

## **Chapter 3**

### **National Treatment and Market Access for Trade in Goods**

#### **Article 7: Scope and Coverage**

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

#### **Section A**

#### **National Treatment**

#### **Article 8: National Treatment**

1. 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, and to this end Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Paragraph 1 shall not apply to the measures set out in Annex 1 (National Treatment and Import and Export Restrictions).

#### **Section B**

#### **Tariff Elimination**

#### **Article 9: Tariff Elimination**

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party.
2. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods of the other Party, in accordance with Annex 2 (Tariff Elimination).
3. The schedules attached to Annex 2 (Tariff Elimination) shall not apply to used goods, including those identified as such in headings or subheadings of the Harmonized System. Used goods also include those goods that are reconstructed, repaired, remanufactured or any other similar name given to goods that, after having been used, have been subject to some kind of process to restore their original characteristics or specifications, or to restore the functionality they had when they were new.
4. On the request of any Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their schedules attached to Annex 2 (Tariff Elimination).
5. Notwithstanding Article 135 (The Free Trade Commission), an agreement between the Parties to accelerate the elimination of a customs duty on a good, shall supersede any duty rate or staging category determined pursuant to their schedules attached to Annex 2 (Tariff Elimination) for such

good when approved by the Parties in accordance with their applicable legal procedures.

6. For greater certainty, a Party may:
  - (a) raise a customs duty to the level established in its Schedule to Annex 2 (Tariff Elimination) following a unilateral reduction; or
  - (b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO or in accordance with the relevant provisions of Chapter 14 (Dispute Settlement) of this Agreement.
7. The Parties agree that the base rates for tariff elimination are each Party's applied customs duties on 1<sup>st</sup> January 2009, which are established in their respective schedule attached to Annex 2 (Tariff Elimination).

### **Section C Special Regimes**

#### **Article 10: Temporary Admission of Goods**

1. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:
  - (a) professional equipment, such as equipment used for scientific research, pedagogical or medical activities, the press or television and cinematographic purposes, necessary for a person who qualifies for temporary entry pursuant to the laws of the importing Party;
  - (b) goods intended for display or demonstration at exhibitions, fairs, meetings, or similar events;
  - (c) commercial samples; and
  - (d) goods admitted for sports purposes.
2. Each Party shall, at the request of the person concerned and for reasons its customs administration considers valid, extend the time limit for temporary admission beyond the period initially fixed in accordance with its domestic law.
3. No Party shall condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that such good:
  - (a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of the business activity, trade, profession or sport of that person;
  - (b) not be sold or leased while in its territory;

- (c) be accompanied by the deposit of a bond or security in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
- (d) be capable of identification when exported;
- (e) be exported on the departure of the person referenced in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, or within 6 months, unless extended;
- (f) be admitted in no greater quantity than is reasonable for its intended use; and
- (g) be otherwise admissible into the Party's territory under its domestic law.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good plus any other charges or penalties provided for under its domestic law.

5. 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.

6. Each Party shall provide that its customs administration or other competent authority shall relieve the importer or another person responsible for a good admitted under this Article from any liability for failure to re-export the good on presentation of proof to the satisfaction of the customs administration of the importing Party that the good has been destroyed by reason of *force majeure*.

## **Section D Non-Tariff Measures**

### **Article 11: Import and Export Restrictions**

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any non-tariff measure that prohibits or restricts the importation of any good of the other Party or on the exportation or sale for export of any good destined to the territory of the other Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes, and to this end Article XI of the GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

2. Paragraph 1 shall not apply to the measures established in Annex 1 (National Treatment and Import and Export Restrictions).

