

CHAPTER 2
NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

SECTION 2-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 the GATT 1994.

Article 2.2
Scope

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

Article 2.3
National Treatment

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

Article 2.4
Customs Duty

1. 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 or exportation of a good, including any form of surtax or surcharge imposed on or in connection with such importation or exportation.
2. A “customs duty” does not include any:
 - (a) charge equivalent to an internal tax imposed consistently with Article 2.3 (National Treatment);
 - (b) duty imposed consistently with Chapter 3 (Trade Remedies);
 - (c) duties applied consistently with Article 5 of the Agreement on Agriculture and the DSU;
 - (d) fee or other charge imposed consistently with Article 2.10 (Fees and Formalities Connected with Importation and Exportation).

Article 2.5
Classification of Goods

The classification of goods in trade between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the HS and its amendments.

SECTION 2-B
REDUCTION AND/OR ELIMINATION OF CUSTOMS DUTIES

Article 2.6
Reduction and/or Elimination of Customs Duties on Imports

1. Each Party shall reduce and/or eliminate its customs duties on imported goods originating in the other Party in accordance with the Schedules set out in Annex 2-A (Elimination of Customs Duties).
2. The base rate of customs duties on imports, to which the successive reductions are to be applied under paragraph 1, shall be that specified in the Schedules in Annex 2-A (Elimination of Customs Duties).
3. If at any moment a Party reduces its applied most favoured nation (hereinafter referred to as "MFN") customs duty rates on imports after the date of entry into force of this Agreement, that duty rate shall apply if and for as long as it is lower than the customs duty rate on imports calculated in accordance with its Schedule in Annex 2-A (Elimination of Customs Duties).
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 reduction and elimination of customs duties on imports. A decision by the Parties in the Joint Committee on such acceleration or broadening shall supersede any duty rate or staging category determined pursuant to their Schedules for that good.

Article 2.7
Elimination of Customs Duties and Taxes on Exports

Neither Party shall maintain or institute any customs duty or tax on or in connection with the exportation or sale for export of goods to the other Party, or any internal taxes on goods exported to the other Party that are in excess of those imposed on like goods destined for internal sale.

Article 2.8
Standstill

Except as provided in Annex 2-A (Elimination of Customs Duties), upon the entry into force of the Agreement, neither Party shall increase any existing customs duty or introduce any new customs duty, on the importation of a good originating in the other Party. This shall not

preclude either Party from raising a customs duty to the level established in its Schedule in Annex 2-A (Elimination of Customs Duties) following a unilateral reduction of its applied MFN customs duty rates on imports.

SECTION 2-C NON-TARIFF MEASURES

Article 2.9 Import and Export Restrictions

1. Neither Party shall 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, in accordance with Article XI of the GATT 1994, including its Notes and Supplementary Provisions. To this end Article XI of the GATT 1994, its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. The Parties understand that before taking any measures provided for in subparagraph 2(a) of Article XI of the 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 exporting Party may apply measures under this Article on the exportation of 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.

Article 2.10 Fees and Formalities Connected with Importation and Exportation

Each Party shall ensure, in accordance with Article VIII of the GATT 1994, including its Notes and Supplementary provisions, that all fees and charges of whatever character (other than customs duties, and measures listed in paragraphs (a), (b) and (c) of Article 2.4 (Customs Duty) imposed on or in connection with importation or exportation of goods are limited in amount to the approximate cost of services rendered, which shall not be calculated on an *ad valorem* basis, and shall not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

Article 2.11 Import and Export Licensing Procedures

1. The Parties affirm their existing rights and obligations under the Import Licensing Agreement.

2. The Parties shall introduce and administer any import or export licensing procedures¹ in accordance with:

- (a) Paragraphs 1 through 9 of Article 1 of the Import Licensing Agreement;
- (b) Article 2 of the Import Licensing Agreement; and
- (c) Article 3 of the Import Licensing Agreement.

To this end, the provisions referred to in subparagraphs (a), (b) and (c) of this paragraph are incorporated into and made part of this Agreement. The Parties shall apply those provisions, *mutatis mutandis*, for any export licensing procedures.

3. The Parties shall ensure that all export licensing procedures are neutral in application and administered in a fair, equitable, non-discriminatory and transparent manner.
4. The Parties shall only adopt or maintain licensing procedures as a condition for importation into its territory or exportation from its territory to the other Party when other appropriate procedures to achieve an administrative purpose are not reasonably available.
5. The Parties shall not adopt or maintain non-automatic import or export licensing procedures unless necessary to implement a measure that is consistent with this Agreement. Any Party adopting non-automatic licensing procedures shall indicate clearly the measure being implemented through such licensing procedure.
6. Each Party shall respond within 60 days to a reasonable enquiry from the other Party regarding: (i) any licensing procedures which the Party intends to adopt or has adopted or maintained; or (ii) the criteria for granting and/or allocating import or export licenses.

Article 2.12 Publication

Each Party shall promptly publish the following information in a non-discriminatory and easily accessible manner, in order to enable interested parties to become acquainted with them:

- (a) importation, exportation and transit procedures (including port, airport, and other entry-point procedures) and required forms and documents;
- (b) applied rates of duties, and taxes of any kind imposed on or in connection with importation or exportation;

¹ For the purposes of this Article, “non-automatic licensing procedures” means licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import or export operations involving the goods subject to licensing procedures.

- (c) rules for the classification or the valuation of products for customs purposes;
- (d) laws, regulations and administrative rulings of general application relating to rules of origin;
- (e) import, export or transit restrictions or prohibitions;
- (f) fees and charges imposed on or in connection with importation, exportation or transit;
- (g) penalty provisions against breaches of import, export or transit formalities;
- (h) appeal procedures;
- (i) agreements or parts thereof with any country or countries relating to importation, exportation or transit; and
- (j) administrative procedures relating to the imposition of tariff quotas.

Article 2.13
State Trading Enterprises

1. The Parties affirm their existing rights and obligations under Article XVII of the GATT 1994, its Notes and Supplementary Provisions and the *Understanding on the Interpretation of Article XVII of the GATT 1994*, contained in Annex 1-A to the WTO Agreement, which are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. The Parties may request information from the other Party bilaterally as foreseen in subparagraphs 4(c) and 4(d) of Article XVII of the GATT 1994.

SECTION 2-D
SPECIFIC EXCEPTIONS RELATED TO GOODS

Article 2.14
General Exceptions

1. Nothing in this Chapter prevents the taking of measures in accordance with Article XX of GATT 1994, its Notes and Supplementary Provisions, which are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. The Parties understand that before taking any measures provided for in paragraphs (i) and (j) of Article XX of GATT 1994, the exporting 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 thirty days,

the exporting Party may apply measures under this Article on the exportation of 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.