

CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A: Initial Provisions

Article 1.1: Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area in accordance with the provisions of this Agreement.

Article 1.2: Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under international agreements to which the Parties are party, including the WTO Agreement.
2. In the event of any inconsistency¹ between this Agreement and any other international agreement to which the Parties are party, the Parties shall immediately consult with a view to finding a mutually satisfactory solution.

Section B: General Definitions

Article 1.3: General Definitions

For the purposes of this Agreement, unless otherwise provided:

AD Agreement means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

Agreement means the *Free Trade Agreement between Hong Kong, China and the Republic of Peru*;

APEC means Asia-Pacific Economic Cooperation;

Area in respect of:

¹ For the purposes of application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of goods, services, investments or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.

- (a) Hong Kong, China means the Hong Kong Special Administrative Region as delineated by the Order of the State Council of the People's Republic of China No. 221 dated July 1, 1997; and
- (b) Peru means the mainland territory, the islands, the maritime areas and the air space above them, under sovereignty or sovereign rights and jurisdiction of Peru, in accordance with the provisions of the Political Constitution of Peru (Constitución Política del Perú) and other relevant domestic law and international law;

customs administration means:

- (a) for Hong Kong, China, the Customs and Excise Department of Hong Kong, China; and
- (b) for Peru, the National Superintendence of Customs and Tax Administration (Superintendencia Nacional de Aduanas y de Administración Tributaria - SUNAT), or its successor;

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

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
- (b) fee or other charge that is covered by Article VIII of GATT 1994; or
- (c) anti-dumping or countervailing duty applied consistently with Article VI of GATT 1994, the AD Agreement and the SCM Agreement;

Customs Valuation Agreement means *the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

day means a calendar day;

enterprise means:

- (a) any entity constituted or organised under applicable laws, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association or similar organisation; or
- (b) a branch of an enterprise;

existing means in effect on the date of entry into force of this Agreement;

GATS means the *General Agreement on Trade in Services*, set out in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

good means any merchandise, product, article or material;

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes and Subheading Notes as adopted and implemented by the Parties in their respective laws;

heading means the first four digits in the tariff classification number under the Harmonized System;

Joint Commission means the Joint Commission established under Article 17.1 (Establishment of the Joint Commission) of Chapter 17 (Administrative and Institutional Provisions);

measure includes any law, regulation, procedure, requirement or practice;

natural person of a Party means a natural person who under the law of the Party:

- (a) for Hong Kong, China, is a permanent resident of the Hong Kong Special Administrative Region of the People's Republic of China; and
- (b) for Peru, is a person who has the nationality of Peru by birth, naturalisation or option in accordance with the Political Constitution of Peru (Constitución Política del Perú) and other relevant domestic legislation, or a permanent resident;

originating means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of Origin and Origin Procedures);

person means a natural person or an enterprise;

SCM Agreement means the *Agreement on Subsidies and Countervailing Measures*, set out in Annex 1A to the WTO Agreement;

SME means a small and medium-sized enterprise, including a micro-sized enterprise;

subheading means the first six digits in the tariff classification number under the Harmonized System;

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, set out in Annex 1C to the WTO Agreement, as revised or amended from time to time by a revision or amendment that applies to the Parties and including any waiver of any provision thereof granted pursuant to the proper procedures as stated in the WTO Agreement;

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on April 15, 1994.

Section C: Interpretations

Article 1.4: Interpretations

For the purposes of this Agreement, unless otherwise provided:

- (a) for Hong Kong, China, any reference to an international agreement to which a Party is a party shall include an international agreement made applicable to Hong Kong, China, and any reference to the rights, obligations or undertakings of a Party under an international agreement shall include the rights, obligations or undertakings made applicable to Hong Kong, China under such an international agreement;
- (b) for Hong Kong, China, if an expression is qualified by the term “national”, such expression shall be interpreted as pertaining to Hong Kong, China; and
- (c) if anything under this Agreement is to be done within a number of days:
 - (i) of a specified date or event, the specified date or the date on which the specified event occurs shall be included in calculating that number of days; or
 - (ii) after, from or before a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.