## **Article 12: Import Licensing**

1. No Party shall adopt or maintain a measure that is inconsistent with the WTO Agreement on Import Licensing Procedures.
2. Each Party shall notify the other Party of any existing import licensing procedures and the list of goods subject to such procedures upon the entry into force of this Agreement.
3. Each Party shall publish any new import licensing procedures and any modification to either the existing import licensing procedures or the list of goods subject to such procedures, if possible, 21 days before it takes effect and, in any event, no later than such effective date.
4. Each Party shall notify the other Party of any other new import licensing procedures, any modifications to either the existing import licensing procedures or the list of goods subject to such procedures, within 60 days of publication. Such publication shall be in accordance with the procedures set out in the WTO Agreement on Import Licensing Procedures.
5. Notification provided under paragraphs 2 and 4 shall include the information specified in Article 5 of the WTO Agreement on Import Licensing Procedures.

## **Article 13: Administrative Fees and Formalities**

1. Each Party shall ensure, in accordance with Article VIII.1 of the GATT 1994 and its interpretative notes, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III.2 of the GATT 1994, and antidumping and countervailing duties) imposed on or in connection with importation or exportation are limited to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.
2. No Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.
3. Each Party shall make available and maintain, through the Internet or a comparable computer-based telecommunications network, a current list of the fees and charges it imposes in connection with importation or exportation.

## **Section E Other Measures**

### **Article 14: Customs Valuation**

The Customs Valuation Agreement and the decisions taken by the WTO Committee on Customs Valuation are incorporated into and made part of this

Agreement, *mutatis mutandis*, and the customs law of each Party shall comply with them.

## **Section F Agriculture**

### **Article 15: Scope and Coverage**

1. This Section applies to the measures related to agricultural trade adopted or maintained by the Parties.
2. For purposes of this Agreement, agricultural goods mean those goods referred to in Article 2 of the WTO Agreement on Agriculture.

### **Article 16: Agricultural Export Subsidies**

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods, and shall work together toward an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.
2. Neither Party shall maintain, introduce or reintroduce any export subsidy on any agricultural good destined to the territory of the other Party.
3. If either Party considers that the other Party has failed to carry out its obligations under this Agreement by maintaining, introducing or re-introducing an export subsidy, such Party may request consultations with the other Party in accordance with Chapter 14 (Dispute Settlement) with a view to arriving to a mutually satisfactory solution.

### **Article 17: Domestic Support Measures for Agricultural Goods**

In order to establish a fair and market-oriented agriculture trading system, the Parties agree to cooperate in the WTO agricultural negotiations on domestic support measures to provide for a substantial and progressive reduction in trade distorting agricultural support.

## **Section G Institutional Provisions**

### **Article 18: Committee on Trade in Goods**

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.
2. The Committee shall consider matters arising under this Chapter, Chapter 4 (Rules of Origin and Related Operational Procedures) or Chapter 5 (Customs Procedures).
3. The Committee's functions shall include, *inter alia*:

- (a) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate;
- (b) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring such matters to the Commission for its consideration;
- (c) reviewing future amendments to the Harmonized System to ensure that each Party's obligations under this Agreement are not altered, and consulting in order to resolve any conflicts between:
  - (i) subsequent amendments to Harmonized System 2007 and Annex 2 (Tariff Elimination); or
  - (ii) Annex 2 (Tariff Elimination) and national nomenclatures;
- (d) consulting on and endeavouring to resolve any difference that may arise among the Parties on matters related to the classification of goods under the Harmonized System; and
- (e) establishing *ad hoc* working groups with specific functions.

4. The Committee shall meet at least once a year, unless otherwise agreed by the Parties. When special circumstances arise, the Committee shall meet at any time upon request of either Party or the Commission.

## **Section H Definitions**

### **Article 19: Definitions**

For purposes of this Chapter:

**consular transactions** means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;

**duty-free** means free of customs duty;

**export subsidies** shall have the meaning assigned to that term in Article 1(e) of the WTO Agreement on Agriculture, including any amendment to that Article;

**goods intended for display or demonstration** includes their component parts, ancillary apparatus and accessories; 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 as a prior condition for importation into the territory of the importing Party.