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CANADA

TREATY SERIES 2002/10 RECUEIL DES TRAITÉS

COMMERCE (BILATERAL)

Exchange of Notes constituting an Agreement between the Government of Canada and the Government of the State of Israel amending Chapters Three and Five of the Free Trade Agreement between the Government of Canada and the Government of the State of Israel.

Jerusalem and Ottawa, April 22, 2002

In force July 5, 2002

COMMERCE (BILATÉRAL)

Échange de notes constituant un accord entre le Gouvernement du Canada et le Gouvernement de l'État d'Israël modifiant les chapitres trois et cinq de l'Accord de libre-échange entre le gouvernement du Canada et le gouvernement de l'État d'Israël.

Jérusalem et Ottawa, le 22 avril, 2002

En vigueur le 5 juillet 2002

63-862-102 (A) 65-867-216 (A)



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Dept. of Foreign Affairs
Min. des Affaires étrangères

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Minister of Foreign Affairs



Ministre des Affaires étrangères

Ottawa, Canada K1A 0G2

The Honourable L'honorable
Bill Graham P.C., Q.C., M.P., c.p., c.r., député

His Excellency Shimon Peres
Minister of Foreign Affairs
Israel

APR 4 2002

Excellency:

I have the honour to confirm the understanding, as set forth in the Annex to this letter, reached by the delegations of Canada and Israel in the Working Group on Rules of Origin and Other Customs-Related Market Access Issues, established pursuant to Article 5.12 of the Canada-Israel Free Trade Agreement done at Toronto July 31, 1996 (hereinafter referred to as the "CIFTA"), to make amendments to Chapters Three and Five of the CIFTA. These amendments are liberalizing in nature and, *inter alia*, will enable implementation of Article 3.5(1)(c), which will allow most originating goods from either Canada or Israel to undergo some minor processing in the United States without losing their originating status while in transit to the other Party.

I confirm that this letter and its Annex, which is equally authentic in English and French and your letter in reply, shall constitute an agreement between our two governments. I further confirm that this agreement shall enter into force upon receipt of the second Diplomatic Note certifying the completion of the necessary internal legal procedures by each Party.

Sincerely,

Bill Graham

Enclosure

Canada

Minister of Foreign Affairs



Ministre des Affaires étrangères

Ottawa, Canada K1A 0G2

The Honourable L'honorable
Bill Graham P.C., Q.C., M.P., c.p., c.r., député

Son Excellence Shimon Peres
Ministre des Affaires étrangères
Israël

Excellence,

J'ai l'honneur de confirmer l'entente, dont fait état l'annexe jointe à la présente, à laquelle sont arrivées les délégations du Canada et d'Israël au sein du Groupe de travail sur les règles d'origine et autres questions d'accès aux marchés de nature douanière mis sur pied en application de l'article 5.12 de l'Accord de libre-échange Canada-Israël conclu à Toronto le 31 juillet 1996 (ci-après l'« ALECI »), qui modifie les chapitres 3 et 5 de l'ALECI. Dans une optique de libéralisation, ces modifications auront entre autres pour effet de permettre la mise en oeuvre de l'alinéa 3.5(1)c), de sorte que la plupart des produits originaires du Canada ou d'Israël qui subissent un traitement mineur aux États-Unis ne cesseront pas d'être des produits originaires pendant qu'ils transitent dans le pays tiers.

Je confirme que la présente lettre et l'annexe qui y est jointe, dont les versions française et anglaise font également foi, ainsi que votre réponse à la présente, constituent un accord entre nos deux gouvernements. Je confirme par ailleurs que cet Accord entre en vigueur sur réception de la seconde Note diplomatique certifiant l'accomplissement des procédures juridiques internes de chaque Partie.

Veillez agréer, Excellence, l'expression de mes sentiments les meilleurs.

