

CHAPTER 2

TRADE IN GOODS

Article 2.1 **Definitions**

For the purposes of this Chapter:

“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;

“export licensing procedure” 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 exporting Party as a prior condition for exportation from the territory of the exporting Party;

“Import Licensing Agreement” means the *Agreement on Import Licensing Procedures*, set out in Annex 1A to the WTO Agreement; and

“import licensing procedure” 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.

Article 2.2 **Scope**

Unless otherwise provided, this Chapter applies to trade in goods of a Party.

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

Article 2.4
Classification of Goods

The classification of goods in trade between the Parties shall be in conformity with the Harmonized System.

Article 2.5
Treatment of Customs Duties

1. Unless otherwise provided in this Agreement, neither Party shall increase any customs duty existing on entry into force or adopt any new customs duty, on an originating good.
2. Unless otherwise provided in this Agreement, each Party shall progressively reduce or eliminate its customs duties on originating goods in accordance with its Schedule to Annex 2A (Tariff Commitments).
3. Where and for so long as a Party's applied most-favoured-nation customs duty rate for a particular good is lower than the rate applicable pursuant to paragraph 2 above, the Party shall apply the lower rate to originating goods of the other Party classified under the same tariff line as the particular good.
4. On the request of a Party, the Parties shall consult to consider accelerating or broadening the scope of the elimination or reduction of customs duties set out in their Schedules to Annex 2A (Tariff Commitments).
5. A Party may at any time unilaterally accelerate the elimination or reduction of customs duties set out in its Schedule to Annex 2A (Tariff Commitments) on originating goods of the other Party. The Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.
6. For greater certainty, a Party may raise a customs duty to the level established by its Schedule to Annex 2A (Tariff Commitments) following any unilateral reduction.

Article 2.6
Goods Re-entered after Repair or Alteration

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters the Party's territory after that good has been temporarily exported from the Party's territory to the territory of the other Party for repair or alteration, regardless of whether that repair or alteration could have been performed in the territory of the Party from which the good was exported for repair or alteration or increased the value of the good.

2. Paragraph 1 shall not apply to a good where, prior to the good's export to the other Party for repair or alteration, the good:
 - (a) was not in free circulation in the exporting Party; and
 - (b) did not have a customs duty applied to it by the exporting Party.
3. Neither Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.
4. For the purposes of this Article, "repair or alteration" does not include an operation or process that:
 - (a) destroys the essential characteristics of a good or creates a new or commercially different good;
 - (b) transforms an unfinished good into a finished good; or
 - (c) substantially changes the technical performance or the function of a good.

Article 2.7
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 details of its non-tariff measures permitted in paragraph 1 of this Article are made available in a manner as to enable interested parties to become acquainted with them.

Article 2.8
Technical Consultations on Non-Tariff Measures

1. Subject to paragraph 2, a Party may request technical consultations with the other Party on a non-tariff measure covered by Article 2.7 (Application of Non-Tariff Measures) where it considers the non-tariff measure to be adversely affecting its trade. The request shall be in writing and shall clearly identify the non-tariff measure, explain how the non-tariff measure adversely affects trade between the Parties, and, if possible, provide suggested solutions.

2. Where a non-tariff measure is covered by another Chapter which provides for a consultation mechanism with the other Party, that consultation mechanism shall be used, unless otherwise agreed between the Parties.
3. Within 30 days of receipt of a request under paragraph 1, the responding Party shall provide a written reply to the requesting Party.
4. Within 30 days of the requesting Party's receipt of the reply, the Parties shall enter into technical consultations with a view to reaching a mutually satisfactory solution.
5. If the requesting Party considers that the subject of the request under paragraph 1 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 2. The responding Party shall give prompt and reasonable consideration to that request.
6. The technical consultations under this Article shall be without prejudice to each Party's rights and obligations pertaining to dispute settlement proceedings under Chapter 30 (Dispute Settlement) and the WTO Agreement.

Article 2.9 **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 2.10 **Import Licensing**

1. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.
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 possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.
3. In respect of any import licensing procedures, each Party's notifications to the WTO Committee on Import Licensing under the Import Licensing

Agreement shall describe any limitations on permissible end users of the product and any conditions the Party imposes on eligibility for obtaining a licence to import the product.

