



# Training manual: “Technical Capacity-Building for more effective use of trade agreements”

A contribution to the processes of capacity-building, collective learning, making better use of trade agreements and boosting competitiveness in the agricultural sector.





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A contribution to the processes of capacity-building, collective learning, making better use of trade agreements and boosting competitiveness in the agricultural sector.

This document was prepared within the framework of the Project: Improving the capacities of the countries to make better use of trade agreements and make the agricultural sector more competitive, implemented by the consortium comprising the IICA Offices in Costa Rica, Honduras, Guatemala and Nicaragua; the Centre for Strategic Analysis for Agriculture (CAESPA), the Agribusiness and Marketing Program and the Agricultural Health and Food Safety Program.

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# Table of contents

Foreword.....	7
Introduction .....	9
Acronyms.....	10
Module 1:Understanding Trade Agreements.....	11
1.1    General information on trade agreements .....	12
1.1.1.  What is a trade agreement? .....	12
1.1.2.  Negotiation, signing, and entry into force.....	12
•    Who is involved in negotiating trade agreements?.....	12
•    What does the negotiating process involve?.....	13
•    Signing and entry into force of trade agreements .....	14
1.1.3.  Legal status of trade agreements .....	16
1.1.4.  Why do countries sign free trade agreements? .....	16
•    What are the advantages and disadvantages of free trade agreements? .....	16
•    Who benefits?.....	17
-    Producers .....	17
-    Consumers .....	17

1.1.5. Main topics negotiated in trade agreements.....	17
• What is market access? .....	18
• What are tariff barriers? .....	18
• What is understood by nontariff barriers? .....	19
• What are quotas?.....	19
• What are tariff quotas?.....	19
• What is a transition period? .....	19
• What is understood by a safeguard?.....	19
• What is a special safeguard (SSM) of the WTO agreement on agriculture? ..	19
• What does dumping mean?.....	20
• What are rules of origin?.....	20
• What is the certificate of origin and what is its purpose? .....	20
• What are Sanitary and Phytosanitary Measures?.....	20
1.2. Importance of trade agreements.....	21
1.2.1. Creation of a preferential tariff area (PTA) and trade facilitation.....	21
• What are tariff preferences? .....	21
• What does free trade in a PTA imply? .....	21
1.2.2. Access for agricultural products in trade agreements. ....	22
- Self-evaluation - Module I.....	24

Module 2: Provisions of agriculture related free trade agreements.....	25
2.1. Regulation of trade agreements .....	26
2.1.1. Market access.....	26
• What are country product lists? .....	27
• Conditions for product access .....	29
- Free trade .....	29
- Tariff reduction programs .....	29
- Contingents or quotas .....	29
- Import permits .....	30
• Understand tariff coding? .....	30
2.1.2. Trade facilitation .....	36
• Rules of origin .....	36
• What is a certificate of origin? .....	46
2.1.3. Provisions on Sanitary and Phytosanitary Measures .....	46
2.1.4. Technical barriers to trade.....	48
2.1.5. Safeguards, subsidies and antidumping duties .....	50
2.1.6. Settlement of disputes .....	53
- Self-evaluation – Module 2.....	54

Module 3: Implementation of free trade agreements and trade promotion .....	55
3.1. When can the provisions of a trade agreement be used? How should it be administered? .....	56
3.1.1. Internal mechanisms .....	57
• Topics related to control of and support for foreign trade .....	58
• Public-private sector relationship in the implementation of free trade agreements .....	61
3.1.2. Market information.....	62
3.1.3. Trade promotion .....	64
Self-evaluation - Module 3.....	66
Glossary .....	67
Literature cited .....	74



# Foreword

The objective of the Inter-American Institute for Cooperation on Agriculture (IICA) is to contribute to the promotion of a more competitive agriculture. For this reason, and within the framework of the project – Improving the capacities of the countries to make better use of trade agreements and make the agricultural sector more competitive, a methodological tool has been developed which not only facilitates the identification of opportunities for export, but also offers guidelines with respect to investment and innovation, in order to promote successful insertion into international markets.

This publication is aimed primarily at technical personnel from the Ministries of agriculture, as well as representatives of private organizations who are interested in identifying export opportunities. It is also directed at persons who wish to enter the export markets by using the preferences that have been negotiated within the framework of the Free Trade Agreements (FTA).

The purpose of this work is to acquaint the reader with general concepts that will enable him/her to understand the language, terminology and concepts that are used in trade agreements, and which constitute the framework for promotion of agricultural products. Likewise, it will facilitate the identification of products with the greatest potential for export, as well as knowledge of the requirements for entering international markets. This type of information is indispensable for defining investment and exports promotion strategies.



Preparation of this document is the result of joint work carried out by local and international specialists in Guatemala, Honduras, Nicaragua and Costa Rica who were part of the Consortium of the Project. Technical supervision and writing of this Manual was the responsibility of Juana Galván, Specialist in Agricultural Policies and Trade in the Center for Strategic Analysis for Agriculture, with the assistance of consultant Fiorella Bulgarelli González and student Irvin Brenes Vargas, as part of her university internship and practicum.

We hope that this document will be of utmost use and will become a valuable instrument for supporting the training efforts of the agribusiness promotion undertaken by the Member States of IICA.

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*Inter-American Institute for Cooperation on Agriculture (IICA)*



# Introduction

The Inter-American Institute for Cooperation on Agriculture (IICA) is acutely aware that, more and more, countries in the Americas are attaching particular importance to establishing free trade agreements (FTAs) as part of their trade strategy in an attempt to secure concrete markets for their products and with a view to developing a competitive exportable offer, which, in turn, is expected to generate more and better employment.

Small and medium-sized producers from smaller economies, however, have made very limited use of the preferences negotiated in FTAs. Clear and relevant information on tariff preferences and non-tariff requirements for entering these markets is not readily available. This prevents countries from making good use of opportunities and adequately preparing to compete within the framework of the trade agreements negotiated.

In light of the foregoing, and to support these countries, IICA has developed a methodological tool that will enable them to identify potential opportunities for agricultural products within the framework of the

conditions negotiated under FTAs. The tool will also make available, in summarized form, information that will help to orient decision making in the areas of investment and innovation that might enable a particular country to successfully enter the destination market.

This methodological tool, designed to identify those products with greatest export potential as well as the requirements for entry into international markets, also includes this training manual, which has been designed for two purposes. The first is to explain basic topics in foreign trade relating to the agro-export sector and the second, to foster a better understanding of the key terminology used in this field: interpretation of rules of origin and technical requirements for entry of goods, an understanding of what international trade is and what negotiated trade involves in order to do strategic analysis for selecting international markets, properly reading a free trade agreement, handling tariff coding and relevant descriptions, *inter alia*.

The training module that follows will facilitate the preparation of a guide for using the methodology,

so that interested parties can draw up their own lists of products, based on their own research and groundwork, with a view to identifying market opportunities in FTAs currently in force. These lists will be produced according to countries' own interests and research and particular working basis.

The training manual is for use primarily by local experts from agriculture ministries and representatives from private sector organizations, for which identifying export opportunities is important. It may, however, prove beneficial for others involved in international trade or who may wish to enter foreign markets taking advantage of preferences negotiated to facilitate and broaden the scope of trade.

This document is divided into three modules:

- The first module contains general information on trade agreements.
- The second module addresses the legal framework for this type of agreement, and explains concepts such as market access, trade facilitation, trade protection and dispute settlement, as well as all the sub-topics that are included in a negotiated agreement.
- The third module seeks to explain the mechanism for administering a trade agreement once it has

entered into force and how these mechanisms work hand in hand with trade promotion within the countries.

After training is completed, it is hoped that users will be generally able to interpret free trade agreement provisions; the legal framework negotiated and market access requirements. This will enable them to make use of the knowledge and technology tools required to prepare their own product and market data sheets by including all the pertinent information that will facilitate trade flow within the framework of free trade agreements and optimize results in the agro-export sector.

We hope this manual will serve as an instrument for ongoing learning and consultation for participants as they administer the trade agreements, and for their beneficiaries.

## Acronyms

<b>PSA</b>	Partial scope agreement
<b>FTA</b>	Free Trade Agreement
<b>MFN</b>	Most-favored-nation
<b>PTA</b>	Preferential Tariff Area
<b>SPS</b>	Sanitary and Phytosanitary Measures
<b>TBT</b>	Technical barriers to trade
<b>WTO</b>	World Trade Organization

# Module 1: Understanding Trade Agreements

## Learning objectives

1. Recognize the fundamental elements for identifying a trade agreement and the preferential tariff area.
2. Discover what the negotiating process for trade agreements is like and the timelines for administering them.
3. Understand the key topics in a trade agreement that are a critical part of the main commitments made by trade party nations, after a trade agreement is negotiated.

## Key terms and concepts

Reading a trade agreement with a true understanding of the fundamental terms: Trade agreement, ratification and duration of the agreement, administration of the agreement, market access, tariff barriers, non-tariff barriers, quotas, tariff quotas, safeguards, dumping, rules of origin, sanitary and phytosanitary measures, preferential tariff area.





## 1.1. General information on trade agreements

### 1.1.1. What is a trade agreement?

Generally speaking, no single nation can be considered as self-sufficient to the point of requiring no assistance from any other nation. In other words, countries trade for various reasons, including the fact that country can produce all that it needs. Therefore, when a country does not produce enough to satisfy the food, health, well-being or security requirements of its population, it purchases them from another.

Countries have prospered as a result of the development of international trade. The logic behind this is that, in making the best use of its resources, a country can produce better and subsequently trade with other countries, exchanging its goods for those that these countries are better at producing. As a result of this trade, and in an effort to establish security, trade agreements seek to guarantee and facilitate access for products in foreign markets, without barriers.

One of the objectives stated in agreements between countries is an increase in production and marketing of goods produced locally. This could lead to more jobs, improved well-being for the population and promote the creation of new companies by national and foreign investors.

**A trade agreement is a set of rules defined by countries in order to buy products and services from and sell products these to their “trade partners”.**

The agreement creates a “free trade area”, because the rules that apply define how and when trade barriers will be eliminated to obtain free passage of goods and services between nation parties. In other words, the agreement determines the moment and the way in which permits, quotas and licenses, and particularly tariffs and duties, are eliminated. This is one of the fundamental objectives of the agreement. In addition, an agreement of this type seeks to create trade conditions that promote fair trade among nations.

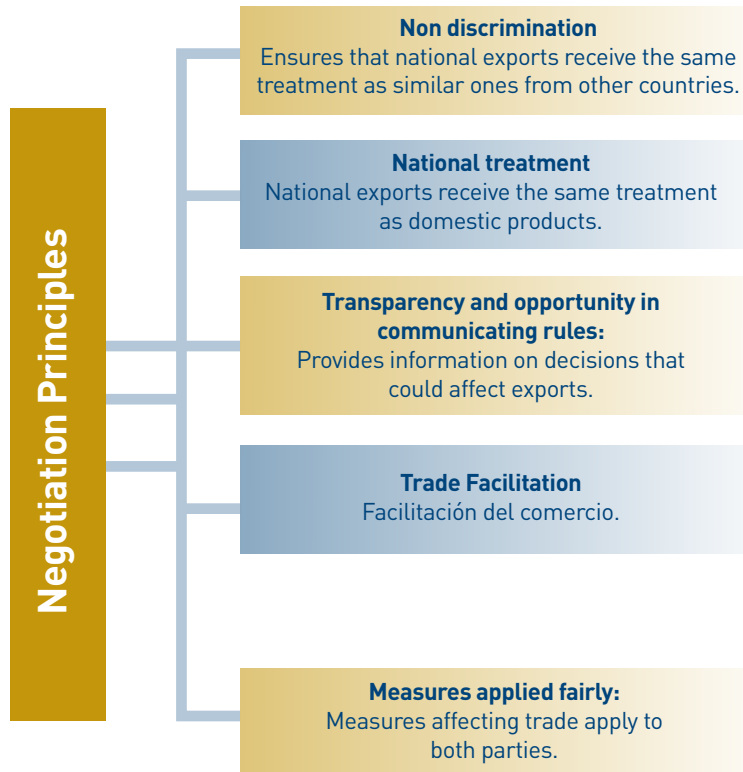
### 1.1.2. Negotiation, signing and entry into force

■ Who is involved in negotiating trade agreements?

Generally speaking, by virtue of being agreements between States, trade agreements are negotiated by governments, in representation of the people of the

state. More specifically, it is government officials working in the area of foreign trade who negotiate these agreements, along with officials from government agencies associated with the areas to be negotiated.

Part of the work of the government, however, is to invite the private/business sector to participate individually or as a group through chambers and associations.

