

CHAPTER TWO

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

SECTION A COMMON PROVISIONS

ARTICLE 2.1: OBJECTIVE

The Parties shall progressively and reciprocally liberalise trade in goods over a transitional period starting from the entry into force of this Agreement, in accordance with this Agreement and in conformity with Article XXIV of GATT 1994.

ARTICLE 2.2: SCOPE AND COVERAGE

This Chapter shall apply to trade in goods¹ between the Parties.

ARTICLE 2.3: CUSTOMS DUTY

For the purposes of this Chapter, a **customs duty** includes any duty or charge of any kind imposed on, or in connection with, the importation of a good, including any form of surtax or surcharge imposed on, or in connection with, such importation.² A customs duty does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article 2.8 in respect of the like domestic good or in respect of an article from which the imported good has been manufactured or produced in whole or in part;
- (b) duty imposed pursuant to a Party's law consistently with Chapter Three (Trade Remedies);
- (c) fee or other charge imposed pursuant to a Party's law consistently with Article 2.10; or
- (d) duty imposed pursuant to a Party's law consistently with Article 5 of *the Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the "Agreement on Agriculture").

¹ For the purposes of this Agreement, **goods** means products as understood in GATT 1994 unless otherwise provided in this Agreement.

² The Parties understand that this definition is without prejudice to the treatment that the Parties, in line with the WTO Agreement, may accord to trade conducted on a most-favoured-nation basis.

ARTICLE 2.4: CLASSIFICATION OF GOODS

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature interpreted in conformity with the Harmonized System of the *International Convention on the Harmonized Commodity Description and Coding System*, done at Brussels on 14 June 1983 (hereinafter referred to as the "HS").

SECTION B ELIMINATION OF CUSTOMS DUTIES

ARTICLE 2.5: ELIMINATION OF CUSTOMS DUTIES

1. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods of the other Party in accordance with its Schedule included in Annex 2-A.
2. For each good, the base rate of customs duties, to which the successive reductions are to be applied under paragraph 1, shall be that specified in the Schedules included in Annex 2-A.
3. If at any moment a Party reduces its applied most-favoured-nation (hereinafter referred to as "MFN") customs duty rate after the entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule included in Annex 2-A.
4. Three years after the entry into force of this Agreement, on the request of either Party, the Parties shall consult to consider accelerating and broadening the scope of the elimination of customs duties on imports between them. A decision by the Parties in the Trade Committee, following such consultations, on the acceleration or broadening of the scope of the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules included in Annex 2-A for that good.

ARTICLE 2.6: STANDSTILL

Except as otherwise provided in this Agreement, including as explicitly set out in each Party's Schedule included in Annex 2-A, neither Party may increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party. This shall not preclude that either Party may raise a customs duty to the level established in its Schedule included in Annex 2-A following a unilateral reduction.

ARTICLE 2.7: ADMINISTRATION AND IMPLEMENTATION OF TARIFF-RATE QUOTAS

1. Each Party shall administer and implement the tariff-rate quotas (hereinafter referred to as "TRQs") set out in Appendix 2-A-1 of its Schedule included in Annex 2-A in accordance with Article XIII of GATT 1994, including its interpretative notes and the *Agreement on Import Licensing Procedures*, contained in Annex 1A to the WTO Agreement.

2. Each Party shall ensure that:
 - (a) its procedures for administering its TRQs are transparent, made available to the public, timely, non-discriminatory, responsive to market conditions, minimally burdensome to trade, and reflect end-user preferences;
 - (b) any person of a Party that fulfils the importing Party's legal and administrative requirements shall be eligible to apply and to be considered for a TRQ allocation by the Party. Unless the Parties otherwise agree by decision of the Committee on Trade in Goods, any processor, retailer, restaurant, hotel, food service distributor or institution, or any other person is eligible to apply for, and to be considered to receive, a TRQ allocation. Any fees charged for services related to an application for a TRQ allocation shall be limited to the actual cost of the services rendered;
 - (c) except as specified in Appendix 2-A-1 of its Schedule included in Annex 2-A, it does not allocate any portion of a TRQ to a producer group, condition access to a TRQ allocation on the purchase of domestic production, or limit access to a TRQ allocation to processors; and
 - (d) it allocates TRQs in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that importers request. Except as otherwise stipulated in the provisions for each TRQ and the applicable tariff line in Appendix 2-A-1 of a Party's Schedule included in Annex 2-A, each TRQ allocation shall be valid for any item or mixture of items subject to a particular TRQ, regardless of the item's or mixture's specification or grade, and shall not be conditioned on the item's or mixture's intended end-use or package size.
3. Each Party shall identify the entities responsible for administering its TRQs.
4. Each Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilise TRQ quantities.
5. Neither Party may condition application for, or utilisation of, TRQ allocations on the re-export of a good.
6. On the written request of either Party, the Parties shall consult regarding a Party's administration of its TRQs.
7. Except as otherwise provided in Appendix 2-A-1 of its Schedule included in Annex 2-A, each Party shall make the entire quantity of the TRQ established in that Appendix available to applicants beginning on the date of entry into force of this Agreement during the first year, and on the anniversary of the entry into force of this Agreement of each year thereafter. Over the course of each year, the importing Party's administering authority shall publish, in a timely fashion on its designated publicly available Internet site, utilisation rates and remaining quantities available for each TRQ.

