

CHAPTER 2

TRADE IN GOODS

ARTICLE 2.1

Scope

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

ARTICLE 2.2

Import Duties

1. Each Party shall apply import duties on goods originating in another Party in accordance with Annexes II to V (Schedules on Tariff Commitments on Goods).
2. Unless otherwise provided in this Agreement, no Party shall increase import duties, or introduce new import duties, on goods originating in another Party covered by Annexes II to V (Schedules on Tariff Commitments on Goods).
3. For the purposes of this Agreement, “import duties” means any customs duties and charges of any kind, including taxes and surcharges, imposed in connection with the importation of goods, except duties and charges imposed in conformity with Articles III and VIII of the GATT 1994 as well as anti-dumping duties that are applied pursuant to Article VI of the GATT 1994 and in accordance with Article 2.15 (Anti-dumping Measures).

ARTICLE 2.3

Export Duties

If a Party agrees with a non-party to abolish or limit export duties, it shall, upon request by another Party, accord treatment no less favourable to the other Party.

ARTICLE 2.4

Rules of Origin and Administrative Cooperation

The rules of origin and administrative cooperation are set out in Annex I (Rules of Origin and Administrative Cooperation).

ARTICLE 2.5

Customs Valuation¹

Article VII of the GATT 1994 and Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.6

Import Licensing

1. The WTO Agreement on Import Licensing Procedures shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. In adopting or maintaining import licensing procedures, the Parties shall implement such procedures consistent with this Agreement. In particular, each Party shall ensure that import licensing procedures are implemented in a transparent, non-discriminatory fair and equitable, predictable and least trade-restrictive manner.
3. Subject to the domestic laws and regulations of the importing Party, if the license application is not approved, the applicant shall without undue delay be given the reason in writing and shall have a right to appeal in at least one level of administrative or judicial appeal, and be given a written justification without undue delay if the non-approval is upheld following such appeal.
4. Upon entry into force of this Agreement, each Party shall promptly notify the other Parties of existing import licensing procedures. Each Party shall promptly notify any new import licensing procedures as well as modifications to existing import licensing procedures. Such notification shall include information on the administrative purpose of such licensing procedures and shall be in accordance with Articles 5.2 and 5.3 of the WTO Agreement on Import Licensing Procedures.
5. Each Party shall promptly respond to requests for information on import licensing requirements by another Party.
6. The Parties shall exchange contact points responsible for the issuance of import licenses in order to facilitate communication and exchange of information on a regular basis.

¹ Switzerland applies customs duties based on weight and quantity rather than *ad valorem* duties.

ARTICLE 2.7

Quantitative Restrictions

1. Article XI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. No Party may adopt or maintain any prohibition or restriction on the importation of a product of another Party or on the exportation of a product to another Party, except for measures in accordance with paragraph 2 of Article XI of the GATT 1994.
3. A Party introducing a measure in accordance with paragraph 2 of Article XI of the GATT 1994 shall promptly notify the Joint Committee. A notification by a Party in accordance with Article XI of the GATT 1994 shall be deemed equivalent to a notification under this Agreement.
4. Any measure applied in accordance with this Article shall be temporary and may not go beyond what is necessary to deal with the circumstances described in paragraph 2. The Parties shall endeavour to terminate measures no later than three years after their imposition.
5. Each Party shall ensure non-discriminatory administration and transparency of its measures in accordance with paragraph 2 of Article XI of the GATT 1994 and that such measures are not prepared, adopted or applied with the view to or with the effect of creating unnecessary obstacles to trade between the Parties.

ARTICLE 2.8

Fees and Formalities

Article VIII of the GATT 1994 shall apply, and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*, subject to Article 9 (Fees and Charges) of Annex VI (Trade Facilitation).

ARTICLE 2.9

Internal Taxation and Regulations

Article III of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.10

Agricultural Export Subsidies

No Party may adopt or maintain export subsidies, as defined in the WTO Agreement on Agriculture, in connection with the exportation of agricultural products to another Party.

