

CHAPTER 2

TRADE IN GOODS

ARTICLE 2.1 Definitions

For the purposes of this Chapter:

duty-free means free of customs duty; and

import licensing means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body of the importing Party as a prior condition for importation into the territory of the importing Party.

ARTICLE 2.2 Scope and Coverage

Unless otherwise provided in this Agreement, this Chapter applies to trade in goods between the Parties.

ARTICLE 2.3 National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes. To this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.4 Elimination of Customs Duties

1. Unless otherwise provided in this Agreement, including as explicitly set out in each Party's schedule included in Annex 2A (Schedule of Tariff Commitments for Goods), neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party.

2. Each Party shall eliminate customs duties on originating goods of the other Party in accordance with the tariff elimination Schedules and the staging categories in Annex 2A (Schedule of Tariff Commitments for Goods).

3. Where a Party reduces its most-favoured nation (hereinafter “MFN”) applied rate of customs duty, that duty rate shall apply to an originating good of the other Party if, and for as long as, it is lower than the customs duty rate on the same good calculated in accordance with its schedule in Annex 2A (Schedule of Tariff Commitments for Goods).

ARTICLE 2.5

Acceleration or Improvement of Tariff Commitments

1. Upon the request of a Party, the other Party shall consult with the requesting Party to consider accelerating, or improving the scope of, the elimination of customs duties on originating goods as set out in Annex 2A (Schedule of Tariff Commitments for Goods).

2. An agreement between the Parties to accelerate, or improve the scope of, the elimination of a customs duty on an originating good (or to include a good in in Annex 2A (Schedule of Tariff Commitments for Goods) shall supersede any duty rate or staging category determined pursuant to Annex 2A (Schedule of Tariff Commitments for Goods) for that good once approved by each Party in accordance with its applicable domestic procedures.

3. Nothing in this Agreement shall prohibit a Party, at any time, from unilaterally accelerating, or improving the scope of, the elimination of customs duties on originating goods as set out in Annex 2A (Schedule of Tariff Commitments for Goods). A Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

4. If a Party accelerates, or improves the scope of, elimination of custom duties in accordance with paragraph 3 of this Article, that Party may raise the customs duties concerned to the level set out in Annex 2A (Schedule of Tariff Commitments for Goods) for the respective year following such unilateral acceleration or improvement to the scope.

ARTICLE 2.6

Classification of Goods

For the purposes of this Agreement, the classification of goods in trade between the Parties shall be governed by each Party’s respective tariff nomenclature in conformity with the Harmonized System and its amendments.

ARTICLE 2.7
Transposition of Schedules of Tariff Commitments

1. Each Party shall ensure that the transposition of its schedule in Annex 2A (Schedule of Tariff Commitments for Goods), undertaken in order to implement Annex 2A (Schedule of Tariff Commitments for Goods) in the nomenclature of the revised HS following periodic amendments to the HS, is carried out without impairing existing tariff concessions, and does not afford less favourable treatment to an originating good of the other Party, as set out in its schedule in Annex 2A (Schedule of Tariff Commitments for Goods).
2. The transposition of the schedules of tariff commitments shall be carried out in accordance with the methodologies and procedures adopted by the Sub-Committee on Trade in Goods.
3. The Parties shall ensure the timely circulation of the transposed schedules of tariff commitments in the nomenclature of the revised HS.

ARTICLE 2.8
Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 including its interpretative notes. To this end Article XI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.
2. Where a Party proposes to adopt an export prohibition or restriction on foodstuffs in accordance with paragraph 2(a) of Article XI of GATT 1994, the Party shall:
 - (a) seek to limit such proposed prohibition or restriction to the extent necessary, giving due consideration to its possible effects on the other Party's foodstuff security;
 - (b) provide information in writing, as soon as practicable, to the other Party of such proposed prohibition or restriction and its reasons together with its nature and expected duration; and
 - (c) on request, provide the other Party with a reasonable opportunity for consultation with respect to any matter related to the proposed prohibition or restriction.