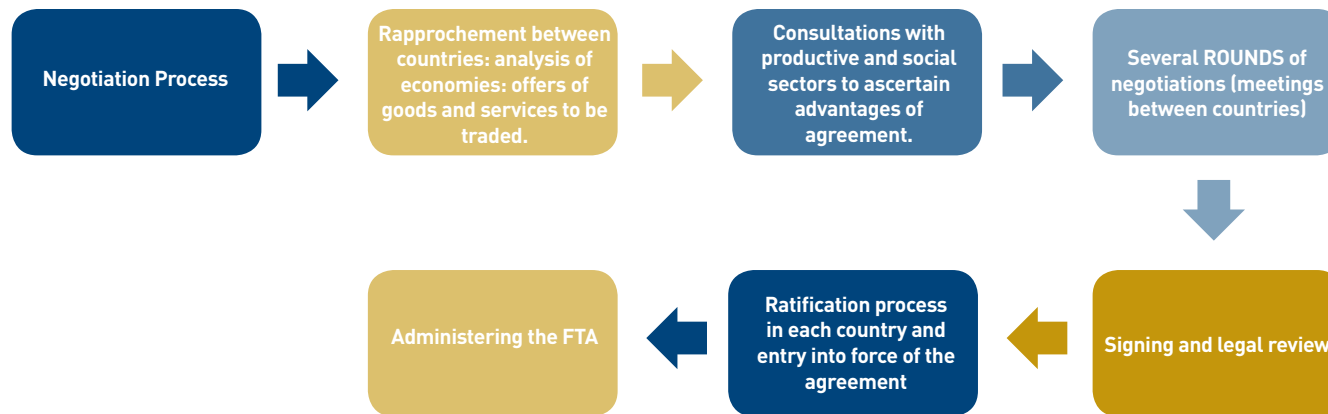


## ■ What does the negotiating process involve?

The negotiating process implies consultation between various sectors to present the country's position to the other negotiators. Prior to this, consultations must be carried out concerning the different areas and products and, based on the outcome, meetings may be conducted to fine-tune the proposals for negotiation. Also, during the negotiations, countries meet with private sector representatives in what is known as the "side-room" where progress reports are usually presented, positions are restated and strategies for attempting to reach agreement on each of the issues are worked out. Participation from the various sectors is critical since, along with government policy, this will serve to determine the positions taken in negotiating the trade agreement.

Prior to negotiation meetings between interested countries, there are informal consultations to identify interests, objectives, analyze economies and the offers of goods and services that could be exchanged.

It is also recommended that there consultations be held, at the national level, between governments and the different social sectors to determine whether there is interest in negotiating a trade commitment. An exploratory phase then ensues, where the advantages of entering into an agreement are examined and evaluated.



Once agreement has been reached on the start of negotiations, countries conduct meetings, called rounds of negotiations, where they discuss and agree on the text that is to be contained in the respective trade agreement<sup>1</sup>. More often than not, it is a free trade agreement (FTA), but it could also be called a trade promotion agreement or a preferential tariff agreement. The trade negotiation stage varies in duration according to the ability of the countries involved to reach agreement. At the start of the negotiations, countries usually agree on the issues to be negotiated, the format the negotiations will take and an approximate timeline.

Negotiations begin once a proposal is received from one of the parties and a subsequent counter-proposal

is received from another. This provides an indication of and gives form to the text of the agreement. Once the negotiation is concluded, each country usually does a legal reading of the text of the agreement in order to bring the language of the agreement in line with the corresponding legal terms and internal legislation.

■ Signing and entry into force of trade agreements

**Once the legal review is complete, countries sign the treaty and must follow the internal procedures in place for approving and ratifying the agreement**

1. In this document, "trade agreement" refers to any pact, treaty or other binding act, by means of which two or more nations commit to honoring specific conditions when carrying out their trade exchanges. These usually include mutually beneficial concessions. There are different types of trade agreements. These are defined in this manual's glossary.



**and, usually, making it public, so that it can enter into force and thereby begin to take effect.** The foregoing information may be communicated to other countries that are party to the agreement and to the entity where the agreement must be deposited, as an international symbol that it has entered into force.

Administration of the trade agreement becomes the responsibility of the pertinent national offices once it has entered into force. These offices will ensure that the agreement is correctly administered and will oversee the coordination of activities with all government institutions concerned and all sectors involved, so as to make the best possible use of the commitments acquired. This administrative responsibility may vary from country to country, depending on the government organization involved. Oversight of the correct administration of the agreement and coordination with other stakeholders may fall to a single office or to several offices.

As part of the administrative process, all issues negotiated under a trade agreement are subject to review and improvement based on countries' prevailing conditions, needs and aspirations. This "renegotiation" is provided for within the framework of the agreement itself, when the institutional segment of the agreement is being defined, and where provisions are made for technical committees and commissions through which countries may evaluate the modifications as deemed appropriate on different issues.

## Effects that are sought via free trade agreements

1. Open up markets: improve production and sell more to others, both in terms of products and services.
2. Seek more foreign investment.
3. Diversify exports, taking advantage of the tariff benefits that the agreement might offer.
4. Obtain better transfer of technology
5. Strengthen and assist growth among small and medium-sized enterprises, through the use of the trade agreement
6. Facilitate trade in goods by making requirements similar and simplified.
7. Reduce non tariff restrictions for market access by imported products (such as quotas, technical import requirements and others).



### 1.1.3. Legal status of trade agreements

Within the legal systems of the majority of countries, international agreements are expected to respect the provisions of the Political Constitution and be supplemented by the countries' domestic legislation. This means that there should be harmony between the provisions of an agreement and the national legislation. Often, adjustments have to be made, such as simple legislative amendments or new standards, depending on the issue to be regulated, in keeping with the agreement reached by the current States parties.

### 1.1.4. Why do countries sign free trade agreements?

FTAs tend to be part of a commercial strategy adopted by the countries, which they use to try to consolidate markets for their domestic products, in order to develop a competitive export supply, while seeking to generate more and better jobs, in addition to getting involved in international trade with a view to expanding the size of their markets.

- What are the advantages and disadvantages of free trade agreements?

Free trade agreements can be beneficial not only with respect to trade matters, but may also be positive for

the economy as a whole. The objectives that countries seek to achieve by means of these agreements usually include: reduction, and in many cases, elimination of tariff and nontariff barriers to trade, improved competitiveness of the companies; encouragement of foreign investments, as well as other types of investment that may vary according to country and economy.

However, statistics have shown that not all sectors of the economy benefit in the same way from trade agreements. Furthermore, circumstances outside of the agreements, which are often temporary or occasional, prevent the results from being maximized, even though the conditions have been created for this to happen. Undoubtedly, there are products that are more sensitive in the negotiation process, and for which specific trade defense mechanisms are established.

In the final analysis, the advantages or disadvantages that emerge from each agreement must be seen as closely linked to the country's trade policy, to the group of official institutions responsible for carrying out the commitments, to the investments made by the country in modernization and strengthening of its institutional capability with respect to those commitments, to the capacity of its sectors to access and use this tool, and to the existing international circumstances that are affecting or are likely to affect the country's development.

## ■ Who benefits?

Generally speaking, current trade agreements should be presented as support tools for the development of a country. It is therefore vital that there is access to information on them, training on the topics included in the agreement, promotion of product diversification and improvement in production.

- **Producers:** Countries have advantages that may be “natural” for many products, or they may be “acquired” advantages for others. What is important for the producers is that they are prepared, in a timely manner, in order to improve their products, in other words, to produce their products with greater efficiency, higher quality, better technology, and competitive prices.

A trade agreement can create the opportunity for a local producer to use, in his productive processes, raw materials, inputs and foreign capital that are less expensive, and which allow him to produce and export under better conditions.

- **Consumers:** Trade agreements are also signed with the consumer in mind, since, by reducing import tariffs, they can have access to a greater variety of end products goods at cheaper prices, for example computers, transportation equipment, cars, books, electronic equipment, electric appliances and

cosmetics that his country probably does not produce. The rules negotiated also are an attempt at generating standards and procedures that promote efficient, transparent and expeditious customs operations, which means lower storage and management costs of merchandise for the importers and, therefore reductions in consumer prices, in addition to those resulting from lower tariffs.

## ■ 1.1.5. Main topics negotiated in trade<sup>2</sup> agreements

**The negotiation of a trade agreement should meet several requirements: transparency, mutual trust, and interest of the parties in the issues being negotiated.** On this latter point, we find that some agreements include matters that are not included in others.

**All agreements result in two fundamental parts: one relating to standards, and another dealing with access to markets. The part relating to standards includes the common rules that regulate trade among countries. The part relating to market access includes the commitments that both countries undertake for the gradual elimination of taxes and the restrictions to**

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2. Information available at <http://www.infomipyme.com/Docs/GT/Offline/exportacion/faq.htm>, consulted July 12, 2012.

**mutual trade in goods and services, which appear as annexes to the agreement.**

“Modern” agreements usually contain the following topics:

- a. General provisions
- b. Definitions
- c. Access to markets
  - *Agricultural goods*
  - *Industrial goods*
- d. Customs procedures and trade facilitation
  - *Rules of origin*
- e. Trade defense measures
  - *Safeguards*
  - *Dumping*
  - *Compensatory rights for subsidies*
- f. Other subjects
  - *Sanitary and Phytosanitary Measures*
  - *Technical barriers*
  - *Services and investment*
  - *Intellectual property*
  - *Public contracting*
  - *Labor*
  - *Environment*
  - *Settlement of disputes*
  - *Administration*
  - *Exemptions*
  - *Final provisions*

In order to adequately read and understand a trade agreement, the meaning of some of these concepts, as well as their application within the trade environment, must be understood. An initial reference is made to some of these concepts below; they are analyzed in more detail later in relation to agricultural products (*also see glossary*).

■ What is market access?

Market access to markets is the capacity that a supplier of a given country has to place his products in a foreign market. This is called “tariff preference”, that is, a reduction or elimination of import taxes, granted by one country to another within the framework of an agreement. In this regard, trade agreements seek to expand and consolidate the access to markets of the main export products of a country.

In the absence of an agreement between countries, access to a market may be limited by what are referred to as “tariff barriers” and “non-tariff barriers.”

■ What are tariff barriers?

These are import taxes, known as *tariffs*, that do not facilitate trade between countries, and which prevent, or make importation of certain products more expensive.

### ■ What is understood by nontariff barriers?

These are difficulties or obstacles to the marketing of a product. They consist of imports restrictions that are of a non-tariff nature.; for example, when a country prohibits the importation of a product because of a disease or pest that does not exist in the country, or when a country requests an excessive amount of documentation, permits or other documents that imply time and money, and makes it less attractive to import that product.

### ■ What are quotas?

These correspond to a restriction in the quantity of a product that may be imported. These restrictions may be *general*. In this case, a certain amount of imports per year permitted, after which no more of that good can be imported. They may also be *tariff quotas* that limit the quantity of a good. They may be imported by paying an established tariff (usually lower than the normal tariff) and later another tariff.

### ■ What are tariff quotas?

The tariff quota is the volume or amount of imports of a given product that a country commits to accept into its market by paying tariffs that may continue

to decline over time and in the manner that the two countries may agree upon.

### ■ What is a transition period?

A transition period corresponds to the different time frames established to reduce the tariffs until they reach 0%. These transition periods are sought so that the productive sectors can continue to prepare for free trade.

### ■ What is understood by a safeguard?

A safeguard is an exemption mechanism that is used to temporarily prevent massive importation of a product that may harm, or threaten to harm local production. A period of adjustment is granted, “a grace period”, to allow the country to adjust its competitive level in order to cope with the importation or to redirect its resources to another sector of national production (Govaere 2003: 71).

### ■ What is a special safeguard measure (SSM) of the WTO agreement on agriculture?

Article 5 of the WTO Agreement on Agriculture establishes a special safeguard, which can only be applied to certain agricultural products. This

mechanism enables the country to raise the tariff on a product when imports of that product exceed the amount negotiated, or when the prices of the product drop significantly. When this type of safeguard is applied, the tariff may be raised to that collected from third countries or to the amount that was in place before the trade agreement came into effect.

#### ■ What does dumping mean?

*Dumping* is the act of selling a product abroad at a price that is lower than the amount for which it was sold in the country in which it was produced, which may harm or threaten local production. Antidumping measures are a trade defense mechanism, which consist in applying an additional import duty to a given product in order to eliminate this unfair practice.

#### ■ What are rules of origin?

Rules of origin are a set of regulations that make it possible for us to establish where a good was produced so that it can be sold free of import taxes within a tariff preference zone, i.e., so that it has the right to apply the terms of the agreement. With the establishment of these standards, the “triangular movement of goods” is avoided; that is, that countries outside of the trade agreement enjoy the benefits agreed upon among the parties. The purpose of including a chapter on rules

of origin within trade agreements is to establish the conditions necessary for determining the origin of the goods that will have the right to enjoy the agreed-upon preferential tariff treatment.

#### ■ What is the certificate of origin and what is its purpose?

The certificate of origin is the document that is used for declaring to the authorities of the importing country, where the goods originate from, in order to benefit from tariff preferences or free trade. There is no pre-established format. It may be issued in written or electronic format and usually does not require approval by any certifying authority or entity. It may be issued by the importer, the exporter, or the producer, depending on what was agreed.

#### ■ What are Sanitary and Phytosanitary Measures?

Trade agreements also deal with topics related to protection of the health of persons, animals, and plants. A sanitary or phytosanitary measure seeks to ensure compliance by exported or imported products with certain characteristics or requirements in order to protect the health of humans, animals and plants, as well as to avoid the transmission of pests or diseases, among others, through commercial trade.

## 1.2. Importance of trade agreements

### 1.2.1. Creation of a preferential tariff area (PTA) and trade facilitation

Trade agreements are negotiated and implemented in order to benefit economies. Countries try to increase trade, have mutually agreed-upon and clear rules, and resolve conflicts in their trade and economic relations.

The tariff preference area<sup>3</sup> and trade facilitation<sup>4</sup> that the trade agreements provide seek to promote economic growth through an increase in trade among countries, by means of total elimination of encumbrances and other restrictions on trade for all products, with a few exceptions. The agreements further seek to improve supply and prices for the consumer, and promote production and trade among countries.

