there is a letter "X" (to be replaced with descriptive language) in column II, the applicable rate of duty for the item shall be the higher of:

(a) the General Preferential Tariff rate of duty for that item applied on July 1, 1991, reduced in accordance with the applicable staging category set out for that item in column I of its Schedule; or

(b) the applicable rate under the staging category for that item set out in Annex 401.2, as amended, of the Canada - United States Free Trade Agreement.

7. Paragraphs 4, 5 and 6 shall not apply to goods provided for under Chapters 50 through 63 of the Harmonized System and to other goods identified in Appendix 1.1 of Annex 300-B (Textiles and Apparel Goods).

8. Mexico shall apply the rate applicable under the staging category set out for an item in column II of section B of this Annex to an originating good when the good qualifies to be marked as a good of Canada, pursuant to Annex 312, without regard to whether the good is marked.

9. Mexico shall apply the rate applicable under the staging category set out for an item in column I of section B of this Annex to an originating good when the good qualifies to be marked as a good of the United States, pursuant to Annex 312, without regard to whether the good is marked.

10. The United States shall apply the rate applicable under the staging category set out for an item in Annex 401.2, as amended, of the Canada - United States Free Trade Agreement to an originating good when the good qualifies to be marked as a good of Canada pursuant to Annex 312, without regard to whether the good is marked.

11. The United States shall apply the rate applicable under the staging category set out for an item in section C of this Annex to an originating good when the good qualifies to be marked as a good of Mexico pursuant to Annex 312, whether or not the good is marked.

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SECTION A - SCHEDULE OF CANADA

(TARIFF SCHEDULE TO BE ATTACHED)

SECTION B - SCHEDULE OF MEXICO

(TARIFF SCHEDULE TO BE ATTACHED)

SECTION C - SCHEDULE OF THE UNITED STATES

(TARIFF SCHEDULE TO BE ATTACHED)

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ANNEX 303.6

Goods Not Subject to Article 303

1. For exports from the territory of the United States to the territory of Canada or Mexico, a good, provided for in U.S. tariff item 1701.11.02, that is imported into the territory of the United States and used as a material in the production of, or substituted by an identical or similar good used as a material in the production of, a good provided for in Canadian tariff item 1701.99.00 or Mexican tariff items 1701.99.01 and 1701.99.99 (refined sugar).

2. For trade between Canada and the United States:

(a) imported citrus products;

(b) an imported good used as a material in the production of, or substituted by an identical or similar good used as a material in the production of, a good provided for in U.S. tariff items 5811.00.20 (quilted cotton piece goods), 5811.00.30 (quilted man-made piece goods) or 6307.90.99 (furniture moving pads) that are subject to the most-favored-nation rate of duty when exported to the territory of the other Party; (Canadian tariff items to be added) and

(c) an imported good used as a material in the production of, or substituted by an identical or similar good used as a material in the production of, apparel that is subject to the most-favored-nation rate of duty when exported to the territory of the other Party.

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ANNEX 303.7

Effective Dates for the Application of Article 303

Section A - Canada

For Canada, Article 303 shall apply to a good imported into the territory of Canada that is:

(a) subsequently exported to the territory of the United States on or after January 1, 1996, or subsequently exported to the territory of Mexico on or after January 1, 2001;

(b) used as a material in the production of another good that is subsequently exported to the territory of the United States on or after January 1, 1996, or used as a material in the production of another good that is subsequently exported to the territory of Mexico on or after January 1, 2001;

(c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of the United States on or after January 1, 1996, or substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of Mexico on or after January 1, 2001; or

(d) substituted by an identical or similar good that is subsequently exported to the territory of the United States on or after January 1, 1996, or substituted by an identical or similar good that is subsequently exported to the territory of Mexico on or after January 1, 2001.

Section B - Mexico

For Mexico, Article 303 shall apply to a good imported into the

territory of Mexico that is:

- (a) subsequently exported to the territory of another Party on or after January 1, 2001;
- (b) used as a material in the production of another good that is subsequently exported to the territory of another Party on or after January 1, 2001;
- (c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party on or after January 1, 2001; or
- (d) substituted by an identical or similar good that is subsequently exported to the territory of another Party on or after January 1, 2001.