ARTICLE 2.9
Import Licensing Procedures

1. Each Party shall ensure that its automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement¹, which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Each Party shall notify the other Party of any new import licensing procedures and any modification to its import licensing procedures. A Party shall do so 60 days before the new procedure or modification takes effect, whenever practicable. In no case shall a Party provide the notification later than 60 days after the date of its publication.
3. A Party shall be deemed to be in compliance with paragraph 2 with respect to a new or modified import licensing procedure if it notifies that procedure to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5.2 of the Import Licensing Agreement.
4. A Party shall publish on an official government website any new or modified import licensing procedure, including any information that it is required to publish under paragraph (a) of Article 1.4 of the Import Licensing Agreement. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.
5. Each Party shall respond within 60 days to enquiries and the request of relevant information from the other Party with regard to any import licensing procedures that it has adopted or changed. A response shall include, where requested, an explanation of the reason for the denial of an import licensing application with respect to a good of the other Party.

ARTICLE 2.10
Customs Valuation

For the purposes of determining the customs value of goods traded among the Parties, Article VII of the GATT 1994 and the Customs Valuation Agreement, including its interpretative notes, shall apply, *mutatis mutandis*.

¹ For the purposes of paragraph 1 and for greater certainty, in determining whether a measure is inconsistent with the Import Licensing Agreement, the Parties shall apply the definition of “import licensing” contained in this Agreement.

ARTICLE 2.11
Export Subsidies

Neither Party shall maintain, introduce or reintroduce export subsidies, or other measures with equivalent effect, on any good destined for the territory of the other Party, including agricultural products.

ARTICLE 2.13
Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 and its interpretive notes, that all fees and charges of whatever character (other than import and export duties charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT 1994, and anti-dumping and countervailing duties) imposed on, or in connection with, importation or exportation shall be limited in amount to the approximate cost of services rendered, shall not be on an *ad valorem* basis and shall not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

2. Each party shall promptly publish, and update as appropriate, details of the fees and charges that it imposes in connection with importation or exportation and shall make such information available on the Internet.

ARTICLE 2.14
Technical Consultations

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party except in accordance with its rights and obligations under the WTO Agreement or this Agreement.

2. A Party may request technical consultations with the other Party to discuss any measure within the scope of this Chapter if it considers the measure was prepared, adopted or applied with a view to, or with the effect of, creating an unnecessary obstacle to trade and adversely affecting trade between the Parties. The request shall be in writing and shall clearly identify the measure, explain the reasons for the request and how the measure adversely affects trade between the Parties, indicate any provisions of the Chapter to which the concerns relate and, if possible, provide suggested solutions.

3. Where a non-tariff measure of the type described in paragraph 2 is covered by another Chapter which provides for a consultation mechanism with the other Party, that consultation mechanism shall be used.

4. Within 30 days of receipt of a request under paragraph 2, the responding Party shall provide a written reply to the requesting Party.
5. Unless the Parties agree otherwise, within 30 days of the requesting Party's receipt of the reply, the Parties shall enter into consultations with a view to reaching a mutually satisfactory solution.
6. If the requesting Party considers that the subject of the request under paragraph 2 is urgent or involves perishable goods, the responding Party shall give prompt and reasonable consideration to any request to hold consultations within a shorter timeframe than that provided for under paragraph 5.
7. If consultations under paragraph 5 or 6 failed to reach a mutually satisfactory solution, the matter shall be immediately reviewed by the Sub-Committee on Trade in Goods with the view to securing a mutually satisfactory solution.
8. Any consultations undertaken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 20 (Dispute Settlement) or under the Understanding on Rules and Procedures Governing the Settlement of Disputes in Annex 2 to the WTO Agreement.

ARTICLE 2.15 **State Trading Enterprises**

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994.

ARTICLE 2.16 **Temporary Admission of Goods**

1. Each Party shall grant temporary admission, free of customs duties, for the following goods imported from the other Party, regardless of their origin:
 - (a) professional and scientific equipment, including their spare parts, and including equipment for the press or television, software, and broadcasting and cinematographic equipment, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;

- (b) goods intended for display, demonstration, or use at theaters, exhibitions, fairs, or other similar events;
 - (c) commercial samples and advertising films and recordings;²
 - (d) goods admitted for sports purposes; and
 - (e) containers and pallets that are used for the transportation of equipment or used for refilling.
2. Each Party shall, at the request of the importer and for reasons deemed valid by its Customs Authority, extend the time limit for temporary admission beyond the period initially fixed.
3. No Party shall condition the temporary admission of a good referred to in paragraph 1, other than to require that the good:
- (a) not be sold or leased while in its territory;
 - (b) be accompanied by a security in an amount no greater than the customs duties and any other tax or charge imposed on imports that would otherwise be owed on entry or final importation, releasable on exportation of the good;
 - (c) be capable of identification when exported;
 - (d) be exported in accordance with the time period granted for temporary admission, or within such other period or extension in accordance with its domestic law related to the purpose of the temporary admission;
 - (e) not be admitted in a quantity greater than is reasonable for its intended use; or
 - (f) be otherwise admissible into the importing Party's territory under its law.
4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, that Party may apply the customs duty, and any other tax or charge that would normally be owed on the importation of the good and any other charges or penalties provided for under its law.