#### ■ What are tariff preferences?

Tariff preferences constitute an advantage that benefits imports of the negotiated and local products of the participating countries of a given agreement. Tariff preferences consist of a reduction in the barriers that are applied to imports from third countries (see Glossary).

#### ■ What does free trade in a PTA imply?

In foreign trade, **free trade is the opposite of protectionism and is based on the absence of tariffs or any other form of trade barrier that seeks to hinder the exchange of products between countries.** Free trade implies the elimination of artificial barriers to voluntary trade between individuals and companies from different countries.<sup>5</sup>

3. A preferential tariff area is defined in the WTO as follows "Trade within the group of countries that make up the area is carried out free of customs duties, but the members establish their own tariffs for imports from non-member countries. Information available at [http://www.wto.org/spanish/thewto\\_s/glossary\\_s/glossary\\_s.htm](http://www.wto.org/spanish/thewto_s/glossary_s/glossary_s.htm)

4. *By trade facilitation, we understand: "Elimination of barriers to cross-border movement of goods (for example, by simplifying customs procedures." Information available at [http://www.wto.org/spanish/thewto\\_s/glossary\\_s/glossary\\_s.htm](http://www.wto.org/spanish/thewto_s/glossary_s/glossary_s.htm)*

5. Information available at [http://es.wikipedia.org/wiki/Comercio\\_libre](http://es.wikipedia.org/wiki/Comercio_libre)



In a free trade area, the countries that are parties to an agreement undertake to eliminate tariffs at their borders. This free trade area encourages the free movement of products included in the agreement by virtue of the elimination of tariff and nontariff obstacles to the exportation and importation of the products that are **native** to the States that are members of the area, but each State maintains the tariffs that apply to third party states (outside of the area).

### 1.2.2. Access for agricultural products in the trade agreements

Access to markets in general refers to the principal objective of a trade agreement, which is to agree upon the conditions under which the exchange of products will be carried out between the countries, whether they pay a tariff or not, how many and what additional requirements should they fulfill in order to enter the market (Galván and Araya 2004:21). Basically, the object is to enable a local producer to use, in his productive processes, cheaper raw materials, inputs, and capital goods abroad that will allow him to produce and export under better conditions.

Both agricultural and industrial products alike have different conditions of access, because they

present different sensitivities. Agricultural products are the ones that “suffer” more within a process of negotiation. Given the distortions that agricultural trade suffered during the decade of the eighties, before trade agreements were heard of, the World Trade Organization (WTO) was being pressured by some countries to establish a set of multilateral trade rules that would regulate and establish a more equitable agricultural trade.

**There is no single rule that applies across the board to trade in agricultural products between the different trading partners. Each trade agreement has its own provisions with respect to which requirements, tariffs, sanitary and phytosanitary measures, rules of origin, quotas and contingents, among other topics, may be applied to the agricultural products that they produce and expect to trade.**

In recent years, most of the small countries in Latin America have modified their trade policies to achieve greater integration into the international economy, promote exports and imports, and actively use foreign trade as a means to development.

Actions change from one country to another, but the expected results are similar: try to make the most of advantages; allow local companies to share

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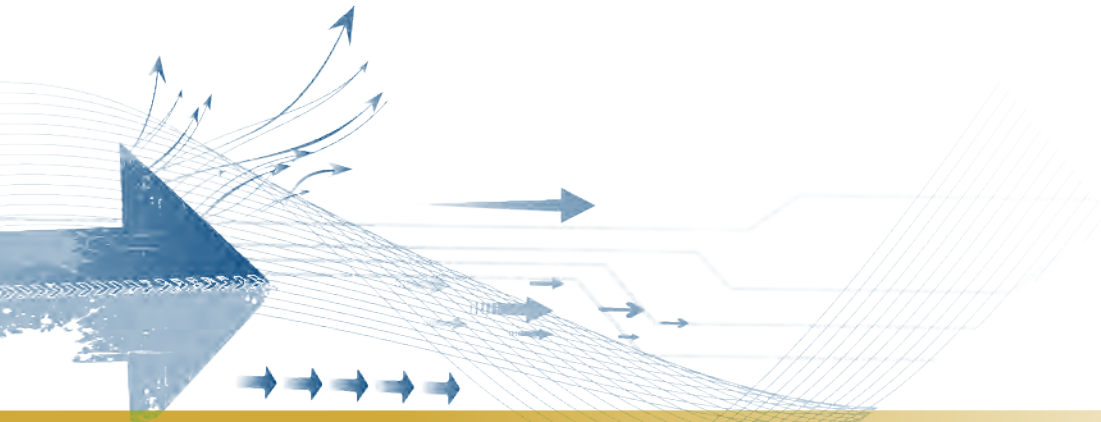
5. Información disponible en [http://es.wikipedia.org/wiki/Comercio\\_Libre](http://es.wikipedia.org/wiki/Comercio_Libre)

in the international market; attract more foreign direct investment through which trade can be developed, include technology, increase productivity and generate employment; in addition to providing consumers with better options in terms of quality, variety, and price for the products on the market (Galván and Araya 2004:9-10).

An instrument such as the one that IICA is developing offers a methodological tool for identifying, via a simple search, opportunities in markets with FTAs, which is helpful in the decision-making process. Furthermore, it seeks to strengthen the institutional capabilities

of technical personnel and producers within the agricultural sector in key areas for the promotion of agricultural products, where efforts are being made to enter and remain competitive in international markets. This is fundamental for remaining aware of key information that is relevant to trade agreements, identifying opportunities for access to markets under favorable tariff conditions and identifying sanitary and phytosanitary requirements, as well as other technical and administrative requirements in the different agreements, in order to obtain the best possible results from the commercial exchange of the products.





## Self-evaluation - Module 1

Questions for the reader

1. How would you define a “trade agreement?”
2. What are the principles of negotiation?
3. When does a negotiated trade agreement take effect?
4. State at least five fundamental topics in a negotiation.
5. What do countries hope to gain by negotiating an FTA?

## Internet Sites consulted in Module 1:

- Msme Tool Box Network <http://www.infomipyme.com/Docs/GT/Offline/exportacion/faq.htm>
- World Trade Organization [http://www.wto.org/spanish/thewto\\_s/glossary\\_s/glossary\\_s.htm](http://www.wto.org/spanish/thewto_s/glossary_s/glossary_s.htm)
- Wikipedia, the free encyclopedia  
[http://es.wikipedia.org/wiki/Comercio\\_libre](http://es.wikipedia.org/wiki/Comercio_libre)

# Module 2: Provisions of agriculture related free trade agreements

## Learning objectives

1. Identify what is meant by regulation and market access in a trade agreement.
2. Understand the content of the following basic topics: market access, trade facilitation, provisions of sanitary and phytosanitary measures, technical barriers to trade, safeguards, subsidies and antidumping rights as well as settlement of disputes.
3. Understand the tariff coding, correct interpretation of the rules of origin and content of the lists of products from the countries as well as tax reduction programs.
4. Familiarization of users with technical standards within the framework of the negotiated conditions for market access, in order to make better use of FTAs.

## Key concepts

Country product lists, tax reduction programs, tariff coding, trade facilitation, rules of origin, certificate of origin, technical standards, sanitary and phytosanitary measures, settlement of disputes.



## 2.1. Regulation of trade agreements

Through trade agreements, a legal framework is produced with clear and foreseeable rules that assist mainly in regulating the trade of goods among the parties, that meet the objective of stimulating local production and, at the same time, provides trade defense mechanisms when protection is required against actions that are likely to harm trade between the States parties to the agreement.

With respect to the topic of agriculture within a trade agreement, some chapters are particularly relevant in that they regulate the national treatment and access of goods to the market, tariff classification, the regimen and procedures of origin, aspects of customs administration and trade facilitation, sanitary and phytosanitary matters, technical barriers to trade and trade defense mechanisms. These sections are inter-related and include essential elements that will be dealt with in detail below.

### 2.1.1. Market access

Market access refers to the conditions under which a country can import a product. In other words, if a tariff is applied or not, how much should

be paid and what are the other requirements that must be fulfilled to ensure access to the market. This is usually the main objective of the negotiation of a trade agreement.

These concessions granted in trade agreements are based on two fundamental principles of the trade system: **national treatment** and **most-favored-nation (MFN)**. Understanding these principles enables one to recognize how the tariff preferences in each agreement function.

The principle of **national treatment** is applied to an export product that has already met the transaction and payment requirements for entry into the country of destination and therefore no further transactions or additional payments are required, apart from those which apply to local goods that have the same characteristics in that market.

Furthermore, the **MFN** principle is binding upon the countries so as to prevent discrimination among trading partners; in other words, the special advantage that is given to one member country of the WTO with which trade relations are maintained, should be given to all the other member countries when goods and

products are traded with them. The tariff preferences that are agreed upon in a treaty are considered as “accepted” exceptions to this principle, because they are applied within a free trade area created under the trade agreement. Furthermore, countries are free to choose their trading partners, based on the commercial exchange between them.

With respect to the topic of “market access”, the main obstacles to entering other markets can also be of a tariff or non tariff nature, also known as barriers. We therefore find: tariffs, import quotas, import permits, technical regulations, local government subsidies, sanitary and phytosanitary legislation, environmental regulations, consumer protection systems, packaging and labeling requirements, among others.

The principal objectives of a chapter on market access and desirable goals in a trade agreement are as follows:

- Seek to eliminate customs duties and other duties and charges, as well as nontariff barriers and other measures that in any way limit export among trading partners.
- Establish mechanisms that enable a reasonable and gradual adjustment to free trade in goods that are sensitive to external competition in the states parties to the agreement, and which should take into account differences in size and development between the economies.

- Promote the elimination of agricultural export subsidies in bilateral trade.
- Establish rules of origin and mechanisms for accumulation of origin that enable exporters to reap the best advantage from tariff preferences, while giving due consideration to the import sensitivities that exist between the trading partners.
- Establish customs rules and procedures that promote efficient, transparent and smooth customs operations in all the States parties.
- Apply the technical, sanitary and phytosanitary measures transparently and effectively to ensure that trade restrictions do not occur.
- Seek appropriate mechanisms for dealing with import sensitivities among the trading partners and ensure that these do not become improper obstacles to trade.
- Generally speaking, ensure that the WTO agreements relating to market access are complied with.

#### ■ What are country product lists?

**Country product lists contain the products that are included in the agreement, along with their**

**corresponding “tax reduction”, i.e. the reduction or elimination of tariffs between the countries that have a trade agreement in place.** This tax reduction may be immediate (which implies free trade when the treaty enters into force) or periodic (which implies a gradual reduction of the tariff towards free trade or the lowest negotiated level).

Also present will be “linear tariff reduction” or “staggered tax reduction”. Linear tariff reduction means that the tariffs on local goods included in one of the tax reduction categories in the timetable of one of the parties will be eliminated in equal stages, beginning at the time of entry into force of the trade agreement. The staggered reduction in taxes, on the other hand, corresponds to a percentage reduction, usually annual, that leads to tariff reduction down to the minimum level agreed upon by the parties.

**The agreements usually indicate the form that this reduction will take, as well as determine the time-frame (years) and amounts that will be gradually reduced. These specifications are known as “categories”, or more commonly as “baskets”, which are usually indicated with letters that distinguish the products from those that will be reduced in keeping with each period described in the category.**

Generally speaking, agricultural products are usually subject to the largest tax reduction periods, or they

may even receive exemptions within the lists. This is due to the fact that this group of products is the most sensitive, and they are the ones that require the most time to adapt to the proposed opening-up of the trade agreement.

The commitment of the countries to these lists of tax reductions lies in following the internal regulations that may exist as a procedure in applying the reductions granted for each year or period, and to monitor the tax reductions that should be granted by its trading partners by virtue of what had been agreed upon (Galván and Araya 2004:25).

Additionally, the lists take into account products that have been excluded from the tax reduction programs or from free trade; accordingly, they receive the same treatment as that given to products from the “rest” of the countries, according to what was decided by the country itself within the framework of the WTO, under the MFN principle.

In its simplest structure, the lists included in the free trade agreements contain four columns: a **first** one with the tariff classification (which is defined further on) corresponding to each good according to the Harmonized Commodity Description and Coding System; a **second** column containing a description of the merchandise that corresponds to that tariff item; the **third** with the “base rate”, that is, the tariff from which the reduction in taxes originated (this is applied

to all the other countries); and a **fourth** column indicating the category of tax reduction agreed to, i.e. the time frame for gradual elimination of the tariff or the condition for free trade. There may also be notes explaining any other details that have been negotiated by the parties.

### ■ Conditions for product access

Trade agreements are an attempt to generate conditions for access (these have already been mentioned) under which reduction, and in many cases removal of the tariff and nontariff barriers to trade is achieved. It is hoped, in a best-case scenario, that this will help to improve the competitiveness of the companies, encourage foreign or local investment, generate competition under similar conditions with respect to other countries that also received access advantages through similar trade agreements and, finally, gain advantages over countries that have not negotiated preferential trade agreements.

The categories of market access that are regularly granted to different products within a trade agreement are:

- **Free trade:** Free trade is a condition equivalent to “zero percent of tariff” immediately following the entry into force of a treaty or free trade agreement, for products originating in the exporting country, when they are entering the importing country.

- **Tariff reduction programs:** The tariff reduction program is the commitment by countries to gradually phase out tariffs on goods originating in the countries themselves, in accordance with the lists of tax reductions that have been agreed upon.

Each trade agreement includes, in its chapter on market access, the categories of tax reductions that the trading partners are interested in. The categories are represented by letters, where category “A” is commonly the category that represents the application of immediate free trade to a series of products, upon the entry into force of the agreement.

