

CHAPTER 2 TRADE IN GOODS

ARTICLE 2.1: SCOPE

This Chapter applies to trade in goods of a Party.

ARTICLE 2.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **Agreement on Import Licensing Procedures** means the *Agreement on Import Licensing Procedures* contained in Annex 1A to the WTO Agreement;
- (b) **consular transactions** means requirements that documents related to goods of a Party intended for export to the territory of the other Party must first be submitted to the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas. Such documents may include commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;
- (c) **existing** means in effect on the date of entry into force of this Agreement;
- (d) **export subsidy** means a subsidy as defined by Article 3 of the Agreement on Subsidies and Countervailing Measures and includes export subsidies listed in Article 9 of the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement;
- (e) **Harmonized System** (HS) means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes and Chapter Notes, as adopted and administered by the World Customs Organization; and
- (f) **measure** includes any law, regulation, procedure, requirement or practice.

ARTICLE 2.3: NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

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

ARTICLE 2.4: ELIMINATION OF CUSTOMS DUTIES

1. Each Party shall eliminate its customs duties on originating goods of the other Party in accordance with its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)).
2. Neither Party shall increase any existing customs duty or introduce a new customs duty on imports of an originating good of the other Party other than in accordance with this Agreement.

ARTICLE 2.5: CLASSIFICATION OF GOODS

The classification of goods traded between the Parties shall be in conformity with the Harmonized System, as adopted and implemented by the Parties in their respective tariff laws.

ARTICLE 2.6: CUSTOMS VALUATION

Each Party shall determine the customs value of goods traded between the Parties in accordance with Article VII of the GATT 1994 and the Customs Valuation Agreement.

ARTICLE 2.7: NON-TARIFF MEASURES

1. Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction or measure having equivalent effect, including quantitative restrictions, on the importation of a good originating in the territory of the other Party, or on the exportation or sale for export of a good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994. To this end, Article XI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. A Party shall not 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.
3. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 2 and shall ensure that any such measures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

4. The Committee on Trade in Goods, established in accordance with Article 2.15, shall review non-tariff measures within the scope of this Chapter with a view to ensuring that they do not constitute unnecessary obstacles to trade between the Parties. Either Party may nominate measures for consideration by the Committee on Trade in Goods.

ARTICLE 2.8: IMPORT LICENSING

1. Each Party shall ensure that import licensing regimes applied to goods originating in the other Party are applied in accordance with the WTO Agreement, and in particular, with the provisions of the Agreement on Import Licensing Procedures.

2. Neither Party shall apply import licensing to goods traded between the Parties unless such licensing is:

- (a) used to administer a quantitative restriction on imports in conformity with this Agreement or with the WTO Agreement;
- (b) used for purposes other than the implementation of quantitative restrictions in conformity with this Agreement, the WTO Agreement or other international obligations; or
- (c) automatic within the meaning of Article 2.1 of the Agreement on Import Licensing Procedures.

3. Promptly after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing regimes and related licensing procedures. Thereafter each Party shall notify the other Party of any new import licensing procedure and any modification to its existing import licensing procedures, to the extent possible 60 days before it takes effect but in any case no later than the effective date of the licensing procedure. A notification provided in accordance with this Article shall include the information specified in paragraphs 2 through 4 of Article 5 of the Agreement on Import Licensing Procedures.

4. Each Party shall answer within 30 days all reasonable enquiries from the other Party with regard to criteria employed by its respective licensing authorities in granting or denying import licences.

ARTICLE 2.9: ADMINISTRATIVE FEES AND FORMALITIES

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article

III:2 of GATT 1994, and antidumping and countervailing duties applied in accordance with Article VI and XVI of the GATT 1994, the Agreement on the Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures), imposed on or in connection with importation or exportation, are limited in amount to the approximate cost of services rendered and do not represent indirect protection of domestic products or a taxation of imports or exports for fiscal purposes.

2. Neither 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 on the internet details of fees and charges it imposes in connection with importation and exportation.

ARTICLE 2.10: ADMINISTRATION OF TRADE REGULATIONS

1. In accordance with Article X of GATT 1994, each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, judicial decisions and administrative rulings pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use.

2. In accordance with Article VIII of GATT 1994, neither Party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation, which is easily rectified and obviously made without fraudulent intent or gross negligence, shall be greater than necessary to serve merely as a warning.

ARTICLE 2.11: EXPORT SUBSIDIES

Neither Party shall introduce or maintain any export subsidy on any good destined for the territory of the other Party.

