

CHAPTER 2
TRADE IN GOODS

Article 2.1
Definitions

For the purposes of this Chapter:

- (a) **“commercial samples of negligible value”** means commercial samples as determined by a Party to be either 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 being so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;
- (b) **“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 or in the territory of a non-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;
- (c) **“customs duty”** means any duty or charge of any kind imposed on or in connection with the importation of a good and any cess, surtax or surcharge imposed in connection with such importation, but does not include any:
 - (i) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
 - (ii) fee or other charge in connection with the importation commensurate with the cost of services rendered or imposed in conformity with Article VIII of GATT 1994; or
 - (iii) anti-dumping duty, countervailing duty or a safeguard measure applied pursuant to the laws of a Party and applied consistently with the provisions of Article VI or XIX of GATT 1994, the Anti-Dumping Agreement, the SCM Agreement or the Safeguards Agreement.
- (d) **“duty-free”** means free of customs duty;
- (e) **“goods of a Party”** means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of a Party;

- (f) **“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 of the importing Party as a prior condition for importation into the territory of the importing Party;
- (g) **“Import Licensing Agreement”** means the *Agreement on Import Licensing Procedures*, set out in Annex 1A to the WTO Agreement; and
- (f) **“printed advertising materials”** means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicise, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

Article 2.2 Scope

Unless otherwise provided in this Agreement, this Chapter shall apply to trade in goods of a Party.

Article 2.3 Elimination or Reduction of Customs Duties

1. Each Party shall progressively eliminate or reduce its customs duties on originating goods in accordance with its Schedule to Annex 2A (Schedules of Tariff Commitments).
2. On request of a Party, the Parties may consult to consider accelerating or broadening the scope of the elimination or reduction of customs duties set out in their Schedules to Annex 2A (Schedules of Tariff Commitments). An agreement by the Parties to accelerate the elimination or reduction of a customs duty on a good, or to include a good in Annex 2A (Schedules of Tariff Commitments), shall supersede any duty rate or staging category determined in accordance with their Schedules to Annex 2A (Schedules of Tariff Commitments) for that good when approved by each Party in accordance with its applicable domestic requirements, including internal legal procedures.
3. A Party may at any time unilaterally accelerate or broaden the scope of the elimination or reduction of customs duties set out in its Schedule to Annex 2A (Schedules of Tariff Commitments) on originating goods of the other Party. The Party shall publish as early as practicable before the new rate of customs duty takes effect.

4. If the most-favoured-nation rate of customs duty applied by a Party on a particular good is lower than the rate of customs duty provided for in its Schedule to Annex 2A (Schedules of Tariff Commitments), an importer may claim the most-favoured-nation customs duty and the Party shall apply the lower rate to the originating good of the other Party.

Article 2.4 National Treatment

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

Article 2.5 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, anti-dumping and countervailing duties and safeguard 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 an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.
2. Neither Party shall require consular transactions, including any related fees and charges, in connection with the importation of any good of the other Party.
3. Each Party shall promptly make publicly available on the internet all fees and charges it imposes in connection with importation or exportation including any updates or changes to those fees and charges. Fees and charges shall not be applied until information on them, including the responsible authority, and when and how payment is to be made, has been published, to the extent possible, in the English language.

Article 2.6 Customs Valuation

Each Party shall determine the customs value of goods traded between the Parties in accordance with Article VII of GATT 1994, including its interpretive notes, and Articles 1 through 17 of the *Agreement on Implementation of Article*

VII of the General Agreement on Tariffs and Trade 1994, set out in Annex 1A to the WTO Agreement, including its interpretative notes.

Article 2.7
Classification of Goods and Transposition of Schedules

1. The classification of goods traded between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the Harmonized System and its amendments.
2. Pursuant to paragraph 1, each Party shall ensure that the transposition of its tariff commitments, undertaken in order to implement Annex 2A (Schedules of Tariff Commitments) in the nomenclature of the revised HS following periodic amendments to HS, is carried out without impairing or diminishing the tariff commitments set out in its Schedule to Annex 2A (Schedules of Tariff Commitments).