Based on this first category, groups of products are created that would be granted free trade within periods of 5, 7, 9, 10, 12, 15 and up to 20 years. Additionally, there are categories of products that maintain their free trade status, and there are groups of goods that will maintain the same conditions at the MFN that the parties have within the framework of the WTO. Finally, there always is a category of products that is excluded from free trade or from any gradual reduction in taxes. Usually a few agricultural products fall into this category, based on the sensitivities demonstrated by the sectors during the negotiation.

- **Contingents or quotas:** This generally refers to the “volume or amount of imports of a given product that a country commits to accepting into its market without



applying restrictive measures.” A comparison can be made with a window that is open, through which a pre-determined quantity of products enters, or which permits the entry of products only during a specified period. There are two types of quotas or contingents:

- **Global:** these permit a certain quantity of imports for a pre-determined period of time, after which no more of that good may be imported. *For example: X amount of metric tons of sugar during the months of August to October.*
- **Tariff:** which limit the quantity of a good that may be imported by paying an established tariff (usually less than the normal tariff) after which another one will have to be paid. *For example: X metric tons of sugar, for the year YYYY (where once the quantity is reached, the normal tariff automatically applies).* In other words, the contingent tends to be used to allow access to the market of those products that, for some reason, do not have the benefit of total opening to the market, or are subject to long periods of tax reduction.
- **Import permits:** Import licenses or permits are used to administer the quotas outlined in the previous paragraphs. They are used to keep a record of the imports carried out under the protection of a quota. Each country does it in accordance with its internal procedures and the

provisions of the WTO. The Agreement on Import Licensing Procedures is an attempt to make the national systems simple, transparent, and predictable; for example, the WTO expects that governments will publish sufficient information so that business persons are informed of how and why licenses are granted. They also ensure that paperwork does not represent a restriction or distortion to imports.

#### ■ Understand tariff coding?

Tariff coding is a way of classifying goods, and for which a coding system is used, so that the products can be recorded in an orderly, or even scientific manner, since the processes of preparation of the goods for trade purposes is taken into account. The nomenclature consists of two elements: the code (expressed in numbers) and the description of the product. For example: 01 05: cocks, hens, ducks, geese, turkeys, turkey/chicken and guinea hens, of the domestic spec.

For classifying products, the order that is followed ranges from the most general to the most specific. For example, the various rules range from live animals to dead animals, to frozen products and then to processed food.

**All the tariff coding is found within the “Harmonized System”, which is a six-figure**

## Special case of the United States

The Harmonized Tariff Schedule of the United States (HTSUS) is the tariff classification of that country.

The United States is a signatory to the Harmonization System, but it incorporated additional specifications that generated said classification, which came into force on January 1, 1989. Since then, all goods imported into the U.S. are classified under the HTSUS.

Its structure follows that of the Harmonization System: the first six digits belong to this system and the seventh digit onward corresponds to the American classification. Those digits contain all the tariff and statistical information corresponding to the U.S. market.

The tariff classification of the United States (HTSUS) is available on the Internet. It can be accessed directly through the Web page of the International Trade Commission of the United States (<http://www.usitc.gov>).

**international nomenclature system for harmonizing the technical criteria with the criteria for classifying merchandise for trade between different countries, with the objective of contributing to trade facilitation.** Use of this international nomenclature is compulsory and no member country can modify it unilaterally.

Goods are classified or coded based on two criteria: their composition and their function. This classification helps to reduce time and costs in international commercial transfers:

- It reduces economic costs since it avoids designation of goods in several different ways and is standardized with a numerical code.
- It reduces time, since by virtue of the existence of an international code, import and export transactions are accelerated as everyone involved is aware of which goods are involved.

**This Harmonization System consists of XXI Sections and 96 chapters.** This coding system has undergone five “amendments” (or reviews), which is carried out by the makes the Harmonization System Committee of the World Customs Organization (WCO), an agency that reviews the system in light of technological advances and changes in international trade. Based on this review, certain modifications are recommended as necessary.



The Harmonization System is structured as follows:

- Six general rules of interpretation. These help to determine the classification that should be applied to a given type of goods. In other words, its function is to assist those who are interpreting the tariff to find the correct classification of the goods.
- 21 sections and 96 chapters with their legal notes. The section notes are guidelines that need to be analyzed in order to do a correct classification. The chapter notes, in turn, are legal guidelines for each chapter and are found at the beginning of each chapter, unless otherwise indicated. These notes, as well the section notes, should be reviewed before goods are classified, since they can indicate particular conditions under which the product should be classified in a different chapter (or section).
- Tariff items (4 digits) and sub-items (6 digits) with their legal notes. The tariff code consists of six digits, which are universal. After these digits, countries are freed to add any digits required in order to do a more complete classification. In the sub-regional and national tariffs, the sub-items are eight and ten digits, respectively, but they always maintain the same first six digits of the Tariff System.

As mentioned earlier, the **General Rules of Interpretation** are general formulas that are used in addition to the description in the items and sub-items and in the technical notes to the sections and chapters. They are used to clarify any doubt that may arise at the time of classifying goods.

The **sections** are the major components of the nomenclature that are responsible for classifying similar goods, whether they are of the same type, from the same industrial sector or from the same sector of the economy. *For example: Section XI on textile materials, clothing, and other manufactured goods from textile materials.* In total, there are 21 sections that are represented with roman numerals.

The sections are in progressive order of nomenclature, that is, they go from what is simplest or general, to the most complex or specific, so that they range from basic products (sections I,II,III), to more complex products, such as those in section XXI (art or collection objects and antiques).

The 96 **chapters** are grouped into three specific areas (according to the composition and function of the goods):

- Chapters 1 to 83 (with the exception of 64 to 67): here products are classified according to their

**composition**, that is, according to the materials used to make the product. *For example, determining whether the footwear is made of natural leather, reclaimed leather, or synthetic leather (leatherette).*

- Chapters 84 to 97: products are classified according to the **function or design** of the goods. The products classified under these chapters have been grouped according to their manufacturing (because they are the result of a process). *For example, a wooden chair is assessed based on its function (not by the wood from which it is made) and is therefore classified under “seats.”*
- Chapters 64 to 67: here the classification is done according to the two previous criteria: make-up and function (design).

The chapters are arranged in a progressive sequence which is designed to follow the degree of transformation of the materials and articles, from raw materials to finished products.

The sections and the chapters have titles that try to indicate the products that are included in them in summarized form. However, to be able to do a correct classification, not only should the title be verified (in order to locate a specific product), but it is also important to read the technical notes provided at the

beginning of the sections or chapters, since they can clarify how to arrive at the correct classification.

The chapters fall under the sections and, should therefore correspond to them, which means that the products should be classified according to the category highlighted in the section.

The **subchapters** are divisions of the chapters. Their purpose is to add more logic to the different groups of merchandise by bringing the items together under families of products. The subchapters are numbered, like the sections, with Roman numerals.

The **items** make up the chapters. They are formed by the first four digits of the tariff code. The first two digits correspond to the chapter and the following two digits

## Golden rule

The chapters, sections, and sub-chapters are indicative in nature. They serve as a guide to begin the search for a tariff item of the product in order to classify it, since, if we are familiar with the headings, we will find the product easily.

correspond to the order that the item takes within the chapter. The items are organized within the chapters based on the degree of preparation or transformation of the materials or products.

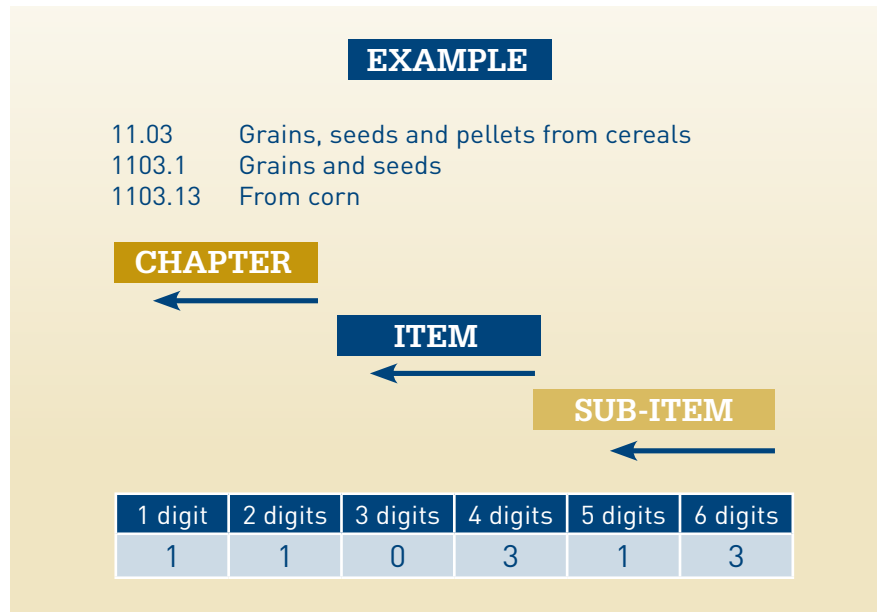
*Example:*

*18.06—Chocolate and other dietary preparations containing cacao.  
The first digits (18) indicate the chapter in which the product is located: “Cacao and its preparations.”*

*The second digits (06) indicate the position that the product occupies within the chapter.*

There can be three types of items:

- **Specific:** These refer explicitly to the products that are classified under them, according to their composition or their function. In other words, they identify a product in detail according to the material with which it is made or its function, for example: *11.05 (potato flour); 40.11 (new rubber tires); 36.01 08.08 fresh apples, pears.*



- **Generic:** these identify products using criteria and precise data on the product and are distinguished by use of the expression “**others**”. Example: *12.07– Other seeds and oil products, including broken ones.*
- **Residuals:** these are generic items that are used to include products that have not been included in the specific items, nor in the other generic items, but ensure that no goods are left unclassified. They are distinguished by the use of the following expressions: “**not expressed or included elsewhere**”, or “**not expressed or included elsewhere in this chapter.**” Example: *14.04—Vegetable products not expressed nor included elsewhere.*

■ How to do a tariff classification?

Classifying a product is like giving it an identity. In order to define the identity of the product, three questions should be asked: What is it? What is it made of? What is its purpose? Once the product has been identified, the classification should continue based on the criteria for classification and taking them into account when the goods are being examined. For example: *the classification of beet may change according to its use or destination, which may be of three types:*

En resumen, el método que se debe seguir para la clasificación de mercancía va de la siguiente forma:

1. Ubicar secciones y leer las notas.
2. Ubicar capítulo y leer las notas.
3. Ubicar sub capítulos (si aplica) y leer notas si tiene.

- ▶ *For salads, classified under 0706.90*
  - ▶ *For sugar (beet sugar: product used heavily in Chile and in some European countries): 1212.91*
  - ▶ *Forage: 12.14*
- a. **Criterion of origin:** This groups merchandise according to the three origins of nature: animal origin (AO), plant origin (PO), mineral origin (MO). At the same time, the Nomenclature of the Tariff System groups its 21 sections into two large groups (as already mentioned):
- **Composition:** from Section I to Section XV. For example: *chapter 44 wood, chapter 48 paper and cardboard, chapter 70 glass, chapter 69 ceramics.*

- **Function:** from Section XVI to Section XXI. For example: *chapter 94 furniture, chapter 95 toys, chapter 91 timing devices*)

**b. Degree of preparation:** each section and chapter groups the merchandise from simple to complex:

- Gross products (raw material). For example: *cacao in grain, whole or partial, raw or toasted.*
- Semi-manufactured products (primary states), *E.g. lard, fat and cacao oil.*

The classification of a good allows its value to be determined at customs in order to decide if there are any technical requirements, to determine the rule of origin that corresponds to it and finally, to determine whether or not the goods can be granted preferential treatment within the framework of a free trade agreement.

### 2.1.2. Trade facilitation

When trade facilitation is mentioned, it generally refers to each of the measures designed to reduce or eliminate any barrier to trade between countries. This trade facilitation is one of the main functions of modern customs, since it has been suggested that

customs develop procedures that, together with their basic control function, do not hamper the expeditious flow of goods. Customs is responsible for admitting or rejecting products that are imported or exported. Undoubtedly, they are the ones in charge of, among other things, collecting the tariffs and other charges that are imposed on goods.

With respect to the above, it is a fact that, **in light of trade agreements, there are a series of products listed to which countries agree to grant preferential tariff treatment, as long as they can be considered as “products originating” from their trading partners.** These native products must comply with a series of characteristics and requirements that, when assessed during their passage through customs, may be granted preferential treatment, i.e., they could pay nothing or pay a lower tariff. In their role as trade facilitators, customs should try to make this valuation of the goods and ascertain their origin in the most expeditious way possible, so as not to hamper the importation of the products and to comply with the provisions of the trade agreement. This should be done irrespective of any subsequent decision to review in detail the documentation that protects the import.

#### ■ Rules of origin

The rules of origin of goods facilitates determination of where and how the merchandise was produced, so

that it can be rightfully sold in a member country to a trade agreement and enjoy the benefits granted under this agreement. With the establishment of these rules of origin, “triangulation of merchandise” is avoided, i.e., countries that are outside of the agreement do not enjoy the concessions agreed upon by the member countries.

**Rules of origin are like the “birth certificate” of the products, as they indicate whether a product can be considered native to a country or not, and whether it should be favored as stipulated in the trade agreement.**

With respect to this point, it is important to make the distinction between *native* and *origin*:

- **The origin:** this refers to the country from which the goods are imported, the country that sells the goods.
- **The native country:** this corresponds to the country that produces, makes, or manufactures the goods, although it is not the seller.

