

CHAPTER 1

INITIAL PROVISIONS

ARTICLE 1.1

Objectives of this Agreement

The objectives of this Agreement are to liberalise and facilitate trade and investment, as well as to promote a closer economic relationship between the Parties.

ARTICLE 1.2

General definitions

For the purposes of this Agreement, the following definitions apply:

- (a) "agricultural product" means a product listed in Annex 1 to the Agreement on Agriculture;
- (b) "CCMAA" means the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters¹, done at Brussels on 3 July 2017;

¹ OJ EU L 101, 20.4.2018, p. 6.

- (c) "customs authority " means:
- (i) with respect to New Zealand, the New Zealand Customs Service; and
 - (ii) with respect to the Union, the services of the European Commission responsible for customs matters, or, as appropriate, the customs administrations and any other authorities empowered in the Member States to apply and enforce customs legislation;
- (d) "customs duty" means any duty or charge of any kind imposed on, or in connection with, the importation of a good, but does not include any:
- (i) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
 - (ii) anti-dumping or countervailing duty applied in conformity with GATT 1994, the Anti-dumping Agreement, and the SCM Agreement; and
 - (iii) fee or other charge imposed on, or in connection with, importation that is limited in amount to the approximate cost of the services rendered;
- (e) "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

- (f) "day" means a calendar day;
- (g) "enterprise" means a juridical person or a branch or a representative office of a juridical person;
- (h) "EU" or "Union" means the European Union;
- (i) "existing" means, unless otherwise specified in this Agreement, in effect on the date of entry into force of this Agreement;
- (j) "good of a Party" means a domestic product within the meaning of GATT 1994, and includes goods originating in that Party;
- (k) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System, including all legal notes and amendments thereto developed by the WCO;
- (l) "heading" means the first four digits in the tariff classification number under the Harmonized System;
- (m) "ILO" means the International Labour Organization;
- (n) "juridical person" means any legal entity duly constituted or otherwise organised under the law of a Party, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

- (o) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement or practice, or any other form²;
- (p) "measures of a Party" means any measures adopted or maintained by:³
 - (i) central, regional or local governments or authorities; and
 - (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;
- (q) "Member State" means a Member State of the Union;
- (r) "natural person of a Party" means:
 - (i) for the Union, a national of one of the Member States according to its law⁴; and
 - (ii) for New Zealand, a national of New Zealand according to its law⁵;

² For greater certainty, the term "measure" includes the term "omission".

³ For greater certainty, "measures of a Party" includes measures that are adopted or maintained by instructing, directing or controlling the conduct of other entities.

⁴ The term "natural person of a Party" also includes persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the law of the Republic of Latvia, to receive a non-citizen's passport.

⁵ The Union reaffirms its obligations regarding permanent residents of New Zealand under GATS. To that effect, the term "natural person of a Party" also includes persons who have the right of permanent residence in New Zealand and who are not nationals of New Zealand, to the extent that such natural persons are covered by the Union's commitments under GATS.

- (s) "OECD" means the Organisation for Economic Co-operation and Development;
- (t) "originating" means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of origin and origin procedures);
- (u) "originating good" or "good originating in a Party" means a good qualifying under the rules of origin set out in Chapter 3 (Rules of origin and origin procedures);
- (v) "person" means a natural person or a juridical person;
- (w) "preferential tariff treatment" means the rate of customs duty applicable to an originating good pursuant to the tariff elimination schedules in Annex 2-A (Tariff elimination schedules);
- (x) "Sanitary Agreement" means the Agreement between the European Community and New Zealand on sanitary measures applicable to trade in live animals and animal products⁶, done at Brussels on 17 December 1996;
- (y) "sanitary or phytosanitary measure" or "SPS measure" means any measure as referred to in paragraph 1 of Annex A to the SPS Agreement;
- (z) "SDR" means special drawing right;

⁶ OJ EU L 57, 26.2.1997, p. 5.