Section C - United States

For the United States, Article 303 shall apply to a good imported into the territory of the United States that is:

- (a) subsequently exported to the territory of Canada on or after January 1, 1996, or subsequently exported to the territory of Mexico on or after January 1, 2001;
- (b) used as a material in the production of another good that is subsequently exported to the territory of Canada on or after January 1, 1996, or used as a material in the production of another good that is subsequently exported to the territory of Mexico on or after January 1, 2001;
- (c) substituted by an identical or similar good used as a material in the production of another good subsequently exported to the territory of Canada on or after January 1, 1996, or substituted by an identical or similar good used as a material in the production of another good subsequently exported to the territory of Mexico on or after January 1, 2001; or
- (d) substituted by an identical or similar good that is subsequently exported to the territory of Canada on or after January 1, 1996, or substituted by an identical or similar good that is subsequently exported to the territory of Mexico on or after January 1, 2001.

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ANNEX 303.8

Exception to Article 303(8)
For Certain Cathode-Ray Picture Tubes

Mexico

Mexico may refund customs duties paid, or waive or reduce the amount of customs duties owed, on goods provided for in subheading 8540.xx for a person who, during the period July 1,

1991 through June 30, 1992, imported into its territory no fewer than 20,000 units of such goods that would not have been considered to be originating goods had this Agreement been in force during that period, where the goods are:

(a) subsequently exported from the territory of Mexico to the territory of the United States, or are used as materials in the production of other goods that are subsequently exported from the territory of Mexico to the territory of the United States, or are substituted by identical or similar goods used as materials in the production of other goods that are subsequently exported to the territory of the United States, in an amount, for all such persons combined, no greater than

- (i) 1,200,000 units in 1994,
- (ii) 1,000,000 units in 1995,
- (iii) 800,000 units in 1996,
- (iv) 600,000 units in 1997,
- (v) 400,000 units in 1998,
- (vi) 200,000 units in 1999, and
- (vii) zero units in 2000 and thereafter,

provided that the number of goods on which such customs duties may be refunded, waived or reduced in any year shall be reduced, with respect to that year, by the number of such goods qualifying as originating goods during the year immediately preceding that year, considering operations performed in, or materials obtained from, the territories of Canada and the United States as if they were performed in, or obtained from, a non-Party; or

(b) subsequently exported from the territory of Mexico to the territory of Canada, or used as materials in the production of other goods that are subsequently exported from the territory of Mexico to the territory of Canada, or are substituted by identical or similar goods used as materials in the production of other goods that are subsequently exported to the territory of Canada, in an amount no greater than

- (i) 75,000 units in 1994,
- (ii) 50,000 units in 1995, and
- (iii) zero units in 1996 and thereafter.

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ANNEX 304.1

Exceptions for Existing Waiver Measures

Article 304(1) shall not apply in respect of existing Mexican waivers of customs duties, except that:

- (a) Mexico shall not increase the ratio of customs duties waived to customs duties owed relative to the performance required under any such waiver; or
- (b) Mexico shall not add any type of good to those qualifying on July 1, 1991, in respect of any waiver of customs duties in effect on that date.

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ANNEX 304.2

Continuation of Existing Waiver Measures

For purposes of Article 304(2):

- (a) Canada may condition on the fulfillment of a performance requirement the waiver of customs duties under any measure in effect on or before September 28, 1988, on any goods entered or withdrawn from warehouse for consumption before January 1, 1998;
- (b) Mexico may condition on the fulfillment of a performance requirement the waiver of customs duties under any measure in effect on July 1, 1991, on any goods entered or withdrawn from warehouse for consumption before January 1, 2001;
- (c) as between the United States and Canada, Article 405 of the Canada - United States Free Trade Agreement is incorporated and made part of this Annex solely with respect to measures adopted by Canada or the United States prior to the date of entry into force of this Agreement; and
- (d) Canada may grant duty waivers as set out in Annex 300-A.

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ANNEX 307.1

Goods Re-Entered after Repair or Alteration

Section A - Canada

Canada may impose customs duties on goods, regardless of their origin, that re-enter its territory after such goods have been exported from its territory to the territory of another Party for repair or alteration as follows:

- (a) for goods set out in section D that re-enter its territory from the territory of Mexico, Canada shall apply to the value of the repair or alteration of such goods the rate of duty for such goods applicable under its Schedule attached to Annex 302.2;
- (b) for goods other than those set out in section D that re-enter its territory from the territory of the United States or Mexico, other than goods repaired or altered

pursuant to a warranty, Canada shall apply to the value of the repair or alteration of such goods the rate of duty for such goods applicable under the Tariff Schedule of Canada attached to Annex 401.2 of the Canada - United States Free Trade Agreement.

