

CHAPTER 2
NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

SECTION 2-A
COMMON PROVISIONS

Article 2.1
Objective

The Parties shall progressively liberalise trade in goods over a transitional period starting from the date of 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

1. 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*.
2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 of this Article means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment that regional level of government accords to any like, directly competitive, or substitutable goods, as the case may be, of the Party of which it forms a part.

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, but excluding that as set out in paragraph 2 of this Article.

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) duty applied consistently with Article 5 of the Agreement on Agriculture and the DSU;
 - (d) fee or other charge imposed consistently with Article 2.13 (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 in Annex 2-A (Elimination of Customs Duties). For the purposes of this Chapter, “originating” means in accordance with the rules of origin set out in Protocol 1 (Concerning the Definition of the Concept of “Originating Product” and Methods of Administrative Co-operation).
2. The base rate of customs duties on imports to which the successive reductions are to be applied under paragraph 1 of this Article, 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 (“MFN”) customs duty rates on imports after the date of the 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 date of the entry into force of this Agreement, or at the request of either Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in the Schedules in Annex 2-A (Elimination of Customs Duties).
5. An agreement between the Parties to accelerate the elimination of a customs duty on an originating good shall supersede any duty rate or staging category determined pursuant to their respective Schedules in Annex 2-A (Elimination of Customs Duties) for that good.
6. A Party may at any time unilaterally accelerate the elimination of customs duties on originating goods set out in its Schedule in Annex 2-A (Elimination of Customs Duties).

Article 2.7

Elimination of Customs Duties and Taxes on Exports

A Party shall not impose customs duties or taxes on or in connection with the exportation or sale for export of goods to the other Party at a rate higher than those imposed on or in connection with the exportation or sale for export of like goods to any non-Party.

Article 2.8

Goods Re-Entered after Repair or Alteration

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 or has increased the value of the good
2. A Party shall not apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.
3. For the purposes of this Article, repair or alteration does not include an operation or process that:
 - (a) destroys a good's essential characteristics or creates a new or commercially different good; or
 - (b) transforms an unfinished good into a finished good.

Article 2.9

Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Material

Each Party shall grant duty-free entry to commercial samples of negligible value¹ and printed advertising material imported from the territory of the other Party, regardless of their origin, but may require that:

- (a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or
- (b) such advertising materials are imported in packets that each contain no more than one copy of each material and that neither such materials nor packets form part of a larger consignment.

Article 2.10

Standstill

1. Except as provided in the Schedules in Annex 2-A (Elimination of Customs Duties), upon the entry into force of this Agreement, a Party shall not 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.
2. Paragraph 1 of this Article shall not apply to goods which are not subjected to tariff reduction/elimination under a Party's Schedule in Annex 2-A (Elimination of Customs Duties), unless otherwise provided in the same Schedule.
3. However, in the case of para-tariffs listed out in the Annex 2-A (Elimination of Customs Duties), paragraph 1 of this Article may be applied, on an exceptional basis, to mutually agreed specific tariff lines in the negative list.

SECTION 2-C

NON-TARIFF MEASURES

Article 2.11

Import and Export Restrictions

¹ For the purposes of this Article, "commercial samples of negligible value" shall be defined according to each Party's domestic legislation.

1. 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, in accordance with Article XI of GATT 1994, including its Notes and Supplementary Provisions. To this end Article XI of 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 sub-paragraph 2(a) and sub-paragraph 2(c) of Article XI of GATT 1994, the Party intending to take the measures shall supply the other Party with all relevant information as far in advance as practicable, 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 (30) days of supplying such information, the Party intending to apply the measures under this Article may proceed to do so.
4. Notwithstanding paragraph 2 of this Article, 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.
5. The Parties understand that the rights and obligations in GATT 1994 incorporated by paragraph 1 of this Article prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:
 - (a) export price requirements, except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings;
 - (b) import licensing conditioned on the fulfilment of a performance requirement; or
 - (c) voluntary export restraints inconsistent with Article VI of GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the Anti-Dumping Agreement.

Article 2.12 **Remanufactured Goods**

1. For greater certainty, paragraph 1 of Article 2.11 (Import and Export Restrictions) applies to prohibitions and restrictions on the importation of remanufactured goods.
2. If a Party adopts or maintains measures prohibiting or restricting the importation of used goods, it shall not apply those measures to remanufactured goods.

3. For the avoidance of doubt, “remanufactured goods” under this Chapter shall be as defined in Article 14 (Treatment of Recovered Materials Used in Production of a Remanufactured Good) of Protocol 1 (Concerning the Definition of the Concept of “Originating Product” and Methods of Administrative Co-operation).

Article 2.13

Fees and Formalities Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with Article VIII of GATT 1994, including its Notes and Supplementary provisions, that all fees and charges of whatever character (other than customs duties, and measures listed in sub-paragraph 2(a), sub-paragraph 2(b) and sub-paragraph 2(c) of Article 2.4 (Customs Duty)) imposed on or in connection with importation or exportation of goods:
 - (a) are limited in amount to the approximate cost of services rendered, which shall not be calculated on an *ad valorem* basis, and
 - (b) shall not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.
2. The obligation set out in sub-paragraph 1(a) of this Article shall be implemented pursuant to the transitional arrangements that each Party has provided for under the TFA. Notwithstanding the above, each Party shall fully implement the obligation in sub-paragraph 1(a) of this Article no later than five (5) years from the date of entry into force of the TFA or at any time earlier as notified by that Party to the WTO.
3. Each Party shall make available via an officially designated medium, including through the internet, fees and charges it imposes in connection with importation or exportation.
4. A Party shall not require consular transactions², including related fees and charges, in connection with the importation of any good of the other Party.
5. Each Party shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

Article 2.14

Import and Export Licensing Procedures

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

² “Consular transactions” means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a non-Party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers’ export declaration or any other customs documentation in connection with the importation of the good.

2. The Parties shall introduce and administer any import or export licensing procedures³ in accordance with:

- (a) Paragraphs 1 to 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 sub-paragraphs (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. Each Party shall respond within sixty (60) days to a reasonable enquiry from the other Party regarding:
 - (a) any licensing procedures which the Party intends to adopt, or has adopted or maintained; or
 - (b) the criteria for granting and/or allocating import or export licenses.

Article 2.15 **State Trading Enterprises**

1. The Parties affirm their existing rights and obligations under Article XVII of 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. A Party may request information from the other Party bilaterally as foreseen in sub-paragraph 4(c) and sub-paragraph 4(d) of Article XVII of GATT 1994.
3. Neither Party shall apply any measure that is subject to the requirements under paragraph 2 of this Article to food purchased for non-commercial humanitarian purposes.

SECTION 2-D **SPECIFIC EXCEPTIONS RELATED TO GOODS**

³ 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.

Article 2.16
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 (30) 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.