# CHAPTER 2

# NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

## Article 2.1
## Definitions

For the purposes of this Chapter:

**"advertising films and recordings"** means recorded visual media or audio materials, consisting essentially of images or sound, showing the nature or operation of goods or services offered for sale or lease by a person of a Party, provided that those materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public;

**"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;

**"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, shipper's export declaration, or any other customs documentation in connection with the importation of the good;

**"customs duty"** includes any duty or charge of any kind imposed on or in connection with the importation of a good, and any form of surtax or surcharge imposed in connection with such importation, but does not include any:

(a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;

(b) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the AD Agreement, and the SCM Agreement; or

(c) fee or other charge in connection with the importation commensurate with the cost of services rendered;

**"duty-free"** means free of customs duty;

**"export licensing procedures"** means administrative procedures, 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;

**"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;

**"goods temporarily admitted for sports purposes"** means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory those goods are admitted;

**"Import Licensing Agreement"** means the *Agreement on Import Licensing Procedures* in Annex 1A to the WTO Agreement;

**"import licensing procedures"** 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;

**"performance requirement"** means a requirement that:

(a) a given level or percentage of goods or services be exported;

(b) domestic goods or services of the Party granting an import licence be substituted for imported goods;

(c) a person benefiting from a requirement for an import licence purchase other goods or services in the territory of the Party that grants the import licence or accord a preference to domestically produced goods;

(d) a person benefiting from a requirement for an import licence produce goods or supply services in the territory of the Party that grants the import licence, with a given level or percentage of domestic content; or

(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows,

but does not include a requirement that an imported good be:

(f) subsequently exported;

(g) used as a material in the production of another good that is subsequently exported;

(h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or

(i) substituted by an identical or similar good that is subsequently exported; and

**"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 between the Parties.

**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, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis.*

**Article 2.4**
**Classification of Goods**

For the purposes of this Agreement, the classification of goods in trade between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the Harmonized System.

**Article 2.5**
**Elimination of Customs Duties**

1. Unless otherwise provided in this Agreement, neither Party shall increase any existing customs duty on any good above the applicable rate for such good as set out in Annex 2A (Schedule of Tariff Commitments for Goods), or adopt any new customs duty on an originating good of the other Party. For greater certainty, the applicable rate refers to the base rate under this Agreement and the applicable tariff reductions to a level below the base rate in subsequent years of the Agreement being in force, as set out in Annex 2A (Schedule of Tariff Commitments for Goods).

2. Unless otherwise provided in this Agreement, each Party shall eliminate customs duties on originating goods of the other Party in accordance with the tariff elimination Schedules and the staging categories in Annex 2A (Schedule of Tariff Commitments for Goods).

3. For each good, the base rate of customs duty to which successive reductions under paragraph 1 are to be applied shall be specified in Annex 2A (Schedule of Tariff Commitments for Goods).

4. Where and for so long as a Party's applied most-favoured-nation customs duty is lower than the rate calculated pursuant to paragraph 1, the customs duty rate to be applied pursuant to this Agreement to originating goods of the other Party shall be calculated as equal to the importing Party's applied most-favoured-nation customs duty.

**Article 2.6**
**Accelerated Tariff Elimination**

1. At the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties on originating goods as set out in their Tariff Schedules in Annex 2A (Schedule of Tariff Commitments for Goods).

2. An agreement by the Parties following consultation under paragraph 1 to accelerate the elimination of customs duties on originating goods shall supersede any duty rate determined pursuant to their Schedules for such goods, and shall enter into force on such date or dates as may be agreed between them after the Parties have exchanged written notifications advising that they have completed the necessary internal legal procedures to give effect to that agreement.

3. A Party may, at any time, unilaterally accelerate the elimination of customs duties on originating goods of the other Party set out in its Tariff Schedule in Annex 2A (Schedule of Tariff Commitments for Goods). A Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

4. For greater certainty, a Party may raise a customs duty to the level for a specific year as set out in Annex 2A (Schedule of Tariff Commitments for Goods) following a unilateral reduction as set out in paragraph 3.

