

CHAPTER 2

TRADE IN ENVIRONMENTAL GOODS

Article 2.1

Objective

The objective of this Chapter is to promote the liberalisation of trade in environmental goods as a means of contributing to the transition to a low-emission, climate-resilient, circular and sustainable economy, and increasing the uptake of, and investment in, relevant technologies and products that address pressing environmental needs.

Article 2.2

Scope

This Chapter shall apply exclusively to trade in environmental goods listed in Annex II (List of Environmental Goods).

Article 2.3

Environmental Goods

1. Environmental goods listed in Annex II (List of Environmental Goods) are goods that substantially contribute to:

- (a) climate change adaptation and mitigation;
- (b) pollution prevention and control;
- (c) the sustainable use, protection or restoration of natural resources, biodiversity and ecosystems;
- (d) the transition to a circular economy;
- (e) the sustainable development objectives of the Parties; or
- (f) other wider environmental goals of the Parties.

2. The list of environmental goods contained in Annex II (List of Environmental Goods) is not intended to include goods which significantly harm any purpose referred to in paragraph 1.

3. The list of environmental goods contained in Annex II (List of Environmental Goods) shall be reviewed regularly, including with respect to the matters referred to in paragraphs 1 and 2, with a view to updating the list pursuant to Article 2.10 (Review).

Article 2.4
Conservation and Sustainable Management relevant for the Production of Environmental Goods

1. Acknowledging the importance to the objective of this Agreement of the conservation and sustainable management of ecosystems relevant for the production of environmental goods, the Parties commit to, *inter alia*:

- (a) promote trade in sustainably produced environmental goods;
- (b) ensure transparency of domestic policies and measures pertaining to sustainable production of environmental goods;
- (c) foster cooperation on improving and strengthening standards, practices and guidelines for sustainably produced environmental goods, where applicable;
- (d) strive to ensure that their respective environmental laws and policies provide for and encourage high levels of environmental protection, and continue to improve their respective levels of environmental protection;
- (e) engage in discussions on the possible equivalence of relevant domestic sustainability instruments, policies and systems of other Parties as adequately fulfilling the sustainability objectives of their respective standards and regulations, even where the instruments, policies and systems differ from their own;¹
- (f) undertake to ensure the conservation and sustainable management of the ecosystems relevant for the production of environmental goods, with the objective of reducing greenhouse gas emissions and biodiversity loss, including those resulting from deforestation, forest degradation, land use and land-use change including for agricultural and mining activities; and
- (g) promote the effective use of existing international instruments pertinent to subparagraphs (a) to (f).

2. For greater certainty, the Parties affirm their right to adopt or maintain measures in accordance with their international obligations in order to achieve legitimate objectives in relation to environmental goods under this Agreement,

¹ In relation to environmental goods classified under HS subheadings of HS Chapter 44 and HS subheading 9406.10 specified in Annex II (List of Environmental Goods), a Party shall, upon request, give positive consideration to accepting as equivalent, to the extent it is consistent with that Party's international obligations and domestic laws and regulations, sustainability instruments, policies and systems of the requesting Party or Parties, even if these differ from its own, provided it is satisfied that these sustainability instruments, policies and systems adequately fulfil the objectives of its own sustainability instruments, policies and systems.

including due diligence systems or certification schemes to verify that the relevant commodities and products have been produced in a sustainable and lawful manner.

3. With regard to environmental goods classified under HS subheadings of Chapter 44 and HS subheading 9406.10 listed in Annex II (List of Environmental Goods):

- (a) a Party may adopt or maintain measures referred to in paragraph 2 to verify that such commodities and products have been produced in a sustainable and lawful manner;² and
- (b) if a Party considers that the elimination of import duties would be detrimental to the conservation or sustainable management of forests and related ecosystems, notwithstanding Article 2.5 (Elimination of Import Duties), it may postpone the elimination of tariffs on such environmental goods for a period of up to 18 months following the entry into force of this Agreement for that Party. That Party may extend the postponement for a further 18 months, if necessary for introducing appropriate instruments to address these concerns. Any postponement under this subparagraph shall be subject to prior notification to the other Parties.

Article 2.5 Elimination of Import Duties

1. Each Party shall eliminate import duties on all environmental goods listed in Annex II (List of Environmental Goods), except as otherwise provided for in that Annex.

2. A Party shall not introduce new import duties on any environmental good listed in Annex II (List of Environmental Goods).

Article 2.6 Elimination of Export Duties

1. Each Party shall eliminate existing export duties on all environmental goods listed in Annex II (List of Environmental Goods), except as may be agreed upon accession to this Agreement, to the extent strictly necessary and for a period not exceeding five years, as provided for in Annex II (List of Environmental Goods). A Party that has postponed the elimination of export duties on goods in Annex II (List of Environmental Goods) shall endeavour to autonomously minimise the application and level of those duties.