ARTICLE 2.11

Standards, Technical Regulations and Conformity Assessment Procedures

1. Except as otherwise provided for in this Article, with respect to standards, technical regulations and conformity assessments, the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the “TBT Agreement”) shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. The Parties shall exchange names and addresses of contact points with expertise on technical regulations in order to facilitate communication and exchange of information.
3. The Parties agree to hold technical consultations if a Party considers that another Party has applied or is considering applying a measure not in conformity with the TBT Agreement, in order to find an appropriate solution in conformity with the TBT Agreement. Such consultations, which may be held within or outside the framework of the Joint Committee, shall take place within 40 days from the date of receipt of the request. If consultations are held outside the framework of the Joint Committee, it should be informed thereof. Such consultations may be conducted by any agreed method.
4. Upon request of a Party, the Parties shall, without undue delay, agree on an arrangement extending to each other equivalent treatment related to technical regulations, standards and conformity assessments mutually agreed between each Party and a non-party.
5. The Parties may amend this Agreement or conclude other agreements to prevent, eliminate, or reduce technical barriers to trade, including mutual recognition agreements designed to avoid duplicative and unnecessarily burdensome conformity assessment procedures in specific product sectors.

ARTICLE 2.12

Sanitary and Phytosanitary Measures

1. Except as otherwise provided for in this Article, the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the “SPS Agreement”) shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. An importing Party shall ensure free movement of goods complying with its relevant sanitary and phytosanitary requirements and applicable domestic laws and regulations once placed on its market. Sanitary and phytosanitary requirements and domestic laws and regulations shall be applied in a non-discriminatory manner.
3. The Parties agree to use system audits as the preferred assessment method. The need to perform on-site inspections shall be justified and agreed by the Parties.
4. The Parties agree to minimise the number of model SPS-certificates as far as possible. Where official certificates are required, these should be in line with the principles laid down in international standards. When a Party introduces or modifies a certificate, information on the proposed new or revised certificate shall be notified, in English, as early as possible. The Parties shall explain and justify introduction or modification of a certificate. The exporting Party shall be given sufficient time to adapt to the new requirements.
5. Import control should be carried out according to international standards, guidelines and recommendations issued by the relevant international organisations, such as Codex Alimentarius Commission (CAC), including Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS), International Plant Protection Convention (IPPC) and the World Organisation for Animal Health (OIE).
6. The import requirements and checks applied to imported products covered by this Article shall be based on the risk that is associated with such products and shall be applied in a non-discriminatory manner. Import checks and border controls shall be carried out as expeditiously as possible in a manner that is no more trade-restrictive than necessary.
7. Information about the frequency of import checks or changes in this frequency shall be exchanged upon request between competent authorities.
8. Each Party shall ensure that adequate procedures exist to allow the person or entity responsible for the consignment whose goods are subject to sampling and analysis to apply for a supplementary expert opinion as part of the official sampling.
9. Products subject to random and routine checks upon importation should be cleared while awaiting results of the tests if no perceived or verified risk is associated with the products.

10. If a product is detained at the border due to a perceived risk, the clearance decision shall be issued as soon as possible. Every effort shall be made to avoid deterioration of perishable goods.²

11. If a product is rejected at a port of entry due to a verified serious sanitary or phytosanitary issue, the competent authority in the exporting Party shall be informed immediately. The factual basis and scientific justification shall, upon request, be provided to the exporting Party in writing, as soon as possible, but no later than within 14 days.

12. Where a Party detains, at a port of entry, a product exported from another Party due to a perceived failure to comply with a sanitary or phytosanitary measure, the factual justification for the detention shall be promptly notified to the person or entity responsible for the consignment. If a product is rejected at a port of entry, each Party shall ensure that appropriate administrative or legal procedures exist to file a complaint to appeal the decision in accordance with their domestic laws and regulations.

13. Consultations shall be held upon request of a Party which considers that another Party has taken a measure which is likely to create, or has created, an obstacle to trade. Such consultations shall take place within 30 days from the date of receipt of the request with the objective of finding a mutually acceptable solution. If consultations are not taking place in the Joint Committee, it should be informed thereof. In case of perishable goods, consultations between the competent authorities shall be held without undue delay. Such consultations may be conducted by any agreed method.