**Article 2.7**
**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 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 the repair or alteration:

(a) could be performed in the territory of the Party from which the good was exported for repair or alteration; or

(b) has increased the value of the good.

2. Paragraph 1 does not apply to:

(a) a good that has not entered into free circulation[1] 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 of the Party undertaking the repair or alteration, unless a payment equivalent to the applicable duty for that material to enter into free circulation has subsequently been made.

3. Neither Party shall apply a customs duty to a good, regardless of origin, imported temporarily from the customs 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 a good's essential characteristics 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 function of a good.

## Article 2.8
## Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

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

(a) commercial samples of negligible value 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

[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.

(b) printed advertising material be imported in packets that each contain no more than one copy of the material and that neither that material nor those packets form part of a larger consignment.

**Article 2.9**
**Temporary Admission of Goods**

1. Each Party shall grant temporary admission with total conditional relief from import duties, in its laws and regulations, for the following goods, regardless of their origin:

(a) goods intended for display or use including their component parts, ancillary apparatus, and accessories at exhibitions, fairs, meetings, demonstrations, or similar events;

(b) professional equipment, including equipment for the press or for sound or television broadcasting, software, cinematographic equipment, and any ancillary apparatus or accessories for the equipment mentioned above that is necessary for carrying out the business activity, trade, or profession of a person visiting the territory of the Party to perform a specified task;

(c) containers,[2] commercial samples, advertising films, and recordings;

(d) goods imported for sports purposes;

(e) goods imported for humanitarian purposes, that being medical, surgical and laboratory equipment, and relief consignments, such as vehicles and other means of transport, blankets, tents, or other goods of prime necessity, forwarded as aid to those affected by natural disaster and similar catastrophes; and

(f) animals imported for specific purposes (dressage, training, breeding, shoeing or weighing, veterinary treatment, testing (for example, with a view to purchase), participation in shows, exhibitions, contests, competitions or demonstrations, entertainment (circus animals, etc.), touring (including pet animals of travellers), exercise of function (police dogs or horses, detector dogs, dogs for the blind, etc.), rescue operations, performance of work or transport, and medical purposes (delivery of snake poison, etc.)).

2. Each Party shall, at the request of the person concerned and for reasons its customs administration considers valid, extend the time limit for duty-free temporary admission beyond the period initially fixed.

[2] As defined in Annex B.3, Chapter 1, Article 1, paragraph (c) of the *Convention on Temporary Admission* done at Istanbul on 26 June 1990.

3. Neither Party shall condition the duty-free temporary admission of goods referred to in paragraph 1, other than to require that those goods:

(a) are intended for re-exportation without having undergone any change except normal depreciation due to the use made of them;

(b) are 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 of the other Party;

(c) are not sold or leased while in its territory;

(d) are accompanied by a security, if requested by the importing Party, in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the goods;

(e) be exported on or before the departure of the person referenced in subparagraph (b), or within such other period reasonably related to the purpose of the temporary admission as the Party may establish, or within the maximum timeframe set by a Party for temporary admission of a good, unless extended;

(f) are admitted in no greater quantity than is reasonable for their intended use; and

(g) be otherwise admissible into the Party's territory under its laws.

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

5. Each Party, through its customs administration, shall adopt procedures providing for the expeditious release of goods admitted under this Article.

6. Each Party shall permit goods temporarily admitted under this Article to be re-exported through a customs authorised point of departure other than through which they were admitted.

7. Each Party shall provide that the importer or other person responsible for goods admitted in accordance with this Article shall not be liable for failure to export the goods within the period fixed for temporary admission, including any lawful extension, on presentation of satisfactory proof to the importing Party that the goods were totally destroyed.

## Article 2.10
## Import and Export Restrictions

1. 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, including its interpretative notes. To this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*. For greater certainty, the scope of this Article shall include trade in remanufactured goods.

2. Neither Party shall adopt or maintain:

   (a) export and import 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 AD Agreement.