(c) for goods set out in section D that re-enter its territory from the territory of the United States, Canada shall apply to the value of the repair or alteration of such goods the rate of duty for such goods applicable under its Schedule attached to Annex 401.2 of the Canada - United States Free Trade Agreement.

Section B - Mexico

Mexico may impose customs duties on goods set out in section D, regardless of their origin, that re-enter its territory after such goods have been exported from its territory to the territory of another Party for repair or alteration, by applying to the value of the repair or alteration of those goods the rate of duty for such goods that would apply if such goods were included in staging category B in the Schedule of Mexico attached to Annex 302.2.

Section C - United States

1. The United States may impose customs duties on:

(a) goods set out in section D, or

(b) goods that are not set out in section D and that are not repaired or altered pursuant to a warranty,

regardless of their origin, that re-enter its territory after such goods have been exported from its territory to the territory of Canada for repair or alteration, by applying to the value of the repair or alteration of such goods the rate of duty applicable under the Canada-U.S. Free Trade Agreement.

2. The United States may impose customs duties on goods set out in section D, regardless of their origin, that re-enter its territory after such goods have been exported from its territory to the territory of Mexico for repair or alteration, by applying to the value of the repair or alteration of such goods a rate of duty of 50 percent reduced in five equal annual stages commencing on January 1, 1994, and the value of such repair or alteration shall be duty-free on January 1, 1998.

Section D - List of Goods [description under review]

Any vessel, including the following goods, documented by a Party under its law to engage in foreign or coastwise trade, or a vessel intended to be employed in such trade:

1. Cruise ships, excursion boats, ferry-boats, cargo ships, barges and similar vessels for the transport of persons or goods, including:

(a) tankers;

(b) refrigerated vessels, other than tankers; and

(c) other vessels for the transport of goods and other vessels for the transport of both persons and goods, including open vessels.

2. Fishing vessels, including factory ships and other vessels for processing or preserving fishery products of a registered length not exceeding 30.5m.

3. Light-vessels, fire-floats, dredgers, floating cranes, and other vessels the navigability of which is subsidiary to their main function, floating docks, floating or submersible drilling or production platforms, including drilling ships, drilling barges and floating drilling rigs.

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ANNEX 307.3

Repair and Rebuilding of Vessels

United States

For the purpose of increasing transparency regarding the types of repairs that may be performed in shipyards outside the territory of the United States that do not result in any loss of privileges for such vessel to:

(a) remain eligible to engage in coastwise trade or to access U.S. fisheries,

(b) transport U.S. government cargo, or

(c) participate in U.S. assistance programs, including the "operating difference subsidy",

the United States shall, no later than the date of entry into force of this Agreement:

(d) provide written clarification to the other Parties of current U.S. Customs and Coast Guard practices that constitute, and differentiate between, the repair and the rebuilding of vessels, including, where possible, clarifications on "jumboizing", vessel conversions, and emergency repairs, and

(e) commence a process to define the terms "repairs", "emergency repairs", and "rebuilding" under U.S. maritime legislation, including the Merchant Marine Act of 1920 (codified at 46 U.S.C. App. 883) and the Merchant Marine Act of 1936 (codified at 46 U.S.C. App. 1171, 1176, 1241 and 1241(o)).

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ANNEX 308.1

Most-Favored-Nation Rates of Duty on

Certain Automatic Data Processing Goods and Their Parts

Section A - General Provisions

1. Each Party shall reduce its most-favored-nation rate of duty applicable to the goods provided for under the tariff provisions set out in Tables 308.1.1 and 308.1.2 in section B of this Annex to the rate set out therein, or to such reduced rate as the Parties may agree, in accordance with the Schedule set out in section B of this Annex, or with such accelerated schedule as the Parties may agree.

2. Notwithstanding Chapter 3, when the most-favored-nation rate of duty applicable to a good provided for under the tariff provisions set out in Table 308.1.1 in section B of this Annex has been reduced in accordance with paragraph 1, each Party shall consider the good, when imported into its territory from the territory of another Party, to be an originating good.