² Advertising films and recordings means recorded visual media or audio materials, consisting essentially of images or sound, showing the nature or operation of goods or services offered for sale or lease by a person of a Party, provided that those materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public.

5. Each Party, through its Customs Authority, shall adopt or maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.

6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted in accordance with its customs procedures.

7. Each Party shall provide that the importer or other person responsible for the goods admitted in accordance with this Article shall not be liable for failure to export the goods within the period fixed for temporary admission, including any lawful extension, on presentation of satisfactory proof to the importing Party that the goods were totally destroyed. In certain cases, a Party may condition relief of liability under this paragraph by requiring the importer to receive prior approval from the Customs Authority of the importing Party before the good can be totally destroyed.

ARTICLE 2.17

Goods Re-Entered After Repair or Alteration

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration, except that a customs duty or other taxes or charges may be applied, in accordance with each Party's laws and procedures, to the addition resulting from the repair or alteration that was performed in the territory of the other Party.

2. Neither Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

3. For purposes of this Article, "repair" or "alteration" does not include an operation or process that:

- (a) destroys a good's essential characteristics or creates a new or commercially different good;
- (b) transforms an unfinished good into a finished good;
- (c) results in a change of the classification at a six-digit level of the Harmonized System (HS); or

- (d) substantially changes the function of a good.

ARTICLE 2.18
Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials³

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

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

ARTICLE 2.19
Exchange of Data

1. The Parties recognise the value of trade data to accurately analyse the implementation of this Agreement. The Parties shall cooperate with a view to conducting periodic exchanges of available data relating to trade in goods between the Parties, including data on tariff preference utilisation.

2. The exchange of trade data in accordance with paragraph 1 of this Article, shall take place between the Parties in advance of the meeting of the Trade in Goods Sub-Committee, unless otherwise agreed by the Parties.

ARTICLE 2.20
Sub-Committee on Trade in Goods

1. The Sub-Committee on Trade in Goods established pursuant to Article 19.4 (Establishment of Sub-Committees) shall comprise of representatives of each Party.

2. The Sub-Committee shall meet once a year or meet on the request of the other Party at a mutually agreed time, venue, and means, to consider any matter arising under this

³ For the purpose of this Article, the terms “commercial samples of negligible value” and “printed advertising materials” are applied in accordance with each Party’s laws and regulations.

Chapter. The Sub-Committee may carry out its work through whatever means that are appropriate, which may include electronic mail, videoconferencing, or other means.

3. The functions of the Sub-Committee shall include:
 - (a) monitoring and reviewing the implementation and administration of this Chapter, and making a report and recommendations, if appropriate;
 - (b) promoting trade in goods between the Parties, including through consultations on accelerating or improving the scope of preferential treatment or tariff elimination under this Agreement and other issues as appropriate;
 - (c) promptly addressing barriers to trade in goods between the Parties including those related to the application of non-tariff measures which may restrict trade in goods between the Parties and, if appropriate, referring such matters to the Joint Committee for its consideration;
 - (d) providing advice and recommendations to the Joint Committee on cooperation needs regarding trade in goods matters;
 - (e) reviewing the amendments to the Harmonized System (HS) to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between such amendments to the Harmonized System (HS) and Annex 2A (Schedule of Tariff Commitments for Goods) and national nomenclatures;
 - (f) consulting on and endeavoring to resolve any difference that may arise among the Parties on matters related to the classification of goods under the Harmonized System (HS), including adoption and review of transposition methodologies and guidelines;
 - (g) reviewing data on trade in goods in relation to the implementation of this chapter;
 - (h) assessing matters that relate to trade in goods and undertaking any additional work that the Joint Committee may assign to it; and
 - (i) reviewing and monitoring any other matter related to the implementation of this chapter.