ARTICLE 2.12: TRANSPARENCY AND REVIEW OF NON-TARIFF MEASURES

The Committee on Trade in Goods may refer for consideration measures falling within the scope of Chapter 5 (Sanitary and Phytosanitary Measures) or Chapter 6 (Technical Barriers to Trade) to the Committee on Sanitary and Phytosanitary Measures or the Committee on Technical Barriers to Trade as appropriate. The Committee on Sanitary and Phytosanitary Measures or the Committee on Technical Barriers to Trade, as appropriate, shall report the results of such consideration to the Committee on Trade in Goods.

ARTICLE 2.13: COUNTRY SPECIFIC TARIFF QUOTA

1. For products in respect of which China establishes a Country Specific Tariff Quota (“CSTQ”) in its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)), China shall grant duty-free treatment to imports of such products of Australian origin up to the quantity for each year as specified in Annex 2-A after entry into force of this Agreement.
2. Imports of such products of Australian origin in excess of the specified quantity in Annex 2-A in any given calendar year shall be subject to the most-favoured-nation (“MFN”) applied rate.
3. The quantities of the CSTQ beyond the last stage specified in Annex 2-A shall remain at the same level as the last stage.

ARTICLE 2.14: SPECIAL AGRICULTURAL SAFEGUARD MEASURES

1. China may apply a special agricultural safeguard measure to agricultural products specified in Annex 2-B in accordance with this Article.
2. If, during any given calendar year, the volume of imports by China from Australia of the originating products listed in Annex 2-B exceeds the trigger level for the products in that calendar year as set out in Annex 2-B, China may apply a special agricultural safeguard measure to the products in the form of an additional customs duty.
3. The sum of the additional customs duty applied under paragraph 2 and any other customs duties applied to the products in question shall not exceed the lesser of the MFN applied rate of customs duty in effect on the date on which the special agricultural safeguard measure is applied, or the base rate.
4. China may maintain a special agricultural safeguard measure applied under paragraph 2 only until the end of the calendar year in which China applies the measure.
5. Supplies of the products in question which were en route to China on the basis of a contract settled before the special agricultural safeguard measure is applied under paragraph 2 shall be exempted from such additional customs duty, provided that they shall be counted in the volume of imports of the products in question during the following calendar year for the purposes of a determination under paragraph 2 in that calendar year.
6. Any special agricultural safeguard measure shall be applied in a transparent manner. China shall ensure that the volume of imports is published regularly in a manner which is readily accessible to Australia, and shall give notice in writing,

including relevant data, to Australia as far in advance as may be practicable, and in any event within 10 days of the implementation of such measure.

7. China may not apply or maintain, with respect to the same products, a special agricultural safeguard measure and, at the same time, apply or maintain a measure under Article XIX of GATT 1994, the Agreement on Safeguards or Chapter 7 (Trade Remedies) of this Agreement.

8. In the last stage of the application of a trigger level for the respective products as set out in Annex 2-B, the Committee on Trade in Goods will conduct a review of the special agricultural safeguard measure. If the review concludes that imports from Australia of the products covered by the special agricultural safeguard measure have not caused serious injury to the corresponding Chinese domestic industry, then the special agricultural safeguard measure for the products will no longer apply. If the Committee determines that serious injury has occurred, then a further review, as specified above, will take place six years later, and every six years thereafter as required.

ARTICLE 2.15: COMMITTEE ON TRADE IN GOODS

1. The Parties hereby establish a Committee on Trade in Goods (hereinafter referred to in this Article as the “Committee”) comprising representatives of each Party.

2. The Committee shall meet on request of a Party or the FTA Joint Commission to consider the operation and implementation of this Chapter, Chapter 7 (Trade Remedies), Chapter 3 (Rules of Origin and Implementation Procedures) or Chapter 4 (Customs Procedures and Trade Facilitation).

3. The Committee’s functions shall include:

- (a) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate; and
- (b) addressing tariff and non-tariff barriers to trade in goods between the Parties and, if appropriate, referring such matters to the FTA Joint Commission for its consideration.

4. The Committee shall submit to the FTA Joint Commission an initial progress report on its work relating to non-tariff measures under Article 2.7, including any recommendations, within one year of the date of entry into force of this Agreement.

5. The Committee shall review the implications of each periodic Harmonized System amendment and promptly recommend to the FTA Joint Commission any necessary amendments to Annex I (Schedules in relation to Article 2.4 (Elimination of

Customs Duties)) and Annex II (Product Specific Rules of Origin) to reflect the Harmonized System amendment.