There are two types of rules of origin:

- **Preferential rules of origin:** which determine whether preferential treatment should be granted based on the agreement between the countries (trading partners)

- **Non-preferential rules of origin:** these exist to ensure compliance with the standards of multilateral trade, to determine how tariff quotas should be granted, and even to obtain trade statistics.

Rules of origin should be objective, clear and foreseeable, and should be applied uniformly, impartially, transparently, and consistently, in such a way that they do not become an unnecessary obstacle to trade.

What are the criteria for qualifying a good as native to a country?

In order to determine the circumstances under which a product qualifies as native - i.e., that it fulfills the standards outlined in a trade agreement for its production - three different conditions may be considered for designating export merchandise, under which export merchandise may receive the preferences that have been agreed upon:

- a. Goods that are **obtained totally** or **produced entirely** in the territory of the countries participating in a trade agreement. For example: *plants and plant products that are harvested or collected; animals born or raised; minerals and other resources that are extracted or obtained.*





b. Goods that are **produced exclusively from materials originating** in the territory of the countries participating in the trade agreement. For example: *waste (recycled material), cheese and ice cream.*



c. Goods in the preparation of which materials are used from non participating countries in the trade agreement, provided that they are the result of an **adequate transformation process**. For example: *cotton cultivation, cotton acquisition, thread manufacture, textile preparation and manufacture.*



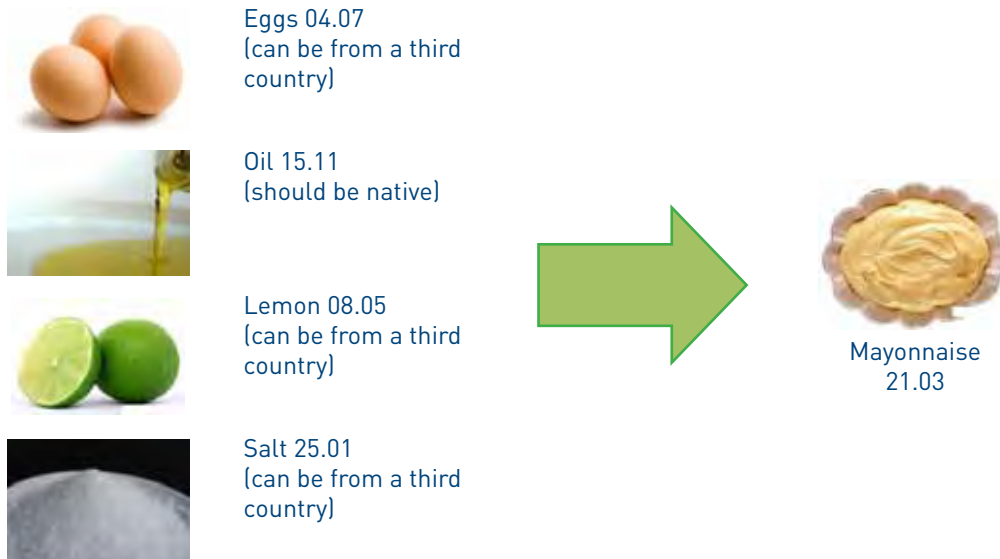
Globalization of manufacturing processes has resulted in the inclusion in many products of parts, materials and other items from around the world.

Although these products were not obtained entirely from the country, they can be considered as local products as long as the non-native materials used have been “sufficiently prepared or transformed.” It should be emphasized that only the non-native materials need to undergo this process. If the other materials used are already native to the country (either by being entirely native or having already been sufficiently prepared or transformed), there is no need to meet the requirement for change that is requested.

The degree of sufficient preparation or transformation that is required will depend on the product in question. This *sufficient transformation* can be determined by means of three criteria:

- **Criterion for change of classification:** This consists in determining if the tariff classification of the end product (chapter, item or sub-item) changes on the basis of the classification of its raw materials or inputs imported from third countries. The particular change of classification that the goods must fulfill is specified. Examples:

Rule of origin for mayonnaise: “A change to item 21.03 from any other item, except from item 15.11”





This rule of origin indicates that for mayonnaise to be considered native - in this criterion for change of classification- it should read as follows: “It must be a native product that is classified under item 21.03 (which corresponds to mayonnaise), using raw materials that

may be from third countries that may classify it under any other item (such as eggs in 04.07, lemon in 08.05 and salt in 25.01), **but** using raw material from item 15.11 that is **native** to some of the countries that are parties to the trade agreement, i.e. the oil should be native.”

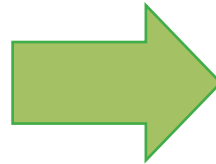
Rule of origin for cookies: “A change to item 19.05 from any other chapter, except for item 11.01, 17.01 or sub-item 1103.11 or 1103.20. ”

**Wheat flour (11.01)**  
(raw material that should be native)

**Sugar 17.01**  
(raw material that should be native)

**Margarine 15.17**  
(native of any third country)

**Vanilla (09.05)**  
(native of any third country)



Cookies 19.05

This rule of origin shows that in order to obtain a product that is classified under item 19.05 (such as cookies) and is considered native in order to receive a preference, some raw materials may be used from any country outside of the trade agreement, except for wheat flour (item 11.01) and sugar (item 17.01). By the same token, wheat semola cannot be used, as

this is classified under sub-items 1103.11, neither can *pellets* from sub-item 1103.20, which are imported from another country that is not a party to the agreement.

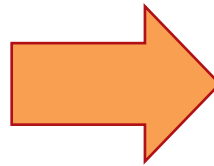
- **Criterion for national or regional content or for value added.** This criterion indicates the method of calculation and the corresponding

percentage. It is used primarily to define the origin of industrial goods such as: bicycles, technology articles, medical inputs, textile, plastic products, among others.

- **Criterion for production, manufacture, or preparation.** This criterion specifies the operation or the productive process that determines the origin of the goods. For example:



Spices and mixtures of spices



Crushing and grinding process



## How to read a rule of origin

Standards or rules of origin tend to be written in very technical language, which sometimes hinders comprehension and consequently, their correct application.

When a rule of origin is read, the following suggestions should be taken into account:

1. The rule should be self-explanatory, without need for interpretation. When it indicates that the goods should be native to the country of birth, rearing, slaughter, capture, acquisition, cultivation or reproduction of the product, this means that the products or their derivatives are obtained entirely and naturally in a country.

Example:

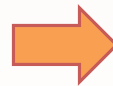
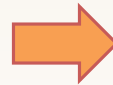
Rule of origin (CAFTA):

02.01 – 02.06

*Products that appear under this item must be native to the country of origin and to where the animal was reared.*

**Tariff classification:** Items 02.01 to 02.06 refer to beef (fresh, cooled or frozen), pork (fresh, cooled or frozen), mutton (fresh, cooled or frozen), horse meat, donkey or mule meat (fresh, cooled or frozen), parts from any of the types of meat cited, also equally fresh, cooled or frozen.

**Reading of the rule:** In order to be considered as native products, fresh, cooled, or frozen products from any of the types of meat included in the tariff items indicated in the rules of origin (items 02.01 to 02.06) should correspond to animals born and reared in some of the countries that are parties to the trade agreement.



2. When the wording of the rule begins with “A change to the item (or to the sub-item) XX.XX, from any other chapter, item or sub-item...”, it should be understood as follows: “When the end product is classified under item XX.XX, products (as raw material) from any other country outside of the trade agreement can be used; in other words, the raw materials used in its preparation can be non-native.

Example:

Rule of origin (FTA Chile-Central America)

16.03 – 16.05

*A change in item 16.03 to 16.05 from any other chapter.*

**Tariff classification:** this classification encompasses extracts and juices from meat, fish or shellfish, mollusks or other aquatic invertebrates; preparations and canned foods from fish, shellfish and mollusks as well as from other aquatic invertebrates that are prepared or conserved.

**Reading of the rule:** The end product classified under items 16.03 to 16.05 can use raw material from any other chapter, for example, from chapter 3 on “fish and shellfish, mollusks and other aquatic invertebrates” from third countries outside of the trade agreement. What would be understood is that what would determine the origin of these end products would be the process involved in the preparation of the canned foods, extracts, juices, and preparations.



3. When the rule is written with the following indication: “A change to the item (or to the sub-item) XX.XX from any other chapter, item or sub-item, except for item (or sub-item) YY.YY; NN.NN; ZZ.ZZ,” should be understood as follows: “When the end product is classified under item XX.XX, products that are classified under any other item, and which come from any other country outside of the trade agreement, can be used (as raw material) in their preparation, as well as products that are classified under item YY.YY; NN.NN or ZZ.ZZ, that are native to some of the countries that are parties to the agreement. This reading is only an indication of the goal of protecting the local production of countries that are parties to the trade agreement, since it is a requirement that the raw materials be produced in one of these territories (considering that some of the countries produce a large amount of some of the raw materials).

Example:

Rule of origin (CAFTA)

1901.10

Change to this sub-item from any other, except for sub-item 0402.

**Tariff classification:** Sub-item 1901.10 classifies infant food preparations for the retail trade. Item 0402 includes milk and cream, concentrated or with added sugar or another sweetener.

**Reading of the rule:** In the case of preparations for infant food under sub-item 1901.10, the raw materials used can originate from countries outside of the agreement, except for milk and cream from item 0402, since these ingredients should be native to one of the countries that are indeed a part of the trade agreement. This, so that the end product can be considered as native and can enjoy the tariff preference.



4. When the rule reads as follows: “A change to the item (or to the sub-item) XX.XX from any other chapter, item or sub-item, with the exception of item (or sub-item) YY.YY; NN.NN; ZZ.ZZ permitting the importation of ... from sub-item YYYY.YY”;" should be understood as being similar to item 3 above, that all the raw materials needed, with the exception of those which are classified under the items expressly indicated (i.e. YY.YY, NN.NN, ZZ.ZZ), may be imported from third countries, but permits the importation of raw materials classified under a sub-item corresponding to one of the exempted items (i.e., YYYY.YY).

For example:

Costa Rica-Panama FTA rule of origin

A change to item 17.04 from any other item, except for item 17.01 to 17.03, which permits the importation of chemically pure glucose or glucose syrup.

**Tariff classification:** Item 17.04 corresponds to “Confectionery articles not containing cacao (including white chocolate). Items 17.01 to 17.03 refer to cane or beet sugar and chemically pure sucrose, in their solid state; to other sugars, including lactose, maltose, glucose and fructose (chemically pure), sugar syrup; honey derivatives, including mixtures; and molasses from extraction or refining of sugar.

**Reading of the rule:** This rule of origin indicates the following:

Sugar (17.01)

Originating from any of the parties (CR or PA)

Glucose syrup (17.02)

Mexico

Coloring (32.04)

Canada

Confites (17.04)



In other words, in order for confectionery from item 17.04 to be recognized as native to any one of the parties to the agreement, it should have been prepared with sugar or a similar product from items 17.01 to 17.03, as raw material obtained from one of the countries that is a party to the agreement. However, an exception is allowed in the case of chemically pure glucose or glucose syrup from a third country outside of the agreement (despite falling within the exception xxx item 17.02). The reason should be that none of the countries that are parties to the agreement produces this raw material and therefore the confectionery producer is allowed to import it.

### ■ What is a certificate of origin?

The certificate of origin is a document via which the final producer or the exporter (and in some more recent trade agreements, the importer himself) declares under oath that the goods to be exported have met the requirements that, for their preparation, are outlined in the rules of origin of the agreement in question. This document is presented in different formats according to the respective agreement and will allow the importer to verify where the product “was born”, and therefore request that the corresponding customs authorities grant the preferences that these goods enjoy.

### ■ 2.1.3. Provisions on Sanitary and Phytosanitary Measures

In the FTA, these provisions are aimed at protecting the life and health of humans and animals, as well as the health of plants, of the Parties to the agreement,

while at the same time facilitating bilateral trade. Furthermore, in the FTAs, the implementation of the Agreement on Sanitary and Phytosanitary Measures (SPS) of the WTO is promoted, which makes it important to refer briefly to it.

The SPS Agreement states that a sanitary or phytosanitary measure is any measure that is applied in order to:

- a. Protect the life and health of animals or to preserve the plants in the territory of the member country from all risks resulting from the entry, settlement, or spread of pests, diseases, and pathogens or carriers of diseases.
- b. Protect the life and health of the persons and animals in the territory of the member country from all risks resulting from the presence of additives, pollutants, toxins, or pathogens in food products, beverages, or fodder.



- c. Protect the life and the health of persons in the territory of the member country from the all risks resulting from diseases spread by animals, plants or products caused by the entry, settlement or spread of pests.
- d. Prevent or limit other damages in the territory of the member country resulting from the entry, settlement or spread of pests.

When we refer to “animals”, we are including fish and wildlife. In the case of “plants”, we include forests and wild flora. When we refer to “pests”, we include weeds. When “pollutant” is mentioned, we include strange substances, pesticide residues and veterinary drugs.

Within the framework of the SPS Agreement, restrictions can be imposed only as necessary measures for protecting life or health based on scientific information.

- Do the FTAs contain the requirements that must be fulfilled before any export can be carried out?

