CHAPTER TWO

National treatment and market access for goods

Article 2.1

Objective

The Parties shall progressively liberalise trade in goods in accordance with the provisions of this Agreement over a transitional period starting from the entry into force of this Agreement.

Article 2.2

Scope

This Chapter applies to trade in goods of a Party, as defined in Chapter 1 (General Definitions and Initial Provisions), except as otherwise provided in this Agreement.

Article 2.3

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. To this end Article III of the GATT 1994 is incorporated into and made part of this Agreement.

2. Paragraph 1 means, with respect to a government in Canada other than at the federal level, or a government of or in a Member State of the European Union, treatment no less favourable than that accorded by that government to like, directly competitive or substitutable goods of Canada or the Member State, respectively.

3. This Article does not apply to a measure, including a measure's continuation, prompt renewal or amendment, in respect of Canadian excise duties on absolute alcohol, as listed under tariff item 2207 10 90 in Canada's Schedule of Concessions (Schedule V) annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994*, done on 15 April 1994 (the 'Marrakesh Protocol'), used in manufacturing under provisions of the *Excise Act, 2001*, S.C. 2002, c. 22.

Article 2.4

Reduction and elimination of customs duties on imports

1. Each Party shall reduce or eliminate customs duties on goods originating in either Party in accordance with the tariff elimination schedules in Annex 2-A. For the purposes of this Chapter, 'originating' means originating in either Party under the rules of origin set out in the Protocol on rules of origin and origin procedures.

2. For each good, the base rate of customs duties to which the successive reductions under paragraph 1 are to be applied shall be that specified in Annex 2-A.

3. For goods that are subject to tariff preferences as listed in a Party's tariff elimination schedule in Annex 2-A, each Party shall apply to originating goods of the other Party the lesser of the customs duties resulting from a comparison between the rate calculated in accordance with that Party's Schedule and its applied Most-Favoured-Nation ('MFN') rate.

4. On the request of a Party, the Parties may consult to consider accelerating and broadening the scope of the elimination of customs duties on imports between the Parties. A decision of the CETA Joint Committee on the acceleration or elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to the Parties' Schedules in Annex 2-A for that good when approved by each Party in accordance with its applicable legal procedures.

Article 2.5

Restriction on duty drawback, duty deferral and duty suspension programs

1. Subject to paragraphs 2 and 3, a Party shall not refund, defer or suspend a customs duty paid or payable on a non-originating good imported into its territory on the express condition that the good, or an identical, equivalent or similar substitute, is used as a material in the production of another good that is subsequently exported to the territory of the other Party under preferential tariff treatment pursuant to this Agreement.

2. Paragraph 1 does not apply to a Party's regime of tariff reduction, suspension or remission, either permanent or temporary, if the reduction, suspension or remission is not expressly conditioned on the exportation of a good.

3. Paragraph 1 does not apply until three years after the date of entry into force of this Agreement.

Article 2.6

Duties, taxes or other fees and charges on exports

A Party may not adopt or maintain any duties, taxes or other fees and charges imposed on, or in connection with, the export of a good to the other Party, or any internal taxes or fees and charges on a good exported to the other Party, that is in excess of those that would be imposed on those goods when destined for internal sale.

Article 2.7

Standstill

1. Upon the entry into force of this Agreement a Party may not increase a customs duty existing at entry into force, or adopt a new customs duty, on a good originating in the Parties.

2. Notwithstanding paragraph 1, a Party may:

(a) modify a tariff outside this Agreement on a good for which no tariff preference is claimed under this Agreement;

(b) increase a customs duty to the level established in its Schedule in Annex 2-A following a unilateral reduction; or

(c) maintain or increase a customs duty as authorised by this Agreement or any agreement under the WTO Agreement.

3. Notwithstanding paragraphs 1 and 2, only Canada may apply a special safeguard pursuant to Article 5 of the WTO Agreement on Agriculture. A special safeguard may only be applied with respect to goods classified in items with the notation 'SSG' in Canada's Schedule included in Annex 2-A. The use of this special safeguard is limited to imports not subject to tariff preference and, in the case of imports subject to a tariff rate quota, to imports over the access commitment.

Article 2.8

Temporary suspension of preferential tariff treatment

1. A Party may temporarily suspend, in accordance with paragraphs 2 through 5, the preferential tariff treatment under this Agreement with respect to a good exported or produced by a person of the other Party if the Party:

(a) as a result of an investigation based on objective, compelling and verifiable information, makes a finding that the person of the other Party has committed systematic breaches of customs legislation in order to obtain preferential tariff treatment under this Agreement; or

(b) makes a finding that the other Party systematically and unjustifiably refuses to cooperate with respect to the investigation of breaches of customs legislation under Article 6.13.4 (Cooperation), and the Party requesting cooperation, based on objective, compelling and verifiable information, has reasonable grounds to conclude that the person of the other Party has committed systematic breaches of customs legislation in order to obtain preferential tariff treatment under this Agreement.

2. A Party that has made a finding referred to in paragraph 1 shall:

(a) notify the customs authority of the other Party and provide the information and evidence upon which the finding was based;

(b) engage in consultations with the authorities of the other Party with a view to achieving a mutually acceptable resolution that addresses the concerns that resulted in the finding; and

(c) provide written notice to that person of the other Party that includes the information that is the basis of the finding.

3. If the authorities have not achieved a mutually acceptable resolution after 30 days, the Party that has made the finding shall refer the issue to the Joint Customs Cooperation Committee.