## Article 2.11
## Remanufactured Goods

1. Unless otherwise provided for in this Agreement, neither Party shall accord to a remanufactured good of the other Party a treatment that is less favourable than that it accords to a like good in new condition, provided such remanufactured good enjoys a similar warranty to a like good in new condition. Each Party may require that a remanufactured good is identified as such for distribution or sale.

2. 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.

## Article 2.12
## Import Licensing Procedures

1. Each Party shall ensure that its automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement.

2. Each Party shall notify the other Party of any new import licensing procedures and any modification to its import licensing procedures. A Party shall do so 60 days before the new procedure or modification takes effect, whenever practicable. In no case shall a Party provide the notification later than 60 days after the date of its publication.

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 to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5.2 of the Import Licensing Agreement.

4. 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 paragraph (a) of Article 1.4 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.

5. At the request of a Party, the other Party shall promptly provide any relevant information, including the information specified in Article 5.2 of the Import Licensing Agreement, with regard to any import licensing procedures that it has adopted or maintains, or changes to existing licensing procedures.

6. Each Party shall respond within 60 days to enquiries from the other Party or traders regarding the criteria employed by its respective licensing authorities in granting or denying import licenses.

## Article 2.13
## Export Licensing Procedures

1. Each Party shall consider the application of other appropriate measures to achieve an administrative purpose when seeking to adopt or review an export licensing procedure.

2. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure. Whenever practicable that publication shall take place 45 days before the procedure or modification takes effect.

3. Within 30 days of the date of entry into force of this Agreement, each Party shall notify the other Party of its existing export licensing procedures. Each Party shall notify to the other Party any new export licensing procedures and any modifications to existing export licensing procedures, within 60 days of its publication. These notifications shall include references to the source or sources where the information required in accordance with paragraph 4 is published.

4. Each Party shall ensure that it includes in the publications it has notified under paragraph 2:

(a) the texts of its export licensing procedures, including any modifications it makes to those procedures;

(b) the goods subject to each export licensing procedure;

(c) for each export licensing procedure, a description of:

(i) the process for applying for a licence; and

(ii) any criteria an applicant must meet to be eligible to apply for a licence, such as possessing an activity licence, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export licence;

(e) the administrative body or bodies to which an application for a licence or other relevant documentation must be submitted;

(f) a description of or a citation to a publication reproducing in full any measure or measures that the export licensing procedure is designed to implement;

(g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;

(h) if the Party intends to use an export licensing procedure to administer an export quota, the overall quantity and, if practicable, value of the quota and the opening and closing dates of the quota; and

(i) any exemptions or exceptions that replace the requirement to obtain an export licence, how to request or use those exemptions or exceptions, and the criteria for granting them.

5. For greater certainty, nothing in this Article requires a Party to grant an export licence, or prevents a Party from adopting, maintaining, or implementing a domestic export control regime and sanctions regime, or from implementing its obligations or commitments under United Nations Security Council Resolutions, as well as multilateral non-proliferation and export control agreements and arrangements, including but not limited to the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies* done at Wassenaar on 12 July 1996; the Australia Group; the Nuclear Suppliers Group; the Missile Technology Control

Regime; the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction* done at Paris on 13 January 1993; the *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction* done at Washington, London, and Moscow on 10 April 1972; and the *Treaty on the Non-Proliferation of Nuclear Weapons* done at London, Moscow, and Washington on 1 July 1968.

**Article 2.14**
**Administrative Fees and Formalities**

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 and its interpretive notes, that fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of GATT 1994, and anti-dumping 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 or a taxation on imports or exports for fiscal purposes.

2. Each Party shall promptly make publicly available online 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 reason for the fees and charges, the responsible authority, and when and how payment is to be made, has been published.

3. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

4. Neither Party shall levy fees and charges on or in connection with importation or exportation on an *ad valorem* basis.

**Article 2.15**
**Export Duties, Taxes, and 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 adopted or maintained on that good destined for domestic consumption. For greater certainty, this Article shall not apply to any duty, tax, or other charge on the exportation of goods imposed in accordance with Article 2.14 (Administrative Fees and Formalities).