**Do not expect to find detailed sanitary and phytosanitary requirements for food and agricultural products in the negotiated agreements.**

In the FTAs, provisions on trade facilitation are outlined, for example: provisions regarding

verification, measures related to animal and plant health, equivalence, transparency, special and differentiated treatment, technical cooperation and queries relating to dispute resolution. Additionally, in the FTAs, an SPS Committee or Subcommittee is usually created, mainly to deal with trade problems, thereby expanding the trade opportunities.

### Example: AACUE

Some of the aspects considered in sanitary and phytosanitary measures

- General principles: the procedures should be carried out in a manner that is as transparent as possible, without unnecessary delays, and costs should not be higher than the real cost of the service.
- Import requirements: the exporting party shall ensure that the products exported to the importing party meet the sanitary and phytosanitary requirements of the importing party
- Verification: any costs associated with verification shall be borne by the party that is carrying out the verification. The general principles of the verification shall be specified.
- CA shall grant free passage to products imported from the USA, in accordance with the provisions of the 2007 COMEICO Resolution 219.
- CA shall give special treatment to a limited list of products imported from the USA. This implies that these products shall be subject to an inspection at the point of entry of the CA, and later, shall be subject only to a random inspection at the point of entry into the destination country.

- Where can I find information on the requirements with respect to sanitary and phytosanitary measures that should be met?

The sanitary and phytosanitary requirements are defined by the parties and should be made available in a transparent manner. This means that, in keeping with the commitments enshrined in the framework of the SPS Agreement, governments must notify the other countries of any sanitary or phytosanitary measure, whether new or modified, that affects trade. They must also establish offices or “information services” in order to respond to requests for information from the countries on sanitary and phytosanitary measures.

For this reason, the principal sources of information on the SPS requirements for admission to a negotiated market, or to any other market, are the health and phytosanitary authorities of the destination country or the importing party. Information is also available from the health and phytosanitary authorities of one’s own country or the exporting party, as well as from export promoters or other related ministries, or from one’s own buyers.

- **Improvement in institutional capabilities**

In order to ensure proper utilization of FTAs by the countries, it is not sufficient that companies simply

meet the sanitary and phytosanitary requirements that their products should fulfil. It is important that agricultural health and food safety systems within the countries be strengthened and that they are capable of adequately carrying out the necessary monitoring and control throughout the food chain. Any error in the production, processing, transportation, or in any other link along the food chain, can affect food safety and, consequently, the consumers, even if this occurs very far away from the place from which the product originated (Díaz *et al.* 2010).

The idea is that the country must ensure that the food that is intended for export does not present a health hazard for consumers. Improvement of institutional capacities is a serious challenge in order to achieve greater utilization of the FTA. This also implies efforts with respect to investment.

#### 2.1.4. **Technical barriers to trade**

In FTAs, the rights and obligations established in the WTO Agreement on Technical Barriers to Trade are aimed at facilitating and increasing the trading of goods, as well as identifying, preventing and deleting unnecessary barriers that could arise as a result of the preparation, adoption and application of the **technical regulations, rules, and procedures for evaluating conformity**. Additionally, mechanisms must be

established to facilitate trade, strengthen collaboration, transparency and exchange of information.

As in the SPS provisions, a Committee on Technical Barriers to Trade has been created, which is responsible for implementing and applying the provisions contained in the chapter. Among other functions, it also monitors the cooperation programs, their achievements and impact on trade facilitation, as well as being a technical body that facilitates resolution of problems or setbacks that arise in trading and which are related to the aspect of technical barriers.

The objectives of the technical regulations, rules, and procedures for evaluating conformity are:

- a. Protection of the safety or health of people.
- b. Protection of the life and health of animals and vegetables.
- c. Environmental protection.
- d. Prevention of practices that lead to error.
- e. Quality.
- f. Technical harmonization.
- g. Trade facilitation, among others.

In recent years, the number of technical rules and regulations adopted by countries has increased considerably, owing to the fact that more and more, products are being sought that are safe and of a high quality for consumers, in addition to the fact that there is greater awareness of environmental aspects.

- Is there a difference between a technical regulation and a rule?

The difference, if any, lies in compliance. While conformity with the rules is voluntary, compliance with technical regulations is compulsory.

There are also different implications for international trade. If a product is not in compliance with the provisions established in a technical regulation, it cannot enter the destination market. In the case of rules, imported products that do not meet the standards, may be placed on the market, but may be affected with respect to price or simply by the consumer's preference when the difference in quality is noted.

- What is the nature of the procedures for evaluating conformity?

These are procedures that help to determine if the products are in keeping with provisions of the regulations and the technical standards. For example, tests or trials, verification, inspection or certification.

- Are there other technical requirements to access a negotiated market?

Yes, there are others. To date, we have referred to official provisions in order to access the markets. Business persons should also pay attention to a large

number of private standards and regulations, which are usually much more demanding, since they address obligations that extend beyond food safety. Private standards, although not formally binding, usually are in practice, which affects the capacity for compliance, particularly among small businesses, in terms of cost of implementation, certification and maintenance, among others (Díaz 2008). These aspects are not part of the present manual, but are mentioned because of their importance with respect to market access.

It is important to be aware of the technical standards and the negotiated conditions for market access, since they facilitate decision-making with regard to policies relating to export incentives and investment in the agrifood sector.

### 2.1.5. Safeguards, subsidies and antidumping duties

#### ■ Safeguards

As was pointed out in the first part of this manual, safeguard measures are defined as “emergency” measures in response to a growth in imports of certain products, when those imports have caused severe harm or are threatening to cause harm to the local production of the importing country. In this case, a

period of adjustment is granted, i.e., a “grace period”, that allows the level of competition to be improved in order to deal with the importation, or to direct the resources towards another sector of national production. These measures consist in restricting the quantity that may be imported or increasing the tariffs with respect to those that were enjoyed before the preferential treatment.

The purpose of applying a safeguard measure is to obtain relief for the local producers who are affected by an increase in the volume of imports of a product from the same economic environment. This measure seeks to offset the difficulty of competing successfully with those imports.

Safeguard measures can only be applied after research has been conducted by the appropriate authority and in accordance with a previously established and publicized procedure (Govaere 2003:72). This research is usually developed over a period of three to five years for these mechanisms, which enables comparison to be done of the levels of imports, in order to determine if the damage persists and if the productive sector is showing a level of positive adjustment, that is, it has tried to be more competitive or it has been focused on relocating resources to another branch of production.

#### ■ What is referred to as a subsidy?

As subsidy, as we know, it is an economic benefit that a government grants to the producers of certain goods or services, or to the consumers, often in

order to strengthen the competitive position of those companies or the purchasing power of the consumers. The subsidy may be direct (a donation or remittance in cash) or indirect (export credits, with low interest rates and are guaranteed by an agency of the government) (Galván sp:57).

There are three types of subsidies in multilateral regulations:

- **Actionable subsidies:** these are subsidies that damage the interests of other signatories.
- **Non-actionable subsidies:** these correspond to the specific subsidies that are allowed and which do not require application of compensatory measures.
- **Prohibited subsidy:** these are subsidies that distort trade and, consequently, give rise to the application of compensatory measures by the affected party.
- What is dumping and what are antidumping duties?

*Dumping* is a type of unfair trade practice that takes place when a product is introduced into another country's market at a price that is lower than its standard value. *Dumping* occurs when a company exports a product at a price that is lower than the price that normally applies in its own market.

The sale in the importing country at a price lower than the sale price on the domestic market of the exporting company can “eliminate” local producing companies from the market, or once monopoly of the market is achieved, prices can be raised at will (Govaere 2003:51).

The Agreement on Antidumping Practices (AAP) and the Agreement on Subsidies and Countervailing Measures (ASCM) authorize countries to impose countervailing duties on the product imports carried out through unfair business practices. These are payments that are imposed on imported goods, for the purpose of counteracting the effects of a subsidy that was granted for the manufacture, production or export of these goods.

In order for a country to receive compensatory duties on subsidized imports and antidumping duties on imports sold at *dumping* prices, it must have determined, on the basis of research that might have been done, that these imports are causing “major damage” to a branch of local production.

Based on the foregoing, the principal criteria for the application of duties are outlined below (Galván sp:59):

#### a. **Damage to the local productive sector**

The basic regulation/standard established in the 1994 Agreement relating to the Application of Article VI of the GATT (PEC) and the Agreement on Subsidies

and Countervailing Measures (ASCM) is that the antidumping duties and the compensatory duties should only be charged when it has been determined through research that:

- i. There has been a significant increase in imports sold at dumping or subsidized prices.
2. The prices of those imports indicate an under-estimation of the prices of the similar domestic product, the manufacturers have otherwise forced a lowering of the price of the similar product or have prevented the price from rising and, as a result of this, has caused harm to that branch of local production or there is a threat of causing harm to a productive branch of the importing country.

**Procedure:**

The agreements establish the type of information that the branch of production should furnish in its request in order to support its complaint that the imports that are subsidized, or sold at dumping prices, are causing harm. This information is as follows:

- i. Report to the governments: the research authorities must communicate to the governments of the exporting companies, via a report, that they have received a well-founded complaint, before initiating research for the application of antidumping duties or compensatory duties.

- ii. The right to present evidence: the rules of both agreements also seek to ensure that, once research has begun, the exporters and importers of products that are allegedly sold at dumping or subsidized prices, the governments of the exporting countries and other interested parties, have the opportunity to present orally and in writing, evidence and arguments in order to contest the complaint presented by the applicants and in order to defend their interests.
- iii. The presentation of information by the exporters and the rule of best available information: the authorities request that the information be provided within a period of not less than 30 days after the information was requested. If the companies cannot respond within that period of time, an extension may be requested.
- iv. *In situ* research: the authorities deem this type of research necessary in order to verify the information provided by the exporters.

It often is difficult to comply with these requirements for various reasons, mainly because all the necessary information on production cost must be provided in order to prove *dumping* and, in the case of the small and medium-sized agro-industrial enterprises, for example, the procedure is somewhat difficult to follow. For this reason, they require the assistance of government authorities or private associations.



## 2.1.6. Settlement of disputes

The topic of settlement of disputes is one of the most important in applying and administering a trade agreement since, within commercial operations, different interests and even the sensitivities on the part of the countries to the agreement come into play. On many occasions, these generate controversies between the governments, the companies and even the individuals who carry out businesses under the protection of an agreement of this nature.

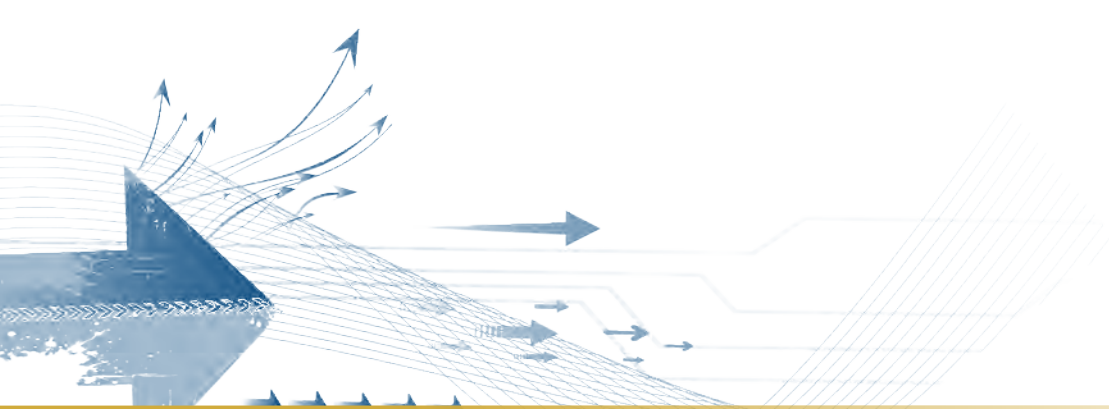
The different formulas adopted by the countries within the framework of the agreements have, as reference, the WTO mechanism for resolving differences or they recognize it as a valid tool to resort to, if necessary. Although there are different types of procedures for resolving commercial disputes within an agreement,

for Galván and Araya (2004:359), there are four basic levels that every mechanism must include:

- Consultation among the parties to try to resolve the controversy.
- Request for the establishment of an arbitration tribunal or panel.
- Alternate means of settling disputes.
- Compliance with the decision or suspension of benefits.

Each of these levels is dealt with via a procedure that is usually specified within the corresponding chapter of the agreement, for which two basic principles should be respected: transparency and non discrimination. In all its phases, the procedure should be accompanied by research (on the part of the arbitrators), preliminary reports, observations by the parties, final reports with the respective decision or arbitration opinion and its publication (Galván and Araya 2004:359).





## Self-evaluation - Module 2

Questions for the reader

1. What is meant by “access to markets” within a trade agreement?
2. What is a tariff reduction program? What does the “linear tariff reduction” consist of?
3. How is tariff classification of products done? How is the nomenclature of the Harmonization System read?
4. How should the following rule of origin be interpreted?  
“CAFTA-DR  
16.01- 16.02  
*Change to this item from any other chapter, except for item 02.01, 02.02 and 02.07, allowing for the importation of mechanically deboned poultry and of irregular pieces of meat from sub-item 0202.30. ”>”*
5. In what part of a FTA do we find the sanitary or phytosanitary requirements of a product? What does this type of measure seek to regulate?

# Module 3:

## Implementation of free trade agreements and trade promotion

### Learning objectives

1. Understand the importance of administering an existing trade agreement and the need for joint efforts between the public and private sectors for the implementation of such an agreement.
2. Include factors that directly and indirectly affect the commercial promotion of a product, by making use of the trade advantages that these agreements can offer.
3. Evaluate market information and statistics as tools for opening up trade opportunities for the country's productive sectors.