4. If the Joint Customs Cooperation Committee has not resolved the issue after 60 days, the Party that has made the finding may temporarily suspend the preferential tariff treatment under this Agreement with respect to that good of that person of the other Party. The temporary suspension does not apply to a good that is already in transit between the Parties on the day that the temporary suspension comes into effect.

5. The Party applying the temporary suspension under paragraph 1 shall only apply it for a period commensurate with the impact on the financial interests of that Party resulting from the situation responsible for the finding made pursuant to paragraph 1, to a maximum of 90 days. If the Party has reasonable grounds based on objective, compelling and verifiable information that the conditions that gave rise to the initial suspension have not changed after the expiry of the 90 day period, that Party may renew the suspension for a further period of no longer than 90 days. The original suspension and any renewed suspensions are subject to periodic consultations within the Joint Customs Cooperation Committee.

Article 2.9

Fees and other charges

1. In accordance with Article VIII of GATT 1994, a Party shall not adopt or maintain a fee or charge on or in connection with importation or exportation of a good of a Party that is not commensurate with the cost of services rendered or that represents an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. For greater certainty, paragraph 1 does not prevent a Party from imposing a customs duty or a charge set out in paragraphs (a) through (c) of the definition of customs duty under Article 1.1 (Definitions of general application).

Article 2.10

Goods re-entered after repair or alteration

1. For the purposes of this Article, repair or alteration means any processing operation undertaken on goods to remedy operating defects or material damage and entailing the re-establishment of goods to their original function or to ensure their compliance with technical requirements for their use, without which the goods could no longer be used in the normal way for the purposes for which they were intended. Repair or alteration of goods includes restoration and maintenance but does not include an operation or process that:

(a) destroys the essential characteristics of a good or creates a new or commercially different good;

(b) transforms an unfinished good into a finished good; or

(c) is used to substantially change the function of a good.

2. Except as provided in footnote 1, a Party shall not 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 ([1]) ([2]).

3. Paragraph 2 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.

4. A Party shall not 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]).

Article 2.11

Import and export restrictions

1. Except as otherwise provided in this Agreement, a Party shall not 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 the GATT 1994. To this end Article XI of the GATT 1994 is incorporated into and made a part of this Agreement.

2. If a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a third country of a good, that Party may:

(a) limit or prohibit the importation from the territory of the other Party of a good of that third country; or

(b) limit or prohibit the exportation of a good to that third country through the territory of the other Party.

3. If a Party adopts or maintains a prohibition or restriction on the importation of a good from a third country, the Parties, at the request of the other Party, shall enter into discussions with a view to avoiding undue interference with or distortion of pricing, marketing or distribution arrangements in the other Party.

([1]) For the following goods of HS Chapter 89, regardless of their origin, that re-enter the territory of Canada from the territory of the European Union, and are registered under the *Canada Shipping Act, 2001*, Canada may apply to the value of repair or alteration of such goods, the rate of customs duty for such goods in accordance with its Schedule included in Annex 2-A (Tariff Elimination): 8901 10 10, 8901 10 90, 8901 30 00, 8901 90 10, 8901 90 91, 8901 90 99, 8904 00 00, 8905 20 19, 8905 20 20, 8905 90 19, 8905 90 90, 8906 90 19, 8906 90 91, 8906 90 99.

([2]) The European Union will implement this paragraph through the outward processing procedure in Regulation (EU) No 952/2013 in a manner consistent with this paragraph.

([3]) The European Union will implement this paragraph through the inward processing procedure in Regulation (EU) No 952/2013 in a manner consistent with this paragraph.

4. This Article does not apply to a measure, including that measure's continuation, prompt renewal or amendment, in respect of the following:

(a) the export of logs of all species. If a Party ceases to require export permits for logs destined for a third country, that Party will permanently cease requiring export permits for logs destined for the other Party;

(b) for a period of three years following the entry into force of this Agreement, the export of unprocessed fish pursuant to Newfoundland and Labrador's applicable legislation;

(c) Canadian excise duties on absolute alcohol, as listed under tariff item 2207 10 90 in Canada's Schedule of Concessions annexed to the Marrakesh Protocol (Schedule V), used in manufacturing under the provisions of the Excise Act, 2001, S.C. 2002, c. 22; and

(d) the importation of used vehicles into Canada that do not conform to Canada's safety and environmental requirements.

Article 2.12

Other provisions related to trade in goods

Each Party shall endeavour to ensure that a good of the other Party that has been imported into and lawfully sold or offered for sale in any place in the territory of the importing Party may also be sold or offered for sale throughout the territory of the importing Party.

Article 2.13

Committee on trade in goods

1. The functions of the Committee on Trade in Goods established under Article 26.2.1 (a) (Specialised committees) include:

(a) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate;

(b) recommending to the CETA Joint Committee a modification of or an addition to any provision of this Agreement related to the Harmonized System; and

(c) promptly addressing issues related to movement of goods through the Parties' ports of entry.

2. The Committee on Trade in Goods may present to the CETA Joint Committee draft decisions on the acceleration or elimination of a customs duty on a good.

3. The Committee on Agriculture established under Article 26.2.1 (a) (Specialised committees) shall:

(a) meet within 90 days of a request by a Party;

(b) provide a forum for the Parties to discuss issues related to agricultural goods covered by this Agreement; and

(c) refer to the Committee on Trade in Goods any unresolved issue under subparagraph (b).

4. The Parties note the cooperation and exchange of information on agriculture issues under the annual Canada-European Union Agriculture Dialogue, as established in letters exchanged on 14 July 2008. As appropriate, the Agriculture Dialogue may be used for the purpose of paragraph 3.