Article 2.8
Import and Export Restrictions

Unless 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 to this end Article XI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.9
Import Licensing

1. A Party shall only adopt or maintain import licensing procedures which are consistent with the Import Licensing Agreement, and to this end Articles 1 through 3 of the Import Licensing Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. A Party shall publish on an official government website any new or modified import licensing procedure, including any information that it is required to publish under Article 1.4(a) of the Import Licensing Agreement. To the extent practicable, the Party shall do so at least 21 days before the new procedure or modification takes effect.
3. A Party shall be deemed to be in compliance with paragraph 2 with respect to a new or modified import licensing procedure if it notifies that procedure, including the information specified in Article 5(2) of the Import Licensing Agreement, to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement.

4. At the request of a Party, the other Party shall provide the information specified in Article 5(2) of the Import Licensing Agreement, with regard to any import licensing procedure that it adopts or maintains or changes to an existing licensing procedure.

Article 2.10
Application of Non-Tariff Measures

1. Neither Party shall 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 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. Any new measure or modification to an existing measure shall be published as soon as practicable.

Article 2.11
Temporary Admission

1. Each Party shall allow, in accordance with its laws and regulations, goods regardless of their origin, including their means of transport, to be brought into its territory conditionally relieved from payment of customs duties if such goods:
 - (a) are intended for re-exportation within a specific period without having undergone any change except normal depreciation and wastage, due to the use made of them; and
 - (b) are brought into its territory for one of the following purposes:
 - (i) goods intended for display or use at playgrounds, theatres, exhibitions, fairs or other similar events;
 - (ii) professional equipment, necessary to carry out a trade or profession, which qualifies for temporary entry pursuant to the laws or regulations of the Party;
 - (iii) commercial samples and advertising films and recordings;
 - (iv) containers and pallets which are durable, reusable and that are in use or to be used in the shipment of goods in international traffic;

- (v) goods imported exclusively for educational or scientific purposes or cultural activities and events; and
 - (vi) goods imported for sports purposes.
- 2. Neither Party shall impose any condition on the temporary admission of the goods referred to in paragraph 1, other than to require that such goods:
 - (a) are intended for re-exportation without having undergone any change except normal depreciation and wastage due to the use made of them.
 - (b) be accompanied by a security deposit, if requested by the importing Party, in an amount no greater than the customs duty or charges that would otherwise be owed on importation, releasable on exportation of the good;
 - (c) be exported on the departure of the person referred to in subparagraph 1(a) or within such period of time as is reasonably related to the purpose of temporary admission;
 - (d) be capable of identification when exported;
 - (e) not be sold or leased while in its territory;
 - (f) not be imported in a quantity greater than is reasonable for its intended use; and
 - (g) be otherwise admissible into the importing Party's territory under its laws.
- 3. If any condition that a Party imposes under paragraph 2 has not been fulfilled, that Party may apply the customs duty and any other charge that would normally be owed on importation of the good, as well as any other charges or penalties provided for under its laws.
- 4. Each Party shall at the request of the importer and for reasons deemed valid by its Customs Administration, extend the time limit for temporary admission beyond the period initially fixed, in accordance with its laws and regulations.
- 5. Each Party may, in accordance with its laws and regulations, relieve the importer, or other person responsible for goods admitted in accordance with this Article, of liability for failure to export a temporarily admitted good upon presentation of satisfactory proof to the Party's Customs Administration that the good has been destroyed within the original time limit for temporary admission or any lawful extension.

