CHAPTER 2

TRADE IN GOODS

Article 2.1

Definitions

For the purposes of this Chapter:

**customs duty** refers to any duty or charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(a) charge equivalent to an internal tax imposed in conformity with Article III of the GATT 1994;

(b) anti-dumping, countervailing or safeguard duty that is applied consistent with the provisions of Article VI of the GATT 1994, the Anti-Dumping Agreement, the SCM Agreement, and the Safeguards Agreement; or

(c) fee or other charge in connection with importation commensurate with the cost of services rendered and which does not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes.

**export subsidy** means a subsidy as defined in paragraph 1(a) of Article 3 of the SCM Agreement, including those listed in Annex 1 of the SCM Agreement, and those listed in paragraph (e) of Article 1 of the Agreement on Agriculture.

**import licensing** means administrative procedures used for the operation of import licensing regimes requiring the submission of an application or other documentation, other than that required for customs purposes, to the relevant administrative body as a prior condition for importation into the customs territory of the importing Party.

# **Article 2.****2**

# **Scope and Coverage**

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

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# **Article 2.****3**

# **National Treatment on Internal Taxation and Regulation**

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

# **Article 2.****4**

# **Reduction or Elimination of Customs Duties**

1. Except as otherwise provided in this Agreement, a Party shall not increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party.

2. Each Party shall eliminate or reduce its customs duties applied to goods originating from the other Party in accordance with Annex 2A, Part B (Schedule of Australia) and Annex 2A, Part C (Schedule of the United Arab Emirates).

3. Where a Party reduces its most-favoured-nation applied rate of customs duty, that duty rate shall apply to an originating good of the other Party if, and for as long as, it is lower than the rate of customs duty on the same good as specified in Annex 2A, Part B (Schedule of Australia) for Australia and Annex 2A, Part C (Schedule of the United Arab Emirates).

**Article 2.5**

**Acceleration or Improvement of Tariff Commitments**

1. Upon request of a Party, the other Party shall consult with the requesting Party to consider accelerating or improving the scope of the elimination or reduction of customs duties as set out in its Schedule to Annex 2A (Schedules of Tariff Commitments).

2. Further commitments between the Parties to accelerate or improve the scope of the elimination or reduction of customs duties shall take effect after the Parties have exchanged written notification advising that they have completed necessary internal legal procedures and on such date or dates as may be agreed between them.

3. Nothing in this Agreement shall prohibit a Party from unilaterally accelerating or improving 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. A Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect. Any such unilateral acceleration or improvement of the scope of the elimination or reduction of customs duties will not permanently supersede any duty rate or staging category determined pursuant to their respective Schedule nor serve to waive that Party’s right to raise the customs duty back to the level established in its Schedule to Annex 2A (Schedules of Tariff Commitments) following a unilateral acceleration or improvement.

# **Article 2.6**

# **Classification of Goods and Transposition of Schedules**

1. The classification of goods in trade between the Parties shall be in conformity with the Harmonized System and its amendments. Each Party shall ensure consistency in applying its laws and regulations to the tariff classification of originating goods of the other Party.

2. The Parties shall mutually decide whether any revisions are necessary to implement Annex 2A, Part B (Schedule of Australia) and Annex 2A Part C (Schedule of the United Arab Emirates) due to periodic amendments and transposition of the Harmonized System.

3. If the Parties decide that revisions are necessary in accordance with paragraph 2, the transposition of Annex 2A, Part B (Schedule of Australia) and Annex 2A, Part C (Schedule of the United Arab Emirates) shall be carried out in accordance with the methodologies and procedures adopted by the Joint Committee.

4. Each Party shall ensure that the transposition of its Schedule of Tariff Commitments in Annex 2A under paragraph 3 does not afford less favourable treatment to an originating good of the other Party than that set out in its Schedule of Tariff Commitments in Annex 2A, Part B (Schedule of Australia) and Annex 2A, Part C (Schedule of the United Arab Emirates).

# **Article 2.****7**

# **Import and Export Restrictions**

1. Except as otherwise provided in this Agreement, 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, except in accordance with Article XI of the GATT 1994 and its interpretative notes. To this end, Article XI of the 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 export prohibition or restriction on foodstuffs in accordance with paragraph 2(a) of Article XI of the GATT 1994, the Party shall:

 (a) give due consideration to the effects of such proposed prohibition or restriction on the other Party’s foodstuff security;

 (b) provide notice in writing, as far in advance as practicable, to the other Party of such proposed prohibition or restriction and its reasons together with its nature and expected duration; and

 (c) on request, provide the other Party with a reasonable opportunity for consultation with respect to any matter related to the proposed prohibition or restriction.

