

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**

**CHAPTER THREE**  
**AGRICULTURE**

**ARTICLE 3.1: SCOPE AND COVERAGE**

This Chapter applies to measures adopted or maintained by a Party relating to trade in agricultural goods.<sup>1</sup>

In addition, the provisions of Article 3.2 apply to all goods included in Appendix 2-B-1 to Annex 2-B (Tariff Elimination) of this Chapter of either Party, whether or not those goods are agricultural goods.

**ARTICLE 3.2: ADMINISTRATION AND IMPLEMENTATION OF TARIFF RATE QUOTAS**

1. Each Party shall implement and administer the tariff-rate quotas for agricultural goods set out in Appendix 2-B-1 to Annex 2-B (tariff elimination) (hereafter “TRQs”) in accordance with Article XIII of GATT 1994, including its interpretive notes, and the WTO Agreement on Import Licensing Procedures.
2. Each Party shall ensure that:
  - (a) its procedures for administering its TRQs are transparent, made available to the public, timely, nondiscriminatory, responsive to market conditions, minimally burdensome to trade, and reflect end user preferences;
  - (b) any person of a Party that fulfills the importing Party’s legal and administrative requirements shall be eligible to apply and to be considered for a quota allocation under the Party’s TRQs. Unless otherwise agreed by the Parties, any processor, retailer, restaurant, hotel or food service distributor or institution, or any other person is eligible to apply to be considered to receive a quota allocation. Any fees charged for services related to application for a quota allocation shall be limited to the actual cost of the service rendered.
  - (c) except as specified in Appendix 2-B-1 of each Party to Annex 2-B (tariff elimination), it does not allocate any portion of a quota to a producer group, condition access to a quota allocation on the purchase of domestic production, or limit access to a quota allocation to processors; and
  - (d) it allocates quotas under its TRQs in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that importers request. Except as otherwise provided in each TRQ provision and its applicable tariff line, each tariff-quota allocation shall be valid for any item or mixture of items subject to the same tariff-quota, regardless of specification or grade, shall not be conditioned upon intended end-use, and shall not be conditioned on package size.

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<sup>1</sup> For greater clarity, this Article is subject to paragraph 3(m) of the General Notes of Korea to Annex 2-B (Tariff Elimination).

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3. Each Party shall identify the entities responsible for administering its TRQs in Appendix 2-B-1 to Annex 2-B(Tariff Elimination).
4. Each Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilize import quotas.
5. Neither Party may condition application for, or utilization of, quota allocations under a TRQ on the re-export of an agricultural good.
6. On request of either Party, the Parties shall consult regarding the administration of the importing Party's TRQs.
7. Except as otherwise provided in Appendix 2-B-1 to Annex 2-B(Tariff Elimination), each Party shall make the entire tariff-quota quantity established in that appendix available to quota applicants by January 1<sup>st</sup> of each year. For each TRQ, the administering authority shall publish on the importing Party's designated website, in a timely fashion, the TRQ utilization rates and remaining available quantities.

**ARTICLE 3. 3: AGRICULTURAL SAFEGUARD MEASURES**

1. Notwithstanding Article 2.3 (Elimination of Customs Duties), a Party may apply a measure in the form of a higher import duty on an originating agricultural good listed in that Party's Schedule to Annex 3-A (Agricultural Safeguard Measures), consistent with paragraphs 2 through 8, if the aggregate volume of import goods in any year exceeds a trigger level as set out in its section of Annex 3-A ("trigger level").
2. The duty under paragraph 1 shall not exceed the lesser of the prevailing most-favored-nation ("MFN") applied rate, or the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement, or the tariff rate set out in its section of Annex 3-A.
3. The duty applied under paragraph 1 shall be set according to the schedules in Annex 3-A.
4. Neither Party may apply or maintain an agricultural safeguard measure and at the same time apply or maintain, with respect to the same good:
  - (a) a safeguard measure under Chapter Ten (Trade Remedies); or
  - (b) a measure under Article XIX of GATT 1994 and the WTO Agreement on Safeguards.
5. Each Party shall implement any safeguard measure in a transparent manner. Within 60 days after imposing a measure, a Party shall notify the other Party in writing and shall provide it with relevant data concerning the measure. On request, the Party applying the measure shall consult with the Party whose good is subject to the measure regarding application of the measure.
6. The implementation and operation of this Article may be the subject of discussion and review in the Joint Committee, or in the Committee on Agricultural Trade.

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7. Neither Party may apply or maintain an agricultural safeguard measure on an originating agricultural good:
- (a) after the expiration of the period specified in the agricultural safeguard provisions of the Party's Schedule to Annex 3-A.
  - (b) that increases the in-quota duty on a good subject to a tariff-rate quota.
8. Originating goods from either Party shall not be subject to any duties applied pursuant to any agricultural safeguard measure taken under the WTO Agreement on Agriculture.

**ARTICLE 3.4: COMMITTEE ON AGRICULTURAL TRADE**

1. Not later than 90 days after the date of entry into force of this Agreement, the Parties shall establish a Committee on Agricultural Trade, comprising representatives of each Party.
2. The Committee shall provide a forum for:
- (a) monitoring and promoting cooperation on the implementation and administration of this Chapter;
  - (b) consulting between the Parties on matters related to this Chapter in coordination with other committees, subcommittees, working groups, or other bodies established under this Agreement; and
  - (c) undertaking any additional work that the Committee may assign.
3. The Committee shall meet at least once a year unless it decides otherwise. Meetings of the Committee shall be chaired by the representatives of the Party hosting the meeting.
4. All decisions of the Committee shall be taken by consensus.

**ARTICLE 3.5: DEFINITIONS**

For purposes of this Chapter,

The term "agricultural goods" means those goods referred to in Article 2 of the WTO Agreement on Agriculture.