SECTION C NON-TARIFF MEASURES

ARTICLE 2.8: NATIONAL TREATMENT

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

ARTICLE 2.9: IMPORT AND EXPORT RESTRICTIONS

Neither Party may adopt or maintain any prohibition or restriction other than duties, taxes or other charges 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, in accordance with Article XI of GATT 1994 and its interpretative notes. To this end, Article XI of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.10: FEES AND OTHER CHARGES ON IMPORTS

Each Party shall ensure that all fees and charges of whatever character (other than customs duties and the items that are excluded from the definition of a customs duty under Article 2.3(a), (b) and (d)) imposed on, or in connection with, importation are limited in amount to the approximate cost of services rendered, are not calculated on an *ad valorem* basis, and do not represent an indirect protection to domestic goods or taxation of imports for fiscal purposes.

ARTICLE 2.11: DUTIES, TAXES OR OTHER FEES AND CHARGES ON EXPORTS

Neither Party may maintain or institute any duties, taxes or other fees and charges imposed on, or in connection with, the exportation of goods to the other Party, or any internal taxes, fees and charges on goods exported to the other Party that are in excess of those imposed on like goods destined for internal sale.

ARTICLE 2.12: CUSTOMS VALUATION

The Agreement on Implementation of Article VII of GATT 1994 contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “Customs Valuation Agreement”), is incorporated into and made part of this Agreement, *mutatis mutandis*. The reservations and options provided for in Article 20 and paragraphs 2 through 4 of Annex III of the Customs Valuation Agreement shall not be applicable.

ARTICLE 2.13: STATE TRADING ENTERPRISES

1. The Parties affirm their existing rights and obligations under Article XVII of GATT 1994, its interpretative notes and the *Understanding on the Interpretation of Article XVII of GATT 1994*, contained in Annex 1A to the WTO Agreement which are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Where a Party requests information from the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party shall have regard to the need to ensure maximum transparency possible without prejudice to Article XVII.4(d) of GATT 1994 on confidential information.

ARTICLE 2.14: ELIMINATION OF SECTORAL NON-TARIFF MEASURES

1. The Parties shall implement their commitments on sector-specific non-tariff measures on goods in accordance with the commitments set out in Annexes 2-B through 2-E.

2. Three years after the entry into force of this Agreement and on the request of either Party, the Parties shall consult to consider broadening the scope of their commitments on sector-specific non-tariff measures on goods.

SECTION D SPECIFIC EXCEPTIONS RELATED TO GOODS

ARTICLE 2.15: GENERAL EXCEPTIONS

1. The Parties affirm that their existing rights and obligations under Article XX of GATT 1994 and its interpretative notes, which are incorporated into and made part of this Agreement, shall apply to trade in goods covered by this Agreement, *mutatis mutandis*.

2. The Parties understand that before taking any measures provided for in subparagraphs (i) and (j) of Article XX of GATT 1994, the Party intending to take the measures shall supply the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties may agree on any means needed to put an end to the difficulties. If no agreement is reached within 30 days of supplying such information, the Party may apply measures under this Article on the good concerned. Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

SECTION E INSTITUTIONAL PROVISIONS

ARTICLE 2.16: COMMITTEE ON TRADE IN GOODS

1. The Committee on Trade in Goods established pursuant to Article 15.2.1 (Specialised Committees) shall meet on the request of a Party or of the Trade Committee to consider any matter arising under this Chapter and comprise representatives of the Parties.

2. The Committee's functions shall include:

- (a) promoting trade in goods between the Parties, including through consultations on accelerating and broadening the scope of tariff elimination and broadening of the scope of commitments on non-tariff measures under this Agreement and other issues as appropriate; and
- (b) addressing tariff and non-tariff measures to trade in goods between the Parties and, if appropriate, referring such matters to the Trade Committee for its consideration,

in so far as these tasks have not been entrusted to the relevant Working Groups established pursuant to Article 15.3.1 (Working Groups).

ARTICLE 2.17: SPECIAL PROVISIONS ON ADMINISTRATIVE COOPERATION

1. The Parties agree that administrative cooperation is essential for the implementation and the control of preferential tariff treatment granted under this Chapter and underline their commitments to combat irregularities and fraud in customs and related matters.

2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or irregularities or fraud, on the request of that Party, the Customs Committee shall meet within 20 days of such request to seek, as a matter of urgency, to resolve the situation. The consultations held within the framework of the Customs Committee will be considered as fulfilling the same function as consultation under Article 14.3 (Consultations).