## 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 exchange import data of trade between the Parties for a 15 year-long period starting in the year following the date of entry into force of this Agreement. Unless the Trade in Goods Sub-Committee agrees otherwise, this period shall be automatically extended for five years and thereafter the Trade in Goods Sub-Committee may decide to extend it further.

2. The exchange of import data of trade between the Parties shall cover data pertaining to the most recent calendar year available (including for a partial calendar year after the date of entry into force of this Agreement), including value and, where possible, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and for those that receive non-preferential treatment, including under suspension regimes used by the Parties upon importation, in order to allow for an assessment of preference utilisation under this Agreement.

## Article 2.17
## Trade in Goods Sub-Committee

1. The Trade in Goods Sub-Committee established under Article 30.9 (Sub-Committees – Institutional Provisions) is composed of government representatives of each Party.

2. The Trade in Goods Sub-Committee shall meet at the request of either Party or at the request of the Joint Committee and in any event within one year of the date of entry into force of this Agreement. The Trade in Goods Sub-Committee shall be co-chaired by representatives of each Party and hosted alternatively. Meetings may occur in person or by any other means as mutually determined by the Parties.

3. The Trade in Goods Sub-Committee may consider any matter arising under this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 7 (Technical Barriers to Trade), or Chapter 8 (Trade Remedies).

4. The Trade in Goods Sub-Committee's functions shall include:

   (a) promoting trade in goods between the Parties, including through consultation on accelerating tariff elimination under this Agreement and other issues as appropriate;

   (b) reviewing and monitoring the implementation of this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4

(Customs Procedures and Trade Facilitation), Chapter 7 (Technical Barriers to Trade), and Chapter 8 (Trade Remedies);

(c) promptly addressing tariff and non-tariff barriers to trade in goods between the Parties, including those relating to Chapter 7 (Technical Barriers to Trade);

(d) reviewing the future amendments to the Harmonized System to ensure that the obligations of the Parties are not altered, including by establishing, as needed, guidelines for the transposition of Parties' Schedules to Annex 2A (Schedule of Tariff Commitments for Goods) and consulting to resolve any conflicts between:

(i) amendments to the Harmonized System and Annex 2A (Schedule of Tariff Commitments for Goods); or

(ii) Annex 2A (Schedule of Tariff Commitments for Goods) and national nomenclatures;

(e) consulting on 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 (Schedule of Tariff Commitments for Goods);

(f) monitoring preference utilisation rates and statistics, the data of which may be presented for an exchange of views by the Trade in Goods Sub-Committee to the Joint Committee;

(g) working with any Sub-Committee or other subsidiary body established under this Agreement on those issues that may be relevant to that body, as appropriate;

(h) where appropriate, referring matters considered by the Trade in Goods Sub-Committee to the Joint Committee;

(i) consideration of issues discussed and referred from the Rules of Origin and Customs and Trade Facilitation Working Group and the Wine and Distilled Spirits Working Group; and

(j) undertaking any other work that the Joint Committee may assign to it.

5. All decisions and reports of the Trade in Goods Sub-Committee shall be made by mutual agreement.

6. The Trade in Goods Sub-Committee shall report to the Joint Committee with respect to its activities.

## Article 2.18
## Consultations

1. Where a Party considers that a non-tariff measure on the importation of goods of the other Party or on the exportation of any good destined for the territory of the other Party adversely affects trade in goods between the Parties, that Party may 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 promptly to such requests for information and consultations.

2. Where a non-tariff measure of the type described in paragraph 1 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. For the avoidance of doubt, paragraph 4 of Article 5.17 (Technical Consultations – Sanitary and Phytosanitary Measures) shall not apply with respect to this Article.

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. Unless the Parties mutually determine otherwise, within 30 days of the requesting Party's receipt of the reply, the Parties shall enter into 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, the responding Party shall give prompt and reasonable consideration to any request to hold consultations within a shorter timeframe than that provided for under paragraph 4.

6. Any consultations undertaken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 31 (Dispute Settlement) or under the *Understanding on Rules and Procedures Governing the Settlement of Disputes* in Annex 2 to the WTO Agreement.