CHAPTER TWO
TRADE IN GOODS

Section A: Common Provisions

Article 2.1: Definitions

For purposes of this Chapter:

commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than the amount specified in a Party's laws, regulations, or procedures governing temporary admission, or so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;

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;

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; and

non-tariff measures means policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods, changing quantities traded or prices or both.

Article 2.2: Scope and Coverage

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

Section B: National Treatment

Article 2.3: National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994 including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes shall, *mutatis mutandis*, be incorporated into and form part of this Agreement.

Section C: Tariff Reduction or Elimination

Article 2.4: Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty as specified in its Schedule in Annex 2-A, or adopt any new customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall gradually reduce or eliminate its customs duties on originating goods in accordance with its Schedule in Annex 2-A.

3. On the request of either Party, the Parties shall consult to consider accelerating the reduction or elimination of customs duties set out in their Schedules in Annex 2-A. An agreement by the Parties to accelerate the reduction or elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules in Annex 2-A for that good when approved by each Party in accordance with its applicable legal procedures.

4. A Party may unilaterally accelerate the reduction or elimination of customs duties set out in its Schedule in Annex 2-A at any time if it so wishes. Such Party shall notify the other Party through a diplomatic note immediately after completion of the internal procedures required for the amendments to

enter into force.

5. If at any moment a Party reduces its most-favored-nation (hereinafter referred to as "MFN") applied rate of customs duty after the entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule in Annex 2-A.

6. For greater certainty, a Party may:

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

(b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

Article 2.5: Customs Valuation

For purposes of determining the customs value of goods traded between the Parties, the provisions of Article VII of GATT 1994, and the provisions of Part I and the Interpretative Notes of Annex I of the Customs Valuation Agreement shall apply, *mutatis mutandis*.

Article 2.6: Transposition of Schedules of Tariff Commitments

Each Party shall ensure that the transposition of its Schedule of tariff commitments, undertaken in order to implement Annex 2-A in the nomenclature of the revised HS Code following periodic amendments to the HS Code, is carried out without impairing the tariff commitments set out in Annex 2-A, and in accordance with the agreed transposition guidelines, which are to be adopted by the Committee on Trade in Goods.

Section D: Special Regimes

Article 2.7: Temporary Admission of Goods

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

2. Each Party shall, at the request of the person concerned and for reasons its customs administration considers valid, extend the time limit for duty-free temporary admission provided for in paragraph 1 beyond the period initially fixed.

3. Neither Party shall condition the duty-free temporary admission of a good provided for in paragraph 1, other than to require that the 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 a security or guarantee in an amount no greater than the customs duties, taxes, fees, and charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;

(d) be capable of identification when imported and exported;

(e) be exported on the departure of the person referred to in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, 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 laws and regulations.

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 in addition to any other charges or penalties provided for under its laws and regulations.

5. Each Party shall permit a good temporarily admitted under this Article to be re-exported through a customs port other than that through which it was admitted.

Article 2.8: Duty-free Entry of Commercial Samples of Negligible Value

Each Party shall grant duty-free entry to commercial samples of negligible value imported from the territory of the other Party, regardless of their origin, but may require that the samples be imported solely for the solicitation of orders for goods, or services provided from the territory, subject to its laws and regulations, of the other Party or a non-Party.

Section E: Non-Tariff Measures

Article 2.9: Application of Non-Tariff Measures

1. A Party shall not adopt or maintain any non-tariff measure 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 WTO rights and obligations or in accordance with this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 of this Article and shall ensure that any 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 2.10: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, 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, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end Article XI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

2. Where a Party proposes to adopt an import or export prohibition or restriction on foodstuffs or other products in accordance with paragraph 2 of Article XI of GATT 1994, the Party shall:

(a) make notification in writing to the extent possible before such proposed prohibition or restriction is to take effect; and

(b) provide the other Party with an adequate opportunity for consultation with respect to any matter related to the proposed prohibition or restriction through appropriate mechanisms, which may include subcommittees or working groups established by the Joint Committee.

Article 2.11: Technical Consultations on Non-Tariff Measures

1. A Party may request technical consultations with the other Party (hereinafter referred to as "the requested Party") on a measure the Party considers to be adversely affecting its trade. The request shall be in writing and shall clearly identify the measure and the concerns as to how the measures adversely affect trade between the Party requesting technical consultations (hereinafter referred to as "the requesting Party") and the requested Party.

2. Where the measures are covered by another Chapter, its Chapter-specific consultation mechanism shall be used, unless otherwise agreed between the Parties.

3. Except as provided in Paragraph 2, the requested Party shall respond and enter into technical consultations within 60 days from the receipt of the written request referred to in paragraph 1, unless otherwise determined by the Parties, with a view to reaching a mutually satisfactory solution within 180 days from the request. Technical consultations may be conducted via any means mutually agreed by the Parties.

4. If the requesting Party considers that the matter is urgent or involves

perishable goods, it may request that technical consultations take place within a shorter time frame than that provided for under paragraph 3.

5. The technical consultations under this Article shall be without prejudice to rights and obligations pertaining to dispute settlement proceedings under Chapter Eight (Dispute Settlement) and the WTO Agreement.

Article 2.12: Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the *Agreement on Import Licensing Procedures* as contained in Annex 1A to the WTO Agreement (hereinafter referred to in this article as "Import Licensing Agreement"). Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Promptly after this Agreement enters into force, each Party shall notify the other Party of its existing import licensing procedures, if any. The notification shall:

(a) include the information specified in Article 5 of the Import Licensing Agreement; and

(b) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.

3. Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government Internet site. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

4. Neither Party shall apply an import licensing procedure to a good of the other Party unless the Party has complied with the requirements of paragraph 2 and 3 with respect to that procedure.

Article 2.13: Fees and Formalities Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 that all fees and charges of whatever character (other than import or export duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

2. Each Party shall promptly publish details of the fees and charges that it imposes in connection with importation or exportation and shall make such information available on the internet.

3. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party. Neither Party shall require that any customs documentation supplied in connection with the importation of any good of the other Party be endorsed, certified or otherwise sighted or approved by the importing Party's overseas representatives, or persons or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

Article 2.14: State Trading Enterprises

The rights and obligations of the Parties with respect to state trading enterprises shall be governed by Article XVII of GATT 1994, its interpretative notes, and the Understanding on the Interpretation of Article XVII of GATT 1994, which are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.15: Sanitary and Phytosanitary Measures

1. The objective of this Article is to protect human, animal or plant life or health in the Parties' territories while facilitating trade by minimizing the negative effects on trade between the Parties.

2. This Article shall apply to all Sanitary and Phytosanitary (hereinafter referred to as "SPS") measures of the Parties, which may, directly or indirectly, affect trade between the Parties, taking into account definitions

under Annex A to the *Agreement on the Application of Sanitary and Phytosanitary Measures*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the "SPS Agreement").

3. The Parties reaffirm their rights and obligations with respect to each other under the SPS Agreement taking into account relevant decisions of the WTO SPS Committee and international standards, guidelines and recommendations.

4. An exporting Party shall provide timely and appropriate information to an importing Party, where there is a significant change in animal or plant health status or food safety issue in that exporting Party that may affect trade.

5. The Parties shall opportunely exchange information on SPS matters of mutual interest under this Article and strengthen technical cooperation, capacity building and, upon request, consultation opportunities.

6. For purposes of facilitating implementation and communication on SPS matters of this Article, the Parties shall designate contact points as follows:

(a) for Korea, the Ministry of Agriculture, Food and Rural Affairs; and

(b) for Cambodia, the Ministry of Agriculture, Forestry and Fisheries;

or their respective successors.

7. Neither Party shall have recourse to Chapter Eight (Dispute Settlement) for any matter arising under this Article.

Article 2.16: Technical Regulations, Standards and Conformity Assessment Procedures

1. The Parties reaffirm their existing rights and obligations with respect to each other under the *Agreement on Technical Barriers to Trade*, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the "TBT Agreement").

2. The Parties recognize the importance of the provisions relating to

transparency in the TBT Agreement. In this respect, the Parties shall take into account relevant decisions and recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995 (G/TBT/1/Rev.14) as may be revised, issued by the WTO Committee on Technical Barriers to Trade.

3. The Parties agree to use relevant international standards as a basis for technical regulations and to ensure that central government bodies use relevant international standards or their relevant parts as a basis for their conformity assessment procedures, except where, as duly explained upon request, such international standards or relevant parts would be ineffective or inappropriate means for the fulfillment of the legitimate objectives as provided in Articles 2.4 and 5.4 of the TBT Agreement respectively.

4. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2 and 5, and Annex 3 of the TBT Agreement exists, each Party shall apply the Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2 and 5, and Annex 3 of the Agreement, adopted on 13 November 2000 by the WTO Committee on Technical Barriers to Trade (Annex 2 to PART 1 of G/TBT/1/Rev.14), and any subsequent development thereof. Such international standards shall include, *inter alia*, but are not limited to, those developed by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and Codex Alimentarius Commission (CAC).

5. Where a Party detains, at a port of entry, goods including testing samples for conformity assessment exported from the other Party due to a perceived failure to comply with a technical regulation or a conformity assessment procedure, the reasons for the detention shall be promptly notified to the importer or his or her representative.

6. Each Party shall designate contact points which shall work jointly in order to facilitate the implementation of this Article and communication on the matters of technical barriers to trade arising from this Agreement. The contact points shall be:

(a) for Korea, the Korean Agency for Technology and Standards; and

(b) for Cambodia, Institute of Standards of Cambodia;

or their respective successors.

Section F: Institutional Provisions

Article 2.17: Committee on Trade in Goods

1. For purposes of the effective implementation and operation of this Chapter and Chapter Five (Trade Remedies), the Parties hereby establish a Committee on Trade in Goods consisting of representatives of the Parties.

2. The Committee on Trade in Goods shall meet on the request of a Party or the Joint Committee, at a mutually agreed time, venue, and means, to consider any matter arising under this Chapter and Chapter Five (Trade Remedies).

3. The functions of the Committee on Trade in Goods shall include:

(a) reviewing and monitoring the implementation and operation of this Chapter and Chapter Five (Trade Remedies), and making a report and recommendation, if appropriate;

(b) promoting trade in goods between the Parties, including through consultations on accelerating reduction or elimination of customs duties under this Agreement and other issues as appropriate;

(c) 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 Joint Committee for its consideration;

(d) addressing any issues related to measure to update each Party's Schedule to reflect amendments of Harmonized System, including adoption and review of transposition guidelines, the transposition of the Parties' Schedules of tariff commitments and exchanging transposed Schedules of tariff commitments and

correlation tables in a timely manner;

(e) discussing any matter arising under this Chapter and Chapter Five (Trade Remedies) as agreed; and

(f) designating contact points, upon request of either Party, which facilitate communications on specific matters arising from this Chapter and Chapter Five (Trade Remedies).