² In the case of Costa Rica, Annex XI (Party-Specific Institutional Arrangements) shall apply.

2. A Party shall not introduce new export duties on any environmental good listed in Annex II (List of Environmental Goods).

Article 2.7 Temporary Special Mechanism

1. Reaffirming their shared aim to encourage increased participation of WTO Members to this Agreement, the Parties recognise that, for some economies, covering critical mass of international trade in environmental goods may be desirable before trade in certain environmental goods is liberalised.

2. Notwithstanding Article 2.5 (Elimination of Import Duties) and provided the conditions in paragraphs 3 and 4 are fulfilled:

- (a) a Party may postpone the elimination of import duties on an environmental good at the time it accedes to this Agreement, provided that such postponement is specified in Annex II (List of Environmental Goods); and
- (b) if new items are added to Annex II (List of Environmental Goods) in accordance with Article 6.2 (Functions of the Joint Commission), the respective decision by the Joint Commission shall indicate for which of the new items, if any, a Party may postpone the elimination of import duties.³

3. The temporary postponement of the elimination of import duties is available for a period of 12 years from the date of entry into force of this Agreement, and such import duties once reduced or eliminated shall not be increased or re-introduced.

4. At the time a Party accedes to this Agreement, it may postpone the elimination of import duties on up to 8% of the number of items contained in Annex II (List of Environmental Goods) for a period six years after this Agreement enters into force for that Party, and up to 4% thereafter. Postponement under this paragraph shall in no case exceed the period set forth in paragraph 3.

5. A Party shall not postpone the elimination of import duties pursuant to paragraph 2 on more than half of the environmental goods classified in a single HS Chapter. Where a Party postpones the elimination of import duties pursuant to paragraph 2 on more than one environmental good, it shall not select goods classified in the same HS Chapter. This paragraph only applies where Annex II (List of Environmental Goods) includes more than one item classified in a particular HS Chapter.

³ In the case of Costa Rica, Annex XI (Party-Specific Institutional Arrangements) shall apply.

Article 2.8
General Exceptions

1. For the purposes of this Chapter, Article XX of GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

Article 2.9
Sub-Committee on Trade in Environmental Goods

1. A Sub-Committee on Trade in Environmental Goods (“the Sub-Committee”) is hereby established, consisting of representatives of each Party.
2. The Sub-Committee may consider any matter arising under this Chapter.
3. In relation to a matter referred to in paragraph 2, the functions of the Sub-Committee shall include:
 - (a) monitoring the implementation and operation of this Chapter;
 - (b) exchanging information including available data as a means to measure trade flows of environmental goods and monitoring growth of trade in environmental goods;
 - (c) performing the review set out in Article 2.10 (Review);
 - (d) monitoring and supporting the Parties’ efforts under paragraph 1 of Article 2.4 (Conservation and Sustainable Management relevant for the Production of Environmental Goods), including with regard to any recognition assessments requested by a Party or Parties, and identifying further action under this Agreement contributing to conservation and sustainable management relevant for the production of environmental goods; and
 - (e) reporting, and making recommendations as necessary, to the Joint Commission.
4. The Sub-Committee shall meet within 18 months of the date of entry into force of this Agreement and thereafter as required under this Chapter or as agreed by the Parties.

Article 2.10
Review

1. The Sub-Committee shall review the list of environmental goods contained in Annex II (List of Environmental Goods) with a view to propose:
 - (a) necessary amendments related to the classification of goods under the HS for the application of Annex II (List of Environmental Goods);
 - (b) refinements of the additional product specification as appropriate, based on implementation experience by customs authorities; or
 - (c) the inclusion of additional products and other amendments to the list in line with the objective of this Agreement including the potential removal of products, refinements of the additional product specifications and the environmental benefits description in the light of, *inter alia*, emerging environmental challenges and environmental considerations, technological innovation, market, policy and regulatory developments.
2. Any proposal under subparagraph 1(c) shall be accompanied by a corresponding justification based on the environmental benefits of the goods concerned and reference to their environmental purposes listed in Annex I (Environmental Purposes – Trade in Environmental Goods).
3. The Sub-Committee shall undertake a review as provided for in paragraph 1 no later than one year after the adoption of the Recommendations concerning the periodic amendments of the HS by the Customs Co-operation Council, unless the Parties agree otherwise.
4. Upon completion of the review, the Sub-Committee may recommend that the Joint Commission modifies the Annexes to this Chapter pursuant to Article 6.2 (Functions of the Joint Commission).

Article 2.11
Annexes

The following Annexes, including their Appendices, if any, form an integral part of this Chapter:

- (a) Annex I (Environmental Purposes – Trade in Environmental Goods);
and
- (b) Annex II (List of Environmental Goods).