3. A Party may reduce in advance of the schedule set out in Table 308.1.1 or Table 308.1.2 in section B of this Annex, or of such accelerated schedule as the Parties may agree, its most-favored-nation rate of duty applicable to any good provided for under the tariff provisions set out therein, to the rate set out therein or to such reduced rate as the Parties may agree.

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Section B - Rates of Duty and Schedule for Reduction

Table 308.1.1

Tariff Rate Schedule

Automatic Data Processing Machines (ADP):

8471.10 3.9% S

8471.20 3.9% S

Digital Processing Units:

8471.91 3.9% S

Input or Output Units:

Combined Input/Output Units:

Canada:

8471.92.90.113.7% S

8471.92.90.123.7% S

8471.92.90.193.7% S

Mexico:

8471.92.h13.7% S

United States:

8471.92.10 3.7% S

Display Units:

Canada:

8471.92.90.323.7% S

8471.92.90.39.a1 3.7% S

8471.92.90.39.a2 Free S

Mexico:

8471.92.h23.7% S

8471.92.h3Free S

United States:

8471.92.30 Free S

8471.92.40.753.7% S

Other Input or Output Units:

Canada:

8471.92.10.20Free S

8471.92.10.90Free S

8471.92.90.20Free S

8471.92.90.40Free S

8471.92.90.503.7% S

8471.92.90.91Free S

8471.92.90.99Free S

Mexico:

8471.92.h43.7% S

8471.92.h5Free S

United States:

8471.92.20 Free S

8471.92.80 Free S

8471.92.90.20Free S

8471.92.90.403.7% S

8471.92.90.60Free S

8471.92.90.80Free S

Storage Units

8471.93 Free S

Other Units of Automatic Data Processing
Machines

8471.99 Free S

Parts of Computers

8473.30 Free R

Computer Power Supplies

8504.40.a3 Free S

8504.90.a4 Free S

Table 308.1.2

Metal Oxide Varistors:

8533.40.a4Free R

Diodes, Transistors and Similar
Semiconductor Devices; Photosensitive
Semiconductor Devices; Light Emitting
Diodes; Mounted Piezo-electric Crystals

8541.10 Free R
8541.21 Free R
8541.29 Free R
8541.30 Free R
8541.50 Free R
8541.60 Free R
8541.90 Free R

Canada:

8541.20 Free R

Mexico:

8541.20 Free R

United States:

8541.40.20 Free S
8541.40.60 Free R
8541.40.70 Free R
8541.40.80 Free R
8541.40.95 Free R

Electronic Integrated Circuits
and Microassemblies

8542 Free R

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ANNEX 308.2

Most-Favored-Nation Rates of Duty
on Certain Color Television Picture Tubes

1. Any Party considering the reduction of its most-favored-nation rate of customs duty for goods provided for in tariff provision 8540.11.a2 (cathode-ray color television picture tubes, including video monitor cathode-ray tubes, with a diagonal exceeding 14 inches) during the first 10 years after the date of entry into force of this Agreement shall consult with the other Parties in advance of such reduction.

2. If any other Party objects in writing to such reduction, and the Party proceeds with the reduction, any objecting Party may raise its applicable rate of duty on originating goods provided for in the corresponding tariff provision set out in its Schedule attached to Annex 302.2, up to the applicable rate of duty as if such good had been placed in staging category C for purpose of tariff elimination.

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ANNEX 308.3

Most-Favored-Nation Duty-Free
Treatment of Local Area Network Apparatus

Section A - Canada

Canada shall accord most-favored-nation duty-free treatment to goods provided for in item(s) [to be provided] of its tariff schedule.

Section B - Mexico

Mexico shall accord most-favored-nation duty-free treatment to goods provided for in item(s) [to be provided] of its tariff schedule.

Section C - United States

The United States shall accord most-favored-nation duty-free treatment to goods provided for in item(s) [to be provided] of its tariff schedule.

For purposes of this Annex:

local area network apparatus means a good dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input or output units, including in-line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof suitable for use solely or principally with a private network, and providing for the transmission, receipt, error-checking, control, signal conversion or correction functions for non-voice data to move through a local area network.

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ANNEX 311.2

Existing Customs User Fees

Section A - Mexico

Mexico shall not increase its customs processing fee ("derechos de tr mite aduanero") on originating goods, and shall by June 30, 1999, eliminate such fee on originating goods.

