

CHAPTER 2

TRADE IN NON-AGRICULTURAL PRODUCTS

ARTICLE 2.1

Scope

This Chapter applies to trade between the Parties relating to products as set out in Annex III.

ARTICLE 2.2

Rules of Origin and Methods of Administrative Cooperation

The rules of origin and methods of administrative cooperation are set out in Annex I.

ARTICLE 2.3

Import Duties

1. Upon entry into force of this Agreement, the Parties shall abolish all customs duties and charges having equivalent effect to customs duties on imports of products originating in a Party covered by Article 2.1, except as otherwise provided for in Annexes IV and V. No new customs duties and charges having equivalent effect to customs duties shall be introduced.

2. Import duties and charges having equivalent effect to import duties include any duty or charge of any kind imposed in connection with the importation of a product, including any form of surtax or surcharge, but does not include any charge imposed in conformity with Articles III and VIII of the GATT 1994.

3. The Parties recognise that they may, following a unilateral tariff reduction, raise a customs duty to the level established in the tariff dismantling schedule of each Party, for the respective year.

ARTICLE 2.4

Export Duties

1. The Parties shall, upon entry into force of this Agreement, eliminate all customs duties and other charges, including surcharges and other forms of contributions, in relation to the exportation of goods to another Party, except as provided for in Annex VI.

2. No new customs duties or other charges in relation to the exportation of goods to a Party shall be introduced.

ARTICLE 2.5

Customs Valuation¹

For the purposes of determining the customs value of products traded between the Parties, Article VII of the GATT 1994 and Part I of the Agreement on Implementation of Article VII of the GATT 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.6

Quantitative Restrictions

Upon entry into force of this Agreement, all import or export prohibitions or restrictions on trade in goods between EFTA States and Central American States, other than customs duties and taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be eliminated on all products of each Party.

ARTICLE 2.7

Fees and Formalities

Article VIII of the GATT 1994 shall apply, and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.8

Internal Taxation and Regulations

1. The Parties commit themselves to apply national treatment in relation to internal taxes and other charges and regulations, in accordance with Article III of the GATT 1994, which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Exporters may not benefit from repayment of internal taxes in excess of the amount of indirect taxes imposed on products exported to the territory of one of the Parties.

¹ Liechtenstein and Switzerland apply customs duties based on weight and quantity rather than *ad valorem* duties.

ARTICLE 2.9

Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the “SPS Agreement”).
2. The Parties shall work together in the effective implementation of this Article for the purpose of facilitating bilateral trade.
3. The Parties shall strengthen their cooperation in the field of sanitary and phytosanitary measures, with a view to increasing the mutual understanding of their respective systems and to improving their sanitary and phytosanitary systems.
4. The Parties shall exchange names and addresses of contact points with sanitary and phytosanitary expertise in order to facilitate communication and the exchange of information.
5. Without prejudice to paragraph 1, the Parties agree to hold technical consultations where a Party considers that another Party has taken or is considering a measure not in conformity with the SPS Agreement, in order to find an appropriate solution in conformity with the SPS Agreement. Such consultations, which may be held within or outside the framework of the Joint Committee, shall take place within 40 days from the request. If consultations are held outside the framework of the Joint Committee, the latter should be informed thereof. Such consultations may be conducted by any agreed method.

ARTICLE 2.10

Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the “TBT Agreement”).
2. The Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. To this end, they shall in particular cooperate in:
 - (a) reinforcing the role of international standards as a basis for technical regulations, including conformity assessment procedures;
 - (b) promoting the accreditation of conformity assessment bodies on the basis of relevant Standards and Guides of the International Organisation for Standardisation (ISO) and the International Electrotechnical Commission (IEC);

- (c) promoting mutual acceptance of conformity assessment results of conformity assessment bodies, which have been recognised under appropriate multilateral agreements between their respective accreditation systems or bodies; and
 - (d) reinforcing the transparency in the development of technical regulations and conformity assessment procedures of the Parties, among others, to ensure that all adopted technical regulations are published on official websites with public access.
3. Where a Party detains at a port of entry, goods originating in another Party due to a perceived failure to comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention.
4. The Parties shall exchange names and addresses of contact points with expertise on technical regulations in order to facilitate communication and the exchange of information.
5. Without prejudice to paragraph 1, the Parties agree to hold technical consultations where a Party considers that another Party has taken or is considering a measure not in conformity with the TBT Agreement, in order to find an appropriate solution in conformity with the TBT Agreement. Such consultations, which may be held within or outside the framework of the Joint Committee, shall take place within 40 days from the request. If consultations are held outside the framework of the Joint Committee, the latter should be informed thereof. Such consultations may be conducted by any agreed method.
6. The Parties shall no later than two years after the entry into force of this Agreement and thereafter upon request of a Party, jointly review this Article in the Joint Committee. In its assessment, the Joint Committee shall consider among others the acceptance of conformity assessment procedures and results undertaken by all Parties with a third party.

ARTICLE 2.11

Trade Facilitation

Provisions related to trade facilitation are set out in Annex VII.

ARTICLE 2.12

Sub-Committee on Trade in Goods

1. A Sub-Committee of the Joint Committee on Trade in Goods (hereinafter referred to as “Sub-Committee”) is hereby established.
2. The mandate of the Sub-Committee is set out in Annex VIII.

ARTICLE 2.13

State Trading Enterprises

With respect to the rights and obligations of the Parties concerning state trading enterprises, Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994 shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.14

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as provided for in paragraph 2.
2. Before a Party initiates an investigation to determine the existence, degree and effect of any alleged subsidy in another Party, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 45 day period with a view to finding a mutually acceptable solution. Consultations shall take place in the Joint Committee if any Party so requests within 20 days from the receipt of the notification.
3. Chapter 12 shall only apply to paragraph 2.