- (aa) "service supplier" means a person that supplies or seeks to supply a service;
- (bb) "SME" means a small and medium-sized enterprise;
- (cc) "territory" means with respect to each Party the area where this Agreement applies in accordance with Article 1.4 (Territorial application);
- (dd) "TFEU" means the Treaty on the Functioning of the European Union;
- (ee) "the Paris Agreement" means the Paris Agreement under the United Nations Framework Convention on Climate Change⁷, done at Paris on 12 December 2015;
- (ff) "the Partnership Agreement" means the Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part⁸, done at Brussels on 5 October 2016;
- (gg) "third country" means a country or territory outside the territorial scope of application of this Agreement;
- (hh) "WTO" means the World Trade Organization; and
- (ii) "WCO" means the World Customs Organization.

⁷ OJ EU L 282, 19.10.2016, p. 4.

⁸ OJ EU L 321, 29.11.2016, p. 3.

ARTICLE 1.3

WTO Agreements

For the purposes of this Agreement, the following definitions apply:

- (a) "Agreement on Agriculture" means the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement;
- (b) "Agreement on Safeguards" means the Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;
- (c) "Anti-dumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;
- (d) "Customs Valuation Agreement" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;
- (e) "DSU" means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;
- (f) "GATS" means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

- (g) "GATT 1994" means the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;
- (h) "GPA" means the Agreement on Government Procurement as amended by the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012;
- (i) "Import Licensing Agreement" means the Agreement on Import Licensing Procedures, contained in Annex 1A to the WTO Agreement;
- (j) "SCM Agreement" means the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement;
- (k) "SPS Agreement" means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement;
- (l) "TBT Agreement" means the Agreement on Technical Barriers to Trade, contained in Annex 1A to the WTO Agreement;
- (m) "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement; and
- (n) "WTO Agreement" means the Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

ARTICLE 1.4

Territorial application

1. This Agreement applies:

- (a) to the territories in which the Treaty on European Union and the TFEU are applied and under the conditions laid down in those Treaties; and
- (b) to the territory of New Zealand and the exclusive economic zone, seabed and subsoil over which New Zealand exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau.

2. As regards the provisions of this Agreement concerning the tariff treatment of goods, including rules of origin and origin procedures, this Agreement also applies to those areas of the customs territory of the Union within the meaning of Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁹ that are not covered by point (a) of paragraph 1 of this Article.

3. References to "territory" in this Agreement shall be understood in the sense referred to in paragraphs 1 and 2, except as otherwise expressly provided.

⁹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013, p. 1).

ARTICLE 1.5

Relation to other international agreements

1. Unless otherwise provided for in this Agreement, the existing international agreements between the European Community, the Union, or the Member States, of the one part, and New Zealand, of the other part, are not superseded or terminated by this Agreement.
2. This Agreement shall be an integral part of the overall bilateral relations as governed by the Partnership Agreement and shall form part of the common institutional framework.
3. The Parties affirm their rights and obligations with respect to each other under the WTO Agreement. For greater certainty, nothing in this Agreement requires a Party to act in a manner inconsistent with its obligations under the WTO Agreement.
4. In the event of any inconsistency between this Agreement and any international agreement other than the WTO Agreement to which both Parties are a party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.
5. Unless otherwise specified, where international agreements are referred to in, or incorporated into, this Agreement, in whole or in part, they shall be understood to include amendments thereto and their successor agreements entering into force for both Parties on or after the date of entry into force of this Agreement.
6. If any matter arises regarding the implementation or application of this Agreement as a result of any amendments thereto or successor agreements as referred to in paragraph 5, the Parties may, on request of either Party, consult with each other with a view to finding a mutually satisfactory solution to such matter as necessary.

ARTICLE 1.6

Establishment of a free trade area

The Parties hereby establish a free trade area, in conformity with Article XXIV of GATT 1994 and Article V of GATS.