Mexico B - United States

1. The United States shall not increase its merchandise processing fee and shall eliminate such fee according to the schedule set out in Article 403 of the Canada - United States Free Trade Agreement on originating goods where those goods qualify to be marked as goods of Canada pursuant to Annex 312, without regard to whether the goods are marked.

2. The United States shall not increase its merchandise processing fee and shall by June 30, 1999, eliminate such fee, on originating goods where those goods qualify to be marked as goods of Mexico pursuant to Annex 312, without regard to whether the goods are marked.

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ANNEX 312

Country of Origin Marking

1. The Parties shall establish by January 1, 1994, rules for determining whether a good is a good of a Party ("Marking Rules") for the purposes of this Annex, Annex 300-B and Annex 302.2, and for such other purposes as may be agreed.

2. Each Party may require that a good of another Party, as determined in accordance with the Marking Rules, imported into its territory bear a country of origin marking that indicates to the ultimate purchaser of that good the name of its country of origin.

3. Each Party shall permit the country of origin marking of a good of another Party to be indicated in English, French or Spanish, except that a Party may, as part of its general consumer information measures, require that an imported good be marked with its country of origin in the same manner as prescribed for goods of that Party.

4. Each Party shall, in adopting, maintaining and administering any measure relating to country of origin marking, minimize the difficulties, costs and inconveniences that such measure may cause to the commerce and industry of the other Parties.

5. Each Party shall:

(a) accept any reasonable method of marking, including the use of stickers, labels, tags or paint, that ensures that the marking is conspicuous, legible and sufficiently permanent;

(b) exempt from a country of origin marking requirement a good of another Party which

(i) is incapable of being marked,

- (ii) cannot be marked prior to exportation to the territory of another Party without causing injury to the goods,
- (iii) cannot be marked except at an expense which would materially discourage its exportation to the territory of another Party,
- (iv) cannot be marked without materially impairing its function or substantially detracting from its appearance,
- (v) is in a container that is marked in a manner that will reasonably indicate the good's origin to the ultimate purchaser,
- (vi) is a crude substance,
- (vii) is imported for use by the importer and is not intended for sale in the form in which it was imported,
- (viii) is to be processed in the importing Party by the importer, or on its behalf, in a manner that results in a change of origin for marking purposes, under the Marking Rules,
- (ix) by reason of its character, or the circumstances of its importation, the ultimate purchaser would reasonably know its country of origin even though it is not marked,
- (x) was produced more than 20 years prior to its importation,
- (xi) was imported without the required marking and cannot be marked after its importation except at an expense that would materially discourage its importation, provided that the failure to mark the good before importation was not for the purpose of avoiding compliance with such requirement,
- (xii) for the purposes of temporary duty-free admission, is in transit or in bond or otherwise under customs administration control,
- (xiii) is an original work of art, or
- (xiv) is provided for in headings 8541 or 8542, and 6904.10.

6. Except for a good described in subparagraphs 5(b)(vi), (vii), (viii), (ix), (x), (xii), (xiii) and (xiv), a Party may provide that, wherever a good is exempted under subparagraph 5(b), its outermost container that ordinarily reaches the ultimate purchaser shall be marked so as to indicate the country of origin of the good it contains.

7. Each Party shall provide that:

- (a) a usual container imported empty, whether or not disposable, shall not be required to be marked with its

own country of origin, but the container in which it is imported may be required to be marked with the country of origin of its contents; and

(b) a usual container imported filled, whether or not disposable,

(i) shall not be required to be marked with its own country of origin, but

(ii) may be required to be marked with the country of origin of its contents, unless the contents are marked with their country of origin and the container can be readily opened for inspection of the contents, or the marking of the contents is clearly visible through the container.

8. Each Party shall, whenever administratively practicable, permit an importer to mark a good subsequent to importation but prior to release of the good from customs control or custody, unless there have been repeated violations of the country of origin marking requirements of that Party by the same importer and that importer has been previously notified in writing that such good is required to be marked prior to importation.

9. Each Party shall provide that, except with respect to importers that have been notified under paragraph 8, no special duty or penalty shall be imposed for failure to comply with country of origin marking requirements, unless a good is removed from customs custody or control without being properly marked, or a deceptive marking has been used.