4. At the request of a Party, the other Party shall, with regard to any import licensing procedures that it has adopted or maintains, or changes to existing import licensing procedures:
 - (a) promptly provide the information specified in Article 5(2) of the Import Licensing Agreement, where that information has not been notified to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement; and
 - (b) promptly and to the extent possible provide any other relevant information.

Article 2.11 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 export taxes, custom duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of GATT 1994, and antidumping and countervailing duties) 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 of a taxation of imports or exports for fiscal purposes.
2. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party.
3. Each Party shall make publicly available online a current list of the fees and charges it imposes in connection with importation or exportation, including any updates or changes to such fees and charges. An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them including the reason for such fees and charges, the responsible authority, and when and how payment is to be made, has been published.

Article 2.12 Export Duties, Taxes or Other Charges

Neither Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of the other Party, unless the duty, tax, or other charge is also applied to a like good destined for domestic

consumption. For the purposes of this Article, charges shall not include fees or other charges imposed in accordance with Article 2.11 (Administrative Fees and Formalities).

Article 2.13 Export Subsidies

The Parties affirm their WTO commitments not to adopt or maintain an export subsidy on any good.

Article 2.14 Export Licensing

1. Within 60 days of the date of entry into force of this Agreement, each Party shall notify the other Party of its existing export licensing procedures. A Party shall be deemed to have complied with this paragraph if it has notified its export licensing procedures consistent with a Decision on Notification Procedures for Quantitative Restrictions adopted by the WTO Council for Trade in Goods.
2. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure. Such publication shall take place no later than 30 days after the procedure or modification takes effect.
3. For greater certainty, nothing in this Article requires a Party to grant an export licence, or prevents a Party from implementing its obligations under any international agreement, including but not limited to those under United Nations Security Council Resolutions, as well as its commitments under multilateral non-proliferation regimes and export control arrangements including, but not limited to the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies* done at The Hague on 19 December 1995, the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime.

Article 2.15 Remanufactured Goods

1. Unless otherwise provided for in this Agreement, neither Party shall accord to a remanufactured good of the other Party treatment that is less favourable than that it accords to equivalent goods in new condition.
2. Paragraph 1 shall not apply to consumer guarantees provided for in a Party's laws and regulations.

3. If a Party adopts or maintains import and export prohibitions or restrictions on used goods on the basis that they are used goods, it shall not apply those measures to remanufactured goods. For greater certainty, Article 2.9 (Import and Export Restrictions) shall apply to prohibitions and restrictions on the importation of remanufactured goods.
4. Subject to its obligations under this Agreement and the WTO Agreement, a Party may require that remanufactured goods be identified as such for distribution or sale in its territory and that they meet all applicable technical requirements that apply to equivalent goods in new condition.

Article 2.16
Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods (“the Goods Committee”), composed of government representatives of each Party.
2. The Goods Committee's functions shall include:
 - (a) reviewing and monitoring the implementation and operation of this Chapter, Chapter 3 (Trade Remedies), Chapter 4 (Rules of Origin), and Chapter 5 (Customs Procedures and Trade Facilitation);
 - (b) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination or reduction under this Agreement, and addressing non-tariff barriers 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;
 - (c) addressing issues relating to the administration and operation of tariff rate quotas and the application of product specific safeguard measures;
 - (d) receiving reports from, and reviewing the work of, the Working Group on Rules of Origin and Customs and Trade Facilitation established under Article 4.29 (Working Group on Rules of Origin and Customs and Trade Facilitation – Rules of Origin and Origin Procedures);
 - (e) reporting, as needed, on its activities and work programme to the Joint Committee;
 - (f) facilitating trade in remanufactured goods, including considering amendments or modifications to the provisions of this Agreement relating to the treatment of remanufactured goods, with a view to broadening the types of goods that may be considered remanufactured

goods, having regard to factors including technological developments and the Parties' shared environmental objectives;

- (g) reviewing the future amendments to the Harmonized System and endeavouring to resolve any differences that may arise between the Parties on matters related to the classification of goods under the Harmonized System and Annex 2A (Tariff Commitments);
 - (h) determining the procedures and specific data requirements, as appropriate, for any exchange of trade data; and
 - (i) undertaking any other work that the Joint Committee assigns to it.
3. The Goods Committee shall meet at the request of either Party and in any event within one year of the date of entry into force of this Agreement. 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 progress of its work.