Bill Graham

Pièce jointe

Canada

ANNEX**CANADA-ISRAEL FREE TRADE AGREEMENT****AMENDMENTS TO CHAPTERS THREE AND FIVE****Article 3.5: Direct Shipment and Transshipment**

Paragraph 1 - Delete subparagraph (c) and replace with the following:

- (c) subject to Article 5.12(4) and except for a good listed in Chapter 50 through 63, the good is transhipped through the territory of a non-Party with which each Party has entered separately into a free trade agreement under Article XXIV of the GATT 1994 before this Agreement enters into force and:
 - (i) does not undergo further production other than minor processing in the territory of that non-Party, or
 - (ii) any processing that occurs in the territory of that non-Party with respect to that good does not increase the transaction value of the good by greater than ten per cent.

Article 3.12: *De Minimis* Calculation and Application

Paragraph 6 - Delete subparagraph (c) and replace with the following:

- (c) where not included under subparagraph (a) or (b), include freight, insurance, packing and all other costs incurred in transporting the material to the point of importation.

Article 3.13: Definitions

Add, after the definition for **adjusted to an F.O.B. basis**, the following definition:

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

In the definition of **minor processing**, delete subparagraph (f) and replace with the following:

- (f) packaging or repackaging of the good for retail sale or relabelling of the good in one or more official languages of a Party, or

ANNEXE**ACCORD DE LIBRE-ÉCHANGE ENTRE LE CANADA ET ISRAËL****MODIFICATIONS DES CHAPITRES TROIS ET CINQ****Article 3.5 : Expédition directe et expédition en transit**

Paragraphe 1 - Supprimer l'alinéa c) et le remplacer par ce qui suit :

- c) sous réserve du paragraphe 5.12(4) et exception faite d'un produit énuméré aux chapitres 50 à 63, le produit est expédié en transit par le territoire d'un pays tiers avec lequel chacune des Parties a conclu un accord de libre-échange distinct en vertu de l'article XXIV de GATT 1994 avant l'entrée en vigueur du présent accord et
 - (i) ne fait pas l'objet d'une production supplémentaire, hormis un traitement mineur dans le territoire du pays tiers ou
 - (ii) le traitement du produit dans le territoire du pays tiers n'accroît pas de plus de dix pour cent la valeur transactionnelle du produit.

Article 3.12 : Calcul de minimis et application

Paragraphe 6 - Supprimer l'alinéa c) et le remplacer par ce qui suit :

- c) lorsqu'elle n'est pas incluse en vertu des alinéas a) ou b), la valeur de la matière non originaire comprend les frais de fret, d'assurance, d'emballage et autres engagés pour le transport de la matière jusqu'au point d'importation.

Article 3.13 : Définitions

Après la définition de **matière similaire**, ajouter la définition suivante :

modification s'entend de la modification, autre qu'une réparation, excluant l'opération ou le traitement qui soit supprime les caractéristiques essentielles du produit, soit crée un nouveau produit ou un produit différent du point de vue commercial;

Dans la définition de **traitement mineur**, supprimer l'alinéa f) et le remplacer par ce qui suit :

- f) du conditionnement ou du reconditionnement du produit pour la vente au détail ou du réétiquetage du produit dans l'une ou plusieurs des langues officielles de l'une ou l'autre des Parties;

Deputy Prime Minister
and Minister of Foreign Affairs

סגן ראש הממשלה
ושר החוץ

Jerusalem, 22 April 2002

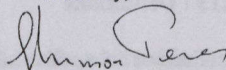
The Honourable Bill Graham P.C., Q.C., M.P.
Minister of Foreign Affairs
Ottawa, Canada

Dear Minister,

I have the honour to refer to your letter of 4 April 2002 and to confirm that my government accepts the understanding reached by the delegations of Israel and Canada in the Working Group on Rules of Origin and Other Customs-Related Market Access Issues, established pursuant to Article 5.12 of the Israel – Canada Free Trade Agreement done at Toronto on 31 July, 1996 containing Amendments to Chapters Three and Five to the said Agreement, which will allow most originating goods from either Israel or Canada to undergo some minor processing in the United States without losing their originating status.

I further confirm that this letter and its annex which is equally authentic in Hebrew, and English together with your letter shall constitute an amendment to the Agreement between our two governments in accordance with article 11.2 thereof. It shall enter into force upon receipt of the second Diplomatic Note certifying the completion of the necessary internal legal procedures by each Party.