14. Upon request by a Party, the Parties shall, without undue delay, agree on an arrangement extending to each other equivalent³ treatment related to sanitary and phytosanitary measures mutually agreed between each Party and a non-party.

15. The Parties shall exchange names and addresses of contact points in order to facilitate communication and exchange of information. They shall notify any substantial change in structure, organisation and division of responsibilities of the competent authorities and contact points to each other.

ARTICLE 2.13

Trade Facilitation

The rights and obligations of the Parties regarding Trade Facilitation are set out in Annex VI (Trade Facilitation).

² For the purposes of this Article, “perishable goods” means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

³ “Equivalent” used here shall not be understood as the term “equivalence” in the WTO SPS Agreement.

ARTICLE 2.14

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.
2. Upon receipt of a properly documented countervailing duty application with respect to imports from another Party, and before initiating an investigation, the Party considering initiating an investigation shall provide written notification to the Party whose goods are subject to investigation at least 30 days in advance of the date of initiation and invite the Party whose goods are subject to investigation for consultations, with the view to finding a mutually acceptable solution. The notifying Party shall allow for a 30-day period for consultations. The consultations may take place in the Joint Committee if the Parties agree and should not prevent the competent authorities of a Party from proceeding expeditiously with regard to initiating the investigation.

ARTICLE 2.15

Anti-dumping Measures

1. The rights and obligations of the Parties with regard to anti-dumping measures shall be governed by Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, subject to paragraphs 2 to 5.
2. Subject to paragraph 1 and considering the comprehensive economic partnership established by this Agreement, the Parties will consider to refrain from initiating anti-dumping procedures or applying anti-dumping measures against each other.
3. Upon receipt of a properly documented application for the initiation of an anti-dumping investigation concerning imports from another Party, the Party considering initiating an investigation shall provide written notification to the Party whose goods are subject to investigation of the application 30 days in advance of the date of initiation of such investigation. Under very exceptional circumstances, the aforementioned notice of 30 days may be reduced to a minimum of seven days. Upon request of the Party whose goods are subject to investigation, the notifying Party shall allow for a 30-day period for consultations. The consultations may take place in the Joint Committee if the Parties agree. These consultations should not prevent the competent authorities of a Party from proceeding expeditiously with regard to initiating the investigation.
4. Unless the circumstances have changed, a Party shall not initiate an anti-dumping investigation with regard to the same product from the same Party after a determination which resulted in the non-application or revocation of anti-dumping measures or after the termination of a measure. In such case, the Parties agree to undertake a special examination on any application for an anti-dumping investigation.

5. The Parties shall, upon request of a Party, exchange views about the application of this Article and its effect on trade between the Parties at the meetings of the Joint Committee.

ARTICLE 2.16

WTO Safeguard Measures

1. The rights and obligations of the Parties with respect to global safeguards shall be governed by Article XIX of the GATT 1994, the WTO Agreement on Safeguards, and Article V of the WTO Agreement on Agriculture.

2. In taking measures under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards, a Party will, consistent with its obligations under the WTO Agreement, consider to exclude imports of an originating product from one or several Parties if such imports do not in and of themselves cause or threaten to cause serious injury.

ARTICLE 2.17

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry of like or directly competitive goods in the territory of the importing Party, the importing Party may take bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of paragraphs 2 to 11.

2. If the conditions set out in paragraph 1 are met, the importing Party may take measures consisting in:

- (a) suspending the further reduction of any rate of customs duty for the product provided for under this Agreement; or
- (b) increasing the rate of customs duty for the product to a level not to exceed the lesser of:
 - (i) the MFN rate of duty applied at the time the bilateral safeguard measure is taken; or
 - (ii) the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

3. Bilateral safeguard measures shall be taken for a period not exceeding one year. In exceptional circumstances, after consultations pursuant to paragraph 7, measures may be taken up to a total maximum period of three years. After a period of non-application of three years and in an emergency situation only, a Party may apply another bilateral safeguard measure in accordance with this Article.