10. The Parties shall cooperate and consult on matters related to this Annex, including additional exemptions from a country of origin marking requirement, in accordance with Chapter Five (Customs Procedures).

11. For purposes of this Annex:

conspicuous means capable of being easily seen with normal handling of the good or container;

legible means capable of being easily read;

materially discourage means add a cost to the good that is substantial in relation to its customs value;

sufficiently permanent means capable of remaining in place until the good reaches the ultimate purchaser, unless deliberately removed;

the form in which it was imported means the condition of the good before it has undergone one of the changes in tariff classification described in the Marking Rules;

ultimate purchaser means the last person in the territory of the Party into which the good is imported that purchases the good in the form in which it was imported; such purchaser need not be the last person that will use the good; and

usual container means the container in which a good will ordinarily reach its ultimate purchaser.

Distinctive Products

1. Mexico and Canada shall recognize Bourbon Whiskey and Tennessee Whiskey, which is a straight Bourbon Whiskey authorized to be produced only in the State of Tennessee, as distinctive products of the United States. Accordingly, Mexico and Canada shall not permit the sale of any product as Bourbon Whiskey or Tennessee Whiskey, unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey.
2. The United States and Mexico shall recognize Canadian Whiskey as a distinctive product of Canada. Accordingly, the United States and Mexico shall not permit the sale of any product as Canadian Whiskey, unless it has been manufactured in Canada in accordance with the laws and regulations of Canada governing the manufacture of Canadian Whiskey for consumption in Canada.
3. The United States and Canada shall recognize Tequila and Mezcal as distinctive products of Mexico. Accordingly, the United States and Canada shall not permit the sale of any product as Tequila or Mezcal, unless it has been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of Tequila and Mezcal. This provision shall apply to Mezcal, either on the date of entry into force of this Agreement, or 90 days after the date when the official standard for this product is made obligatory by the Government of Mexico, whichever is later.

Export Taxes

Mexico

1. Mexico may adopt or maintain a duty, tax, or other charge on the export of those basic foodstuffs set out in paragraph 4, on their ingredients, or on the goods from which such foodstuffs are derived, if such duty, tax, or other charge is adopted or maintained on the export of such goods to the territory of all other Parties, and is used:
 - (a) to limit to domestic consumers the benefits of a domestic food assistance program with respect to such foodstuff; or
 - (b) to ensure the availability of sufficient quantities of such foodstuff to domestic consumers or of sufficient quantities of its ingredients, or of the goods from which such foodstuffs are derived, to a domestic processing industry, when the domestic price of such foodstuff is held below the world price as part of a governmental stabilization plan, provided that such duty, tax, or other charge
 - (i) does not operate to increase the protection afforded to such domestic industry, and

(ii) is maintained only for such period of time as is necessary to maintain the integrity of the stabilization plan.

2. Notwithstanding paragraph 1, Mexico may adopt or maintain a duty, tax, or other charge on the export of any foodstuff to the territory of another Party if such duty, tax, or other charge is temporarily applied to relieve critical shortages of that foodstuff. For purposes of this paragraph, "temporarily" means up to one year, or such longer period as the Parties may agree.

3. Mexico may maintain its existing tax on the export of goods provided for under tariff item 4001.30.02 of the Tariff Schedule of the General Export Duty Act ("Tarifa de la Ley del Impuesto General de Exportación") for up to 10 years after the date of entry into force of this Agreement.

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4. For purposes of paragraph 1, "basic foodstuffs" means:

Beans
Beef steak or pulp
Beef liver
Beef remnants and bones ("retazo con hueso")
Beer
Bread
Brown sugar
Canned sardines
Canned tuna
Canned peppers
Chicken broth
Condensed milk
Cooked ham
Corn tortillas
Corn flour
Corn dough
Crackers
Eggs
Evaporated milk
French rolls ("pan blanco")
Gelatine
Ground beef
Instant coffee
Low-priced cookies ("galletas dulces populares")
Margarine
Oat flakes
Pasteurized milk
Powdered chocolate
Powdered milk for children
Powdered milk
Rice
Roasted coffee
Salt
Soft drinks
Soup paste
Tomato puree
Vegetable oil
Vegetable fat
Wheat flour
White sugar

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ANNEX 316

Other Export Measures

Article 316 shall not apply as between Mexico and the other Parties.