# **Article 2.8**

# **Import Licensing**

1. A Party shall not adopt or maintain a measure that is inconsistent with the Import Licensing Agreement, which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Promptly after the date of entry into force of this Agreement, 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 it in such a manner as to enable governments and traders to become acquainted with it, including through publication on an official government website. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect. Upon request of the other Party, the Party shall exchange information concerning its implementation in a reasonable period.

# **Article 2.****9**

# **Customs Valuation**

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of the GATT 1994 and the Customs Valuation Agreement, *mutatis mutandis*.

**Article 2.****10**

**Export Subsidies**

A Party shall not maintain, adopt or reintroduce export subsidies on any good destined for the territory of the other Party.

# **Article 2.11**

# **Administrative Fees and Formalities**

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

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

**Article 2.13**

**Temporary Admission of Goods**

1. Each Party shall, as provided for in its laws and regulations, grant temporary admission free of customs duties for the following goods imported from the other Party, regardless of their origin:

(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;

(b) scientific equipment used within its territory solely for purposes of scientific research or education;

(c) goods intended for display or demonstration at exhibitions, fairs, or other similar events;

 (d) commercial samples and advertising films and recordings;

 (e) goods admitted for sports purposes; and

(f) containers[[1]](#footnote-2) and pallets[[2]](#footnote-3) that are in use or to be used in the shipment of goods in international traffic.

2. 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.

3. A Party shall not condition the temporary admission of a good referred to 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 in an amount no greater than the custom duties and any other tax imposed on imports 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 national or resident referred to in subparagraph 3(a), or within such other period related to the purpose of the temporary admission as the Party may establish, unless extended;

 (f) not be admitted in a quantity greater than is reasonable for its intended use; or

 (g) be otherwise admissible into the importing Party’s territory under its law.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, that Party may apply the customs duty, and any other tax or charge that would normally be owed on the importation of the good and any other charges or penalties provided for under its law.

5. Each Party shall adopt and maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.

6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted, in accordance with its customs procedures.

7. Each Party shall, in accordance with its law, provide that the importer of a good admitted under this Article shall not be liable for failure to export the good on presentation of satisfactory proof to the importing Party that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.

**Article 2.14**

**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 in accordance with a Party’s laws 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 from which the good was exported, except that a customs duty or other taxes may be applied to the addition resulting from the repair or alteration that was performed in the territory of the other Party.

2. A Party shall 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.

3. For 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;

 (b) transforms an unfinished good into a finished good; or

 (c) results in a change of the classification at the six-digit level of the Harmonized System.

**Article 2.15**

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

Each Party, in accordance with its law, shall 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 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 the materials nor the packets form part of a larger consignment.

**Article 2.12**

**Technical Consultations and Contact Points**

1. Each Party shall designate and notify a contact point to facilitate communications between the Parties on any matter covered by this Chapter. Each Party shall promptly notify the other Party of any change of its contact point.

2. A Party may request technical consultations with the other Party to discuss any measure arising under this Chapter if it considers the measure was prepared, adopted or applied with a view to, or with the effect of, creating an unnecessary obstacle to trade and adversely affecting trade between the Parties. The request shall be in writing and shall clearly identify the measure, explain the reasons for the request and how the measure adversely affects trade between the Parties, indicate any provisions of the Chapter to which the concerns relate and, if possible, provide suggested solutions.

3. The requested Party shall respond to the requesting Party and enter into technical consultations within 60 days of the receipt of the written request, unless otherwise agreed by the Parties, with a view to reaching a mutually acceptable solution within 180 days of the request.

4. Technical consultations are entered into without prejudice to the Parties’ rights under Chapter 25 (Dispute Settlement). For greater certainty, a request for technical consultations under this Article shall not be deemed a request for consultation under Chapter 25 (Dispute Settlement).

1. An article of transport equipment (lift-van, movable tank or other similar structure):

(i) fully or partially enclosed to constitute a compartment intended for containing goods,

(ii) of a permanent character and accordingly strong enough to be suitable for repeated use,

(iii) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading,

(iv) designed for ready handling, particularly when being transferred from one mode of transport to another,

(v) designed to be easy to fill and to empty, and

(vi) having an internal volume of one cubic metre or more.

“Container” shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. The term “container” shall not include vehicles, accessories or spare parts of vehicles, or packaging or pallets. “Demountable bodies” shall be regarded as containers. [↑](#footnote-ref-2)
2. A device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling by fork lift trucks or pallet trucks; it may or may not have a superstructure. [↑](#footnote-ref-3)