ARTICLE 2.16: DISPUTE SETTLEMENT

The dispute settlement provisions in Chapter 15 (Dispute Settlement) shall apply to any matter arising under this Chapter.

ANNEX 2-A

COUNTRY SPECIFIC TARIFF QUOTA

1. Table 1 specifies the products in respect of which China establishes a Country Specific Tariff Quota (CSTQ) in its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)).

2. For the products specified in Table 1, the quantity of the CSTQ to which China shall grant duty-free treatment for each complete calendar year is specified in Table 2. In the year of entry into force of this Agreement, where there will remain more than nine calendar months, the Stage 1 quantity shall apply, prorated for the percentage of the year remaining from the date of entry into force. In that case China shall have three full calendar months from the date of entry into force to prepare for opening the quantity for application. In the year of entry into force of this Agreement, where there will remain less than nine calendar months, the Stage 1 quantity shall not apply until the start of the first complete calendar year after entry into force of this Agreement, and the quantities in subsequent years shall be the full quantities for subsequent stages specified in Table 2.

3. China shall operate the CSTQ in a transparent manner and, on request of Australia, provide information on the quantity of the CSTQ issued. Unless otherwise agreed, the rules applying to the administration of the CSTQ for the products of Australian origin will be consistent with the *Detailed Rules for Implementation of Administration on Import Tariff Quotas of Wool and Wool Tops in 2015* (Ministry of Commerce Announcement No. 65 of 2014) or any successor rules in force in any given calendar year.

Table 1: Products

	HS Code	Description of Product
1	51011100	Greasy shorn wool, not carded or combed
2	51011900	Greasy wool (excl. shorn), not carded or combed
3	51012100	Degreased shorn wool, not carbonised, not carded or combed
4	51012900	Degreased wool (excl. shorn), not carbonised, not carded or combed
5	51013000	Carbonised wool, not carded or combed
6	51031010	Noils of wool, not garnetted stock

Table 2: Quantity of the Country Specific Tariff Quota

Stage	Quantity of the Country Specific Tariff Quota (tonnes)
1	30,000
2	31,500
3	33,075
4	34,729

Stage	Quantity of the Country Specific Tariff Quota (tonnes)
5	36,465
6	38,288
7	40,203
8	42,213
9	44,324

Note: The specified quantities are expressed in terms of clean equivalent weight.

ANNEX 2-B

SPECIAL AGRICULTURAL SAFEGUARD MEASURES

Part I Beef

1. Table 1 specifies the products that may be subject to a special agricultural safeguard measure under Article 2.14.
2. The trigger level in the calendar year in which this Agreement enters into force shall be the Stage 1 level specified in Table 2, prorated for the percentage of that year for which this Agreement is in force.
3. The trigger level in subsequent years shall be the full trigger level specified in Table 2, with the continuation of the final trigger level subject to paragraph 8 of Article 2.14.

Table 1: Products

	HS code	Description of Product
1	02011000	Fresh or chilled bovine carcasses & half carcasses
2	02012000	Fresh or chilled bovine meat (excl. carcasses) with bone in
3	02013000	Fresh or chilled boneless bovine meat
4	02021000	Frozen bovine carcasses & half carcasses
5	02022000	Frozen bovine meat (excl. carcasses) with bone in
6	02023000	Frozen boneless bovine meat

Table 2: Quantity Trigger Level

Stage	Trigger Level (tonnes)
1	170,000
2	170,000
3	170,000
4	170,000
5	174,454
6	179,687
7	185,078
8	190,630
9	196,349
10	202,240
11	208,307
12	214,556
13	220,993
14	227,623

Stage	Trigger Level (tonnes)
15	234,451
16	241,485
17	248,729

Part II Milk Powder

1. Table 3 specifies the products that may be subject to a special agricultural safeguard measure under Article 2.14.
2. The trigger level in the calendar year in which this Agreement enters into force shall be the Stage 1 level specified in Table 4, prorated for the percentage of that year for which this Agreement is in force.
3. The trigger level in subsequent years shall be the full trigger level specified in Table 4, with the continuation of the final trigger level subject to paragraph 8 of Article 2.14.

Table 3: Products

	HS code	Description of Product
1	04022100	Milk & cream in solid forms of >1.5% fat, unsweetened
2	04022900	Milk & cream in solid forms of >1.5% fat, sweetened

Table 4: Quantity Trigger Level

Stage	Trigger Level (tonnes)
1	17,500
2	18,375
3	19,294
4	20,258
5	21,271
6	22,335
7	23,452
8	24,624
9	25,855
10	27,148
11	28,506
12	29,931
13	31,427
14	32,999
15	34,649