ARTICLE 2.15

Anti-dumping

1. The rights and obligations relating to anti-dumping measures shall be governed by Article VI of the GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994 (hereinafter referred to as “the WTO Anti-dumping Agreement”), subject to the provisions below.
2. When a Party receives a properly documented application and before initiating an investigation under the WTO Anti-dumping Agreement, the Party shall notify in writing to the other Party whose goods are allegedly being dumped and allow a 20-day period for consultation with a view of trying to find a mutually acceptable solution. If a solution cannot be reached, each Party retains its rights and obligations under Article VI of the GATT 1994 and the WTO Anti-dumping Agreement.
3. Should a Party decide to impose an anti-dumping duty, the amount of such duty shall not exceed the margin of dumping, but it shall be less than the margin of dumping if such lesser duty would be adequate to remove the injury to the domestic industry.

4. Anti-dumping measures may not be applied by a Party where, on the basis of the information made available during the investigation, it is concluded that it would not be in the public interest to apply such measures.

5. Any anti-dumping measure applied against imports of a Party, shall be terminated without exception on a date not later than five years from its imposition. After the termination, a new investigation procedure can be started against the imports of a Party.

6. Five years after the date of entry into force of this Agreement, the Joint Committee shall review this Article in order to determine whether its content is necessary considering the policy objectives of the Parties.

7. Chapter 12 shall only apply to paragraphs 2 to 5.

ARTICLE 2.16

Global Safeguard Measures

1. The rights and obligations of the Parties in respect of global safeguards shall be governed by Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

2. In taking measures according to paragraph 1, a Party shall exclude imports of an originating product from one or several Parties if such imports do not in and of themselves cause or threaten to cause serious injury. The Party taking the measure shall demonstrate that such exclusion is in accordance with the jurisprudence of the World Trade Organisation (hereinafter referred to "WTO").

3. No Party may apply, with respect to the same product, at the same time:

- (a) a bilateral safeguard measure; and
- (b) a measure under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

4. Chapter 12 shall only apply to paragraphs 2 and 3.

ARTICLE 2.17

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause² of serious

² Substantial cause means a cause which is important and not less than any other cause.

injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of paragraphs 2 to 9.

2. Bilateral safeguard measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

3. The Party intending to take or extend a bilateral safeguard measure under this Article shall immediately, and in any case before taking a measure, notify the other Parties. The notification shall contain all pertinent information, including evidence of serious injury or threat thereof caused by increased imports, a precise description of the product concerned, and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure. A Party that may be affected by the bilateral safeguard measure shall be offered compensation in the form of substantially equivalent trade liberalisation in relation to the imports from any such Party.

4. If the conditions set out in paragraph 1 are met, the importing Party may take measures consisting in:

- (a) suspending the further reduction of any rate of customs duty provided for under this Agreement for the product; or
- (b) increasing the rate of customs duty for the product to a level not to exceed the lesser of:
 - (i) the Most-Favoured-Nation (hereinafter referred to as “MFN”) rate of duty applied at the time the action is taken; or
 - (ii) the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

5. Bilateral safeguard measures shall only be taken during the transition period which shall be five years from the date of entry into force of this Agreement. Where the liberalisation process lasts five or more years, the transition period means the tariff elimination period for the goods according to the Party’s schedule of tariff commitments in Annexes IV, V and IX to XIV plus two years. Bilateral safeguard measures shall only be taken for a period not exceeding two years. In very exceptional circumstances, measures may be taken up to a total maximum period of four years. No bilateral safeguard measures shall be applied to the import of a product, which has previously been subject to such a measure.

6. The Joint Committee shall, within 30 days from the date of notification, examine the information provided under paragraph 3 in order to facilitate a mutually acceptable resolution of the matter. In the absence of such resolution, the importing Party may adopt a bilateral safeguard measure pursuant to paragraph 4 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the

bilateral safeguard measure is taken may take compensatory action. The bilateral safeguard measure and the compensatory action shall be immediately notified to the other Parties. In the selection of the bilateral safeguard measure and the compensatory action, priority must be given to the measure which least disturbs the functioning of this Agreement. The Party taking compensatory action shall apply the measure only for the minimum period necessary to achieve the substantially equivalent trade effects and in any event, only while the bilateral safeguard measure under paragraph 4 is being applied.

7. Upon the termination of the bilateral safeguard measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

8. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional bilateral safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The Party intending to take such a measure shall immediately notify the other Parties thereof. Within 30 days of the date of the notification, the pertinent procedures set out in paragraphs 2 to 6, including for compensatory action shall be initiated. Any mutually agreed compensation and any compensatory action shall be based on the total period of application of the provisional bilateral safeguard measure and of the bilateral safeguard measure.

9. Any provisional bilateral safeguard measure shall be terminated within 200 days at the latest. The period of application of any such provisional bilateral safeguard measure shall be counted as part of the duration, and any extension thereof, of the bilateral safeguard measure, set out in paragraphs 4 and 5. Any tariff increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

10. For the purposes of this Article, the definitions established in Article 4.1 of the WTO Agreement on Safeguards shall apply.

ARTICLE 2.18

General Exceptions

With respect to the rights and obligations of the Parties concerning general exceptions, Article XX of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.19

Security Exceptions

With respect to the rights and obligations of the Parties concerning security exceptions, Article XXI of the GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.20

Balance-of-Payments

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance of payments purposes.
2. A Party in serious balance of payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under the GATT 1994 and the WTO Understanding on the Balance-of-Payments Provisions of the GATT 1994, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation.
3. The Party introducing a measure under this Article shall promptly notify the other Parties thereof.