### Key concepts

Management of existing FTAs and trade commitments, transparency and trade protection, coordination between government offices and trading partners, market information and trade promotion activities.



### 3.1. When can the provisions of a trade agreement be used? How should it be administered?

As has already been mentioned, trade agreements are legal tools that allow for the creation of economic integration zones, for the purpose of freeing up trade among the states that sign them. The governments promote this type of negotiation through actions that seek to guarantee producers access to international markets and try to delete obstacles to trade in goods and services. Furthermore, they try to establish



mechanisms for fairer competition among the parties, so that when the domestic market opens up, the local producers can have a legal tool that provides them with possibilities for trade protection. Another aspect that governments are interested in is to create the conditions for start-up of companies by attracting investment, in order to create new opportunities for employment.

The aspects that trade agreements cover are increasingly broad. The more modern free trade agreements go beyond simple tariff reduction. They include other rules (in addition to tariffs and rules of origin) which seek to regulate the relationship between the States parties, such as provisions on services, investments, standards of competition, and other aspects not directly related to trade, such as those linked to the topic of labor or environment.

The region currently has quite a number of FTAs in effect and others are in the process of negotiation, or have merely been signed. In this regard, it is important to differentiate between a negotiated agreement (in which the parties have arrived at an agreement) and

one that is signed, as in the case of those that are already in effect.

A negotiated, or even signed, trade agreement is not enforceable until the countries involved have ratified their commitments and, by means of the corresponding internal procedure, have implemented that particular trade agreement. From that moment on, the tariff reduction, rules of origin, provision of services and investment, intellectual property, rules regarding jurisdiction and other rules contained in the agreement, are enforceable by the parties and must be respected.

Once the trade agreement enters into force, one of the most important tasks of the entities responsible for foreign trade in each country is to review the status of the commitments and respect what has been agreed upon (“to administer it”) on the basis of the following principles:

- Perfect its functioning.
- Improve the conditions for access to products of interest.
- Verify the level of compliance.
- Guarantee transparency (of information and action) during its execution.

The management of FTAs is important for compliance by the parties with what was previously negotiated and agreed upon among them, exercise of their rights

and correct application of the contents of the treaties that they have signed.

### 3.1.1. Internal mechanisms

Among the internal mechanisms for the management of a trade agreement, mention must be made of monitoring coordination, which consists of ongoing and strategic activities among the officials in charge of negotiation and those who administer or monitor FTAs. The latter usually belong to different government offices and are responsible for carrying out the tasks that facilitate compliance with the commitments undertaken by the country with respect to its trading partners. The following tasks can be mentioned:

1. Constantly update the list of commitments under the agreement (application and implementation) and compliance with them, in order to obtain a clear picture of the work being carried out or to be carried out.
2. Coordinate and prepare work agendas at the national level, especially when there are topics that are shared with other government offices. It is important to exchange up-to-date information among the institutions, since all are part of the management puzzle of the agreement. It is

advisable that the officials responsible from each party to the agreement do periodic evaluations of the management systems of free trade agreements. The benefits that free trade agreements offer can be improved and their application can be expanded.

3. Support the tasks of the committees and the working groups, contained in the chapters from the different free trade agreements. It is essential that the institutions with expertise in the various topics participate in the meetings held within the framework of the agreements, with a view to improving and trying to maximize the results of the application of the agreement. Often, new matters come up for negotiation, or existing conditions need to be re-negotiated in order to improve the conditions that are specified in the treaty. In this forum, sector concerns are reflected or technical criteria or specific problem cases are shared among the parties.

Good communication and coordination among the management bodies of the various ministries, at the national level, and application of the principle of constant transparency between the parties to a free trade agreement, at the international level, will prevent problems between them or will make it possible to find solutions before activating the mechanism for settlement of disputes.

## ■ Topics related to control of and support for foreign trade

Free trade agreements explore a variety of topics on different matters that form part of a whole for management of and compliance with the commitments. As mentioned earlier, the different agencies of the civil service, private sector entities, relevant institutions in the area of foreign trade and others are responsible for the monitoring of trade agreements, for the purpose of assuring the countries that the commitments undertaken will be respected.



Topics such as sanitary and phytosanitary measures, technical standards, trade facilitation and customs procedures, rules of origin and trade protection are matters that are regulated by different government institutions or other institutions linked to government, which need to be dealt with in a coordinated manner, in order to maximize the results of a trade agreement.

- **Sanitary and phytosanitary measures.** In the management of trade agreements, transparent and effective application of sanitary and phytosanitary measures is aimed at in order to ensure that these do not become restrictive measures to trade among countries, and are considered as binding on the parties within the framework of the respective WTO agreements.
- **Technical rules and regulations.** The technical rules are regulations that emerge from the need to protect the consumers' right to make an informed choice with respect to the products that he/she

consumes. Countries create and communicate regulations that equalize the guarantee of the quality of the products imported with the same guarantees for products produced locally.

In the previous paragraph, reference was made to the sanitary quality of exportable products, which represents a concept of basic quality or “floor” (minimum standard to be met), but it is not enough for the authority to guarantee or certify the sanitary quality. The products must also meet the technical standards relating to packaging, labeling, good storage practices, manufacturing and marketing, among others, that will define them as products approved for importation and marketing within the countries.

Care must be taken by the countries to ensure that these technical rules and regulations do not become technical obstacles to trade, such as non tariff barriers, as previously explained.

## Examples of technical barriers to trade

Products	SPS	TBT
Fertilizers	Permitted levels of waste in food and fodder.	Technical specifications on efficacy of a fertilizer or risk prevention measures in the application of the product.
Food labeling	Food safety standards: health warnings, usage, dosage, among others.	Standards relating to the positioning of the labels, labels, nutritional content, quality, among others.
Containers for transporting grain	Standards relating to fumigation, disinfection etc. to prevent the spread of diseases.	Standards relating to size, construction details, structure, safety and others.
Fruits	Standards relating to the handling of imported fruit to prevent the spread of disease.	Standards relating to quality, caliber, and labeling of imported fruits.
Bottled water: specifications relating to the bottles	Materials that may be used, guarantees for human health. Requirements relating to the presence of disinfectant residue.	Sizes allowed that are in keeping with standardized volumes. Standards relating to their stacking and display.

**Source:** Information taken from [http://www.acuerdoscomerciales.cl/obstaculos\\_tecnicos.htm](http://www.acuerdoscomerciales.cl/obstaculos_tecnicos.htm)



- **Trade facilitation, customs procedures and rules of origin.** As has already been pointed out, it is important that countries work responsibly with respect to the commitments undertaken, including those aimed at facilitating trade, at implementing expeditious, safe and efficient customs procedures, and at applying the preferential treatment that was agreed upon in the trade agreements for goods qualified as originating from the States parties to a trade agreement. Most of this work remains in the hands of the customs authorities of the countries, whose responsibility for “customs control” ensures that imported products are filtered. Additionally, customs has to coordinate with other relevant institutions when the goods are subject to special regulations (intellectual property, health, technical standards, SPS, tariff quotas, quotas, among others), since the work of filtering should be accompanied by technical activity carried out by those who are most aware of the topics and can complement the work done at the borders.

In sum, the goal is to establish rules and customs procedures that promote the efficient, transparent and expeditious operation of the customs services of all the parties, and ensure that there are cooperation mechanisms aimed at improving the customs operations of the countries.

- **Trade protection:** The various trade agreements provide for a number of commitments with respect to trade protection in order to regulate practices such

as dumping or subsidies, and to reduce the negative effects that these practices could have on the cottage industry of the importing country. Furthermore, they provide for application of safeguard measures to give temporary protection to a given industry, so that it can make the necessary readjustments for coping with external competition. In order for these measures to take effect, the countries must have corresponding local procedures that enable the institutions in charge of these matters to work hand in hand with the private sectors involved in order to achieve the goals that these provisions seek to achieve in the trade agreements.

- **Public-private sector relationship in the implementation of free trade agreements**

It is essential that a communication channel exists, at the national level, between the private and public sectors with respect to the management of trade agreements, since, by simply being aware of the experience of those who are affected by the treaties, their situation can be improved with respect to their trading partners.

Free trade agreements can become tools for promoting development and offering opportunities, but they cannot be seen as the solution to the problems of each country.

Countries should prepare themselves for facing the main challenge that FTAs, that is, access to international markets under competitive conditions.

As a result, the public and private sectors should take a series of measures with respect to sectoral policies so that the agro-production chains linked to agroexport can increase their levels of competitiveness and make the most of the comparative and competitive advantages of the country, including those provided by the FTA.

These trade agreements are developed in three stages: examination of the realities and local needs, negotiation of rights and obligations and, finally, management.

### 3.1.2. Market information

**Market information and statistics serve as efficient indicators of the commercial development of a country, as well as the behavior of and trends in international markets, notably, the destination markets for agro-exports. Therefore, they are used as tools for the management of treaties or FTAs, and for analysis and decision-making on the part of governments and agro-exporters.**

Decision-making implies negotiation, consultation with the productive and trade sectors, evaluation and monitoring of trade agreements, as well as periodic familiarization with a significant amount of reliable and up-to-date data.

Collection of this data for review will facilitate the work of negotiators and administrators of agreements and can be a tool for opening up trade opportunities for the productive sectors of a country, since it will guide them towards finding a favorable environment for selling their products.

It must be pointed out that, in order for the process of implementation of the FTA to lead to better utilization, information must be available and a prior analysis of the national and international environment should be carried out.

With respect to the local environment, the legislation and regulations relating to the promotion of agro-exports, the role and strengths of the institution framework relating to the sector, and the indicators of political and economic stability of the country must be analyzed.

This analysis can extend to the technical and economic environment: technical standards, technological innovation, productivity of the factors of production,

production and export costs, export logistics, availability of labor and financing.

It is important that the following questions be answered in order to facilitate decision-making on the part of the implementers of the FTA and the agro-exporters themselves:

- Which are the principal factors that affect export competitiveness?
- Does the country have an enabling environment for marketing and consolidation of its products in foreign markets?
- Does the country have an enabling environment for access to financing for production and agro-export?
- Does the environment have skilled and unskilled manpower available in a timely manner?
- Are the centers for production and distribution for agro-exports located in a region with adequate road infrastructure, technical support services and input provision services?

- Does the country meet the standards of quality and technical regulations required by the foreign markets?

On the other hand, implementation of the FTAs requires constant work with respect to market intelligence<sup>6</sup> and analysis of trends<sup>7</sup>, of which some of the variables are: prices, exports and imports or consumption in the various destination markets for different products.

The main information needed to analyze the markets is as follows:

- **Value and volume of imports.** This shows the behavior and origin of the imports of different products in the different destination markets. A growing trend in the imports of a country for a given product may be considered an opportunity for the exporting country.
- **Value and volume of exports from competing countries.** This shows the pattern of exports from

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6. May be defined as a strategic discipline in business that facilitates knowledge of the market and performance of one's business in that market through information. Market information requires a constant flow of up-to-date and dynamic market information.

7. Trends refer to a pattern of behavior of a variable over a given period of time. The time may be a short, medium or long-term period, according to the trend that we wish to analyze.

competing countries in the destination markets. It shows the share of the main exporting countries of a given product in the different markets.

- **International reference prices.** These are the going prices in the markets that serve as a reference and parameter for negotiation. These prices may vary according to the trading place and the destination market. In the case of some commodities the reference prices may be those created in some product exchange markets operating mainly in the United States and Europe. International prices are not necessarily accepted by the livestock producer because transaction costs need to be deducted.

It is important to analyze the price pattern over a given period, with a view to observing the trend and identifying the causes of their volatility (hikes and drops).

### 3.1.3. Trade promotion

Each country possesses the mechanisms that it deems advisable and efficient for trade promotion, in order to maximize the benefits it gains from trade agreements. Based on the institutional structure of each country, there are agencies in charge of seeking trade opportunities for the local producers-

exporters, with the objective of taking advantage of the commercial framework a market provides with preferential access. Seeking new markets, satisfying new consumers and generating trade promotion strategies are the ideal complement to the opportunity that the countries that are signatories to a partnership agreement wish to offer.

Simultaneous to the process of managing commitments under an agreement (with respect to the public sector), is the need for increased use of the opportunities offered by FTAs (especially within the private sector). In light of the above, it is desirable that the promotion and cooperation that is carried out between the public and private sectors include actions such as the following:

- Awareness-building with respect to the agreements and commitments adopted by the country, through meetings, seminars and encounters with the productive sectors of the country (the chambers of commerce and employer representatives, working class, indigenous and rural groups, as well as small and medium-sized enterprises).
- Technical assistance to the different productive sectors.
- Modernization of public institutions.
- Strengthening of institutional capacities.
- Dissemination of information on FTAs through periodicals, web pages and teleconferences.

Therefore, along with a process of implementation, it is important to have a strategy for sharing the benefits associated with the agreement and providing the necessary training so that the companies (especially the small and medium-sized companies) can be adequately prepared and ready to use the treaty as soon as it enters into force. It is also essential to increase the efforts at promoting the adoption of policies that promote competitiveness, improve the logistical processes in order to reduce transportation costs and develop the potential of

the export sectors in which the countries enjoy a comparative advantage.

The signing and entry into force of trade agreements are the initial steps, but the true challenge of trade development, beyond this starting point, is the way in which the countries restructure, adapt and improve their productive sectors and their benefits in a sustainable and effective way. In other words, the competitive and entrepreneurial ability to obtain better results is the most difficult aspect of the management of trade agreements.