Article 2.12
Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall, in accordance with its laws and regulations, grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, 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 the solicitation of orders for services provided from the territory, of the other Party or a non-Party; or
- (b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 2.13
Goods Returned or Re-Entered After Repair or Alteration

1. A Party may not apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been 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 its territory, except that a customs duty may be applied to the value addition resulting from the repair or alteration in accordance with a Party's laws and regulations that was performed in the territory of the other Party.
2. Paragraph 1 does not apply to:
 - (a) a good that has not entered into free circulation¹ in a Party prior to being exported for repair or alteration; or
 - (b) any materials used in the repair or alteration which were not in free circulation in the Party where the repair or alteration occurred, unless a payment equivalent to the applicable duty for that material to enter into free circulation has subsequently been made.
3. A Party may not apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration provided such good is exported from the territory of the importing Party in accordance with a Party's laws and regulations.

¹ In "free circulation" means the good has cleared customs, applicable duties have been paid, and the good is available for use in the domestic market of the importing Party.

4. 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 create a new or commercially different good;
 - (b) transforms an unfinished good into a finished good; or
 - (c) substantially changes the function of a good.

Article 2.14 Export Subsidies

The Parties reiterate their commitments under the WTO Ministerial Decision on Export Competition, adopted in Nairobi on 19 December 2015, and agree not to maintain any export subsidies that are inconsistent with their obligations under the Agreement on Agriculture for any agricultural product listed in Annex 1 of that agreement.

Article 2.15 Publication and Administration of Trade Regulations

1. Each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings with respect to any matter covered by this Chapter. To this end, Article X of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. To the extent possible, each Party shall make its laws, regulations, decisions and rulings of the kind referred to in paragraph 1 publicly available on the internet.

Article 2.16 Data Sharing on Preference Utilisation

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually, or as otherwise agreed by the Committee on Trade in Goods, exchange comprehensive import statistics. Such exchanges shall take place in advance of each meeting of the Committee on Trade in Goods.
2. The exchange of import statistics shall cover data pertaining to the most recent calendar year available, including value and volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and for the import of those goods that received non-preferential treatment.

Article 2.17
Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods (“Goods Committee”) composed of government representatives of each Party.
2. The functions of the Goods Committee shall include:
 - (a) reviewing and monitoring the implementation and operation of this Chapter;
 - (b) promoting trade in both agricultural and non-agricultural goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement, and promptly addressing non-tariff barriers to trade in goods between the Parties if not covered by any other committee under this Agreement;
 - (c) adopt decisions or make recommendations;
 - (d) addressing issues relating to the administration and operation of tariff-rate quotas;
 - (e) examining any issues that may arise on matters related to future amendments to the Harmonized System, including transposition of Parties’ Schedules to Annex 2A (Schedules of Tariff Commitments) and on matters related to the classification of goods under the Harmonised System, and endeavouring to seek appropriate solutions through consultation and dialogue, to ensure that the obligations of each Party under this Agreement are not altered;
 - (f) reviewing data on trade in goods in relation to the implementation of this Chapter;
 - (g) assessing matters that relate to trade in goods and undertaking any additional work that the Joint Commission may assign to it; and
 - (h) reporting on its activities and work programme to the Joint Commission.
3. The Goods Committee shall meet within one year of the date of entry into force of this Agreement and annually thereafter or as otherwise agreed. Meetings may occur in person, or by any other means as mutually determined by the Parties.
4. The Goods Committee may establish technical working groups to consider any matter relating to this Chapter that creates disruption or may affect trade in goods between the Parties. Any technical working

group established shall report to the Goods Committee on the progress of its work.

Article 2.18
Contact Points

1. Each Party shall, within 60 days of the date of entry into force of this Agreement, designate a contact point to facilitate communication between the Parties on any matter relating to this Chapter. Each Party shall promptly notify the other Party, in writing, of any change to its contact point.
2. Where a Party considers that any proposed or actual measure of the other Party may materially affect trade in goods between the Parties, that Party may, through the contact point for this Chapter, request detailed information relating to that measure and, if necessary, request consultations with a view to resolving any concerns about the measure. The other Party shall respond as promptly as practicable to such requests for information and consultations.