Sincerely,



Shimon Peres

enclosure

(Traduction)

Jérusalem, le 22 avril 2002

L'honorable Bill Graham, C.P., C.R., député
Ministre des Affaires étrangères
Ottawa, Canada

Monsieur le Ministre,

J'ai l'honneur de me reporter à votre lettre du 4 avril 2002 et de confirmer que mon gouvernement accepte l'entente à laquelle sont arrivées les délégations d'Israël et du Canada au sein du Groupe de travail sur les règles d'origine et autres questions d'accès aux marchés de nature douanière, établi en vertu de l'article 5.12 de l'Accord de libre-échange Canada-Israël conclu à Toronto le 31 juillet 1996. Cette entente comporte des modifications apportées aux chapitres 3 et 5 dudit Accord, qui feront en sorte que la plupart des produits originaires d'Israël ou du Canada pourront subir une transformation mineure aux États-Unis sans pour autant cesser d'être des produits originaires.

Je confirme par ailleurs que la présente lettre et le texte joint en annexe, qui font également foi dans leurs versions anglaise et hébraïque et votre lettre constituent une modification à l'Accord liant nos deux gouvernements, conformément à l'article 11.2 dudit Accord. Ces modifications entreront en vigueur dès réception de la deuxième des notes diplomatiques par lesquelles les deux Parties se seront notifié l'accomplissement des formalités requises par leur droit national.

Je vous prie d'agréer, Monsieur le Ministre, l'assurance de ma très haute considération.

Shimon Peres

Pièces jointes

In the definition of **minor processing**, delete subparagraph (f) and replace with the following:

- (f) packaging or repackaging of the good for retail sale or relabelling of the good in one or more official languages of a Party, or

In the definition of **minor processing**, delete subparagraphs (h) and (i).

Add, after the definition for **production**, the following definition:

repair means the adjustment of a machine, instrument, electrical device or other article including replacing or refitting parts to restore the article to its original operating condition;

Article 5.12: Working Group on Rules of Origin and Other Customs-Related Market Access Issues

Paragraph 4 – Delete subparagraphs (a), (b) and (c) and replace with the following:

- (a) the agreement by the Parties on the method of verification by a customs administration that a good has undergone no further production other than minor processing in the territory of a non-Party referred to in Article 3.5(1)(c) or that any processing that occurs in the territory of that non-Party with respect to that good does not increase the transaction value of the good by greater than ten percent, based on the principles of Article 5.6;
- (b) the establishment by the Parties of a Declaration of Minor Processing for the purpose of certifying that the good has undergone no further production other than minor processing in the territory of a non-Party referred to in Article 3.5(1)(c) or that any processing that occurs in the territory of that non-Party with respect to that good does not increase the transaction value of the good by greater than ten percent; and
- (c) the establishment by the Parties of an obligation regarding the completion of the Declaration of Minor Processing and the obligations regarding importations, exportations and record-keeping with regard to a good that undergoes minor processing or any processing that does not increase the transaction value of the good by greater than ten percent, as referred to in Article 3.5(1)(c), based on the principles set out in Articles 5.1 to 5.5.

Add, immediately after paragraph 8, the following:

- 9. The Parties will, no later than January 1, 2005, review the application of Article 3.5(1)(c) to take into account changed circumstances, such as technological advances or changes in market conditions with respect to international trade in textiles.

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In the absence of a written agreement, the following provisions shall apply:

1. The goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

In the absence of a written agreement, the following provisions shall apply:

and, after the termination of the agreement, the following provisions:

1. The goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

Article 2.11 Working Capital in Rules of Origin and Other Customs-Related Matters

2.11.1. Goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

(a) In the absence of a written agreement, the following provisions shall apply: the goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

(b) In the absence of a written agreement, the following provisions shall apply: the goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

(c) In the absence of a written agreement, the following provisions shall apply: the goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

2.11.2. Goods shall be treated as if they were the property of the party who has the goods in its possession at the time of the agreement.

Article 2.12 Working Capital in Rules of Origin and Other Customs-Related Matters

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