## Self-evaluation - Module 3

Questions for the reader

1. When is a trade agreement “executable” and what is the main task of the government bodies at that moment?
2. What are international reference prices?
3. What is “trade protection” and why is it included in an FTA?
4. Why is reference made to the technical standards of products? When can this regulation become a technical barrier to trade?
5. Which actions are important for administering the commitments under the agreements while at the same time promoting trade by using their advantages?



## Internet sites consulted in Module 3:

- US Department of Agriculture  
<http://www.usda.gov/wps/portal/usda/usdahome>  
FAOSTAT  
<http://faostat.fao.org/>
- Livestock Marketing Support and Services –INFOACERCA - SAGARPA  
<http://www.infoaserca.gob.mx/>
- International Trade Center  
<http://www.trademap.org/index.aspx?ReturnUrl=%2fSelectionMenu.aspx>
- Market Information Organization of the Americas  
<http://www.mioa.org/>
- Eurostat–European Commission  
<http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>

# Glossary

## A

**Accumulation of origin:** This is an agreement between trading partners under which a trader in country A is allowed to use materials originating in country B as if they originated in A, and vice versa. According to this criterion, an “originating good” is one that is produced in the territory of one or more of the parties by one or more producers, provided the good meets the conditions required to certify its origin.

**Ad valorem tariff:** Customs duty calculated based on the value of the product and expressed as a percentage. For example: Panama charges a customs tariff of X% on the price of rice purchased abroad.

**Agreement of association:** An agreement of this kind includes an FTA designed to open up markets by establishing lower tariffs. However, it also encompasses agreements on other trade-related subjects—for example, political issues and the question of cooperation between countries.

**Antidumping duties:** Measures taken to correct the injury or threat of injury caused by the practice of dumping. Applied to imports and added to the existing

import tax. WTO member countries take into account Article VI of the GATT and the WTO Antidumping Agreement.

## B

**Bilateral agreement:** Binding instrument or agreement between two countries.

## C

**Certificate of origin:** Document prepared by the producer or exporter attesting that the goods certified originated in the country concerned. Example: an animal born and raised in the country that extends the certificate, or a product grown and processed in the country that extends the certificate.

**Common market:** A type of trade bloc comprised of a combination of a customs union and a free trade area. In a common market, the countries act as a bloc, establish the same tariffs for trade, eliminate the duties payable at each other’s borders, permit the free transit of people, capital, and services, and the free delivery of services, and grant the freedom to set up companies.



**Competent health authority:** Government agency in charge of monitoring and guaranteeing the quality of health. In some countries, it is also responsible for product safety, while in others there are two agencies, one for each area of health.

**Country of origin (importation):** The country of origin is the place where agricultural products were grown, where animals were born and raised, where minerals were extracted, and where articles were manufactured totally or in part. In the last case, the country of origin is the one where the last phase of the manufacturing process was carried out and the product was given its final form.

**Customs declaration:** Goods declaration presented at a customs office containing information about the product concerned, the tariff classification, and the taxes payable or from which the goods are exempt under the preferences of a trade agreement.

**Customs duties:** Amount in money established in the respective customs tariffs that goods must pay on entering or leaving the customs territory of a given country.

**Customs Rate:** Payment for services provided for merchandise imported/exported (storage, handling, among others).

**Customs tariff, also known as a customs code:** Official list of goods, published in a document,

and organized under sub-headings from primary production through to processed products (for example: live animals, then meats; plants, and then flowers and foliage; fresh fruits, and then frozen or dried fruits). As well as listing and organizing the goods, the customs tariff establishes the official customs duties or taxes that importers must pay for goods purchased abroad.

**Customs taxes:** Fees that a State charges for customs operations, i.e., payments involved in the process of the sale or purchase of products between countries. Also known as tariffs and “other customs charges.”

**Customs territory:** The area within which the customs regulations of a State applies, in exercise of its sovereignty.

**Customs union:** It consists of the merger of two or more customs territories into a single one, in such a way as to eliminate customs duties and other restrictive regulations, specifically with regard to trade between the territories that make up the union, or trade in the products originating in the territories. Each member of the union applies customs duties and other trade regulations that, in essence, are identical to those established in the other member countries.

**Customs valuation:** One of the stages in the customs procedure, which consists of determining the value of goods subject to the procedure, in accordance with the Brussels Definition of Value.

**Customs value:** The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation, provided:

## D

**Duties:** Customs duties and any other kind of fiscal, monetary, or exchange costs that affect imports.

## E

**Economic integration:** An arrangement agreed upon by a group of countries under which they abide by common rules in economic matters. In other words, they share institutions to reach agreement on economic policies and decisions that are then implemented in the countries that make up the group. For example: the integration of the European countries.

**Exportation:** Sale of a good or service to a country other than the one in which it was produced. For example, if someone wishes to purchase yellow corn from another country with which a trade agreement exists, and to which a 20% tariff previously applied, the duty could be eliminated under the agreement. Furthermore, if one country wishes to sell pork to the other, it could negotiate the elimination of the payment of a duty when the meat enters the other country, or a lower tariff or duty for a period of several years until it is eliminated altogether.

## F

**Free trade agreement (FTA):** Consists of a regional or bilateral trade agreement intended to expand the market for goods and services of the participating countries. It is based on the elimination or substantial reduction of tariffs on goods among the parties and agreements on services. It is governed by the rules of the World Trade Organization (WTO) or by mutual agreement among the countries, and creates a free trade area or tariff preference area among the countries party to the treaty.

**Free trade area:** Comprised of two or more States that have eliminated the tariff and non-tariff barriers to trade. It is designed to enhance competitiveness, increase exports, and stimulate the economy. It is the system of integration that obtains in an area formed by two or more States that, either immediately or gradually, eliminate the customs and trade barriers that exist among them, while maintaining their respective customs tariff and trade regimes with third countries.

## G

**Goods declaration:** Document containing details of the product(s) being traded.

**Goods in free circulation:** Goods that may be disposed of without customs restrictions.

**Goods:** Products or merchandise used to produce other merchandise or consumed directly.

## I

**Import license:** Official document authorizing the entry of goods into the importing country. In the case of goods not subject to customs restrictions, they are issued automatically.

**Import tariff:** Official duty or tariff that the nationals of one country must pay when they acquire or purchase goods in another. This tax is collected by the customs facility through which the product passes.

**Import taxes:** Customs duties applied to imports.

**Importation:** The purchase of goods or services involving two or more countries.

**International veterinary certificate:** Certificate issued by the veterinary authority attesting to the animal or public health requirements with which the exported goods comply.

## L

**Label:** Any tag, brand, mark, pictorial, or any other descriptive or graphic matter, written, printed, stenciled, marked, embossed, or impressed on, or attached to, a container of food.

**Labeling:** Any written, printed, or graphic matter that is present on the label, accompanies the food, or is displayed near the food, including that for the purpose of promoting its sale or disposal.

## M

**Mark of origin:** A representation on a product, or its wrapping or container, indicating the country in which it was made, i.e., the country of origin.

**Mixed tariff:** A combination of an “ad valorem” duty and a tariff charged for the amount of a given product imported.

**Multilateral agreement:** Agreement involving a number of countries in different geographical regions.

## N

**Nomenclature of the harmonized system:** A six-digit international nomenclature designed to harmonize the technical criteria used by the different countries to classify the goods traded among them, to help facilitate trade. Use of this international nomenclature is obligatory and no member country may modify it unilaterally.

**Non-tariff barriers:** Non-tariff restrictions on imports. For example: when a country bans imports of a given product citing a disease or pest that does not exist in

the exporting country. In addition, when a country requires excessive amounts of documents, permits, and other paperwork that involve so much time and expense that it not worth importing the product.

## P

**Packing:** Anything used to contain and protect packaged products that facilitates handling during transportation and storage, and identifies the content. Packing protects products against the risks to which they are exposed during transportation over long distances, so they reach the purchaser without loss or damage and in an acceptable condition as far as quality and presentation are concerned.

**Partial scope trade agreement:** This is the most basic type of bilateral agreement dealing with tariff matters, designed to encourage trade in a negotiated lists of products. It does not address any other trade issues (such as sanitary and phytosanitary standards, intellectual property, customs procedures, among others).

**Phytosanitary [plant health] certificate:** Official document certifying the plant health status of any shipment subject to phytosanitary regulations.

**Phytosanitary [plant health] measures:** Measures adopted to protect the health of plants.

**Preference:** Advantage that benefits imports of the products negotiated and originating in the

countries participating in a specific agreement. Tariff preferences consist of a reduction in the duties applied to imports from third countries.

## Q

**Quota:** Volume or amount of imports of a specific product that a country agrees to accept in its market without applying restrictions. In other words, no import duties will be charged on the quantity in question, or the amount charged or tariff applied will be less than the one charged normally.

## R

**Reference price:** The average of price of a good, over a certain period, in a reference market.

**Regional integration:** A type of integration involving countries that share cultural, political, and economic ties, and also make up a well-defined geographical area.

## S

**Safeguard:** Emergency mechanism used temporarily to impede large-scale imports of a product that may cause injury or constitute a threat of severe injury to domestic production. It is designed to permit producers to adjust the competitive level, so they can cope with the impact

of the imports or focus their resources on another sector of domestic production.

**Sanitary [animal health certificate]:** Official document certifying that food products meet the respective sanitary requirements.

**Sanitary [animal health] measures:** Measures adopted to protect the life or health of people and animals.

**Special safeguard:** Mechanism that permits a country to raise the duty on a product, when imports of the product exceed the quantity negotiated or prices of the product fall significantly. When this kind of safeguard is applied, the tariff can be raised to the same level applied to third countries or the level applied before the trade agreement came into force.

**Specific tariff:** Customs duty (tariff) calculated based on the unit that defines the amount imported. In other words, if heifers are imported from other countries, two dollars are charged for each heifer. This tariff is used less and less. The European Union is one of the regions that continue to apply this kind of tariff.

## T

**Tariff barriers:** Import taxes deemed to impede or hinder trade between countries.

**Tariff code:** Numerical code used to classify goods, to facilitate their identification in international trade. Commonly referred to as a customs tariff.

**Tariff heading:** Code used for the nomenclature of the Harmonized System. Merchandise is divided into groups, and identified by means of a four-digit code.

**Tariff measure:** Government measure that consists of imposing a tax to protect domestic production (import tariff) against imported products, restrict the exports (export tariff) of a product, or increase fiscal revenues.

**Tariff paragraph:** The eight-digit nomenclature used to identify a good at the regional level, on which the customs duties payable on imports in the particular region are based.

**Tariff position:** Numerical code of merchandise, according to the classification system used in the tariff nomenclature for the customs declaration.

**Tariff preference:** Reduction in or elimination of import taxes, granted by one country to another under an agreement.

**Tariff protection:** Protection governments grant to their domestic industries by charging a tariff on imported products.

**Tariff quota:** Volume or amount of imports of a specific product that a country agrees to accept in its market with the payment of duties that may be reduced

over time according to the arrangement agreed upon by two or more countries.

**Tariff reduction:** Elimination or reduction of import or export tariffs.

**Tariff sub-heading:** Sub-groups into which the goods of a particular heading are divided. They are identified by six digits in the Nomenclature of the Harmonized System.

**Taxes:** A compulsory payment that individuals and companies must make to the State to help to fund its spending.

**Technical barriers to trade:** These originate from the application of technical regulations and standards, such as requirements with regard to testing, labeling, packaging, packing, marking, certification, marks of origin, and animal and plant health standards. The WTO has an Agreement on Technical Barriers to Trade designed to ensure transparency in the application of technical regulations and standards in international trade, to prevent them becoming a non-tariff barrier to imports.

- a. that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made; and
- b. that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes.

- c. that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- d. that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which: (i) are imposed or required by law or by the public authorities in the country of importation; (ii) limit the geographical area in which the goods may be resold; or (iii) do not substantially affect the value of the goods.

**Trade agreement:** Agreement, treaty, or any other binding instrument under which two or more nations agree to abide by specific conditions governing their trade relations, usually to facilitate trade.

**Trade liberalization:** Reduction or elimination of tariffs and other import restrictions.

## W

**World Trade Organization (WTO):** It is the only international organization dealing with the rules governing trade between countries. It is an organization for the liberalization of trade. It is a forum for governments to negotiate trade agreements. It is a place where they can resolve their trade differences. It applies a system of trade standards. Basically, the member governments make recourse to the WTO to try to solve the trade problems they have with other members.





## Literature cited

Díaz, A. 2008. Good Agricultural Practices : Guide for small and medium-sized agribusiness operators. Agribusiness Series. Tegucigalpa, Honduras, IICA, Inter-American Program for the Promotion of Trade, Agribusiness and Food Safety. Export Handbooks. 58 p.

\_\_\_\_\_; Medina, L; Trelles, S. 2010. *Manual de capacitación: La convergencia entre la salud pública, la salud animal y el ambiente en las comunidades y los territorios rurales: una contribución a los procesos de fortalecimiento de las capacidades, al aprendizaje colectivo y a la innovación social para el desarrollo rural territorial*. San Jose, CR, IICA. Available at <http://www.iica.int>.

Galván, JI. Unpublished material for the Basic Training Module in International Trade. IICA.

\_\_\_\_\_; Araya Segura, G. 2004. *Acuerdos de libre comercio de los países Centroamericanos*. San Jose, CR, IICA.

Govaere Vicarioli, V. 2003. *Introducción al derecho comercial internacional*. San Jose, CR., EUNED.





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