4. Bilateral safeguard measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

5. A Party intending to take a bilateral safeguard measure under this Article shall immediately, and in any case before taking such measure, notify the other Parties. The notification shall contain all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved, and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure.

6. A Party that may be affected by a bilateral safeguard measure may request any adequate means of trade compensation in the form of substantially equivalent trade liberalisation in relation to its imports.

7. The Party intending to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the Party that may be affected by the measure, with a view to reviewing the information arising from the investigation referred to in paragraph 4, exchanging views on the intended application or extension of a bilateral safeguard measure and reaching an understanding on compensation. The consultations shall take place in the Joint Committee if the Parties agree.

8. In the absence of a mutually acceptable solution within 30 days from the first day of consultations pursuant to paragraph 7, the importing Party may adopt a bilateral safeguard measure pursuant to paragraph 2 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the bilateral safeguard measure is taken may take compensatory action. The bilateral safeguard measure and the compensatory action shall be immediately notified to the other Parties. In the selection of the bilateral safeguard measure and the compensatory action, priority must be given to the action which least disturbs the functioning of this Agreement. The Party taking compensatory action shall apply the action only for the minimum period necessary to achieve the substantially equivalent trade effects and in any event, only while the measure according to paragraph 2 is being applied.

9. Upon the termination of the measure, the rate of customs duty shall be the rate which would have been in effect but for the bilateral safeguard measure.

10. In critical circumstances, where delay would cause damage, which would be difficult to repair, a Party may take a provisional bilateral safeguard measure in accordance with paragraph 2, pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The Party intending to take such measure shall immediately notify the other Parties. Within 30 days from the date of receipt of the notification, the procedures set out in this Article shall be initiated. Any compensation shall be based on the total period of application of the provisional bilateral safeguard measure and of the bilateral safeguard measure.

11. Any provisional bilateral safeguard measure shall be terminated within 200 days at the latest. The period of application of any such provisional bilateral safeguard measure shall be counted as part of the duration, and any extension thereof, of the measure, set out in paragraphs 3 and 7 respectively. Any tariff increases shall be promptly refunded if the investigation described in paragraph 4 does not result in a finding that the conditions of paragraph 1 are met.

12. The Parties shall, upon request of a Party, exchange views about the application of this Article and its effect on trade between the Parties at the meetings of the Joint Committee.

ARTICLE 2.18

State Trading Enterprises

Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.19

General Exceptions

Article XX of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.20

Security Exceptions

Article XXI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.21

Balance-of-Payments

1. Nothing in this Chapter shall be construed to prevent a Party in serious balance of payments and external financial difficulties, or imminent threat thereof, from adopting any measure for balance-of-payments purposes. A Party adopting such measure shall do so in accordance with the conditions established under the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.
2. Trade restrictive measures adopted for balance-of-payments purposes shall be temporary and non-discriminatory, and may not go beyond what is necessary to deal with the circumstances described in paragraph 1.
3. Nothing in this Chapter shall be construed to prevent a Party from using exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund (hereinafter referred to as the “IMF”).
4. A Party adopting a measure according to paragraph 1 shall promptly notify the other Parties thereof. A notification by a Party in accordance with its international obligations as set out in paragraph 1 shall be deemed equivalent to a notification under this Agreement.

ARTICLE 2.22

Exchange of Data

1. The Parties recognise the value of trade data in the accurate analysis of the impact of the Agreement on trade between the Parties. The Parties shall periodically exchange data relating to trade in goods between them. Such information shall include, in particular, the most-favoured-nation tariff rates and import statistics, including, if available from all Parties, separate statistics for preferential imports. The Sub-Committee on Trade in Goods shall determine the rules of procedure, as appropriate, for any exchange of data according to this paragraph.
2. A Party shall give consideration to a request for technical cooperation with regard to exchange of data under paragraph 1 from another Party.

ARTICLE 2.23

Sub-Committee on Trade in Goods

1. A Sub-Committee on Trade in Goods (hereinafter referred to as “Sub-Committee”) is hereby established.

2. The mandate of the Sub-Committee is set out in Annex VII (Mandate of the Sub-Committee on Trade in Goods).