

Chapter III: National Treatment and Market Access of Goods

Article III.1 Scope and Coverage

This Chapter applies to trade in goods of a Party, including goods covered by Annex III.1 (Textile and Apparel Goods), except as provided in such Annex.

Section I - National Treatment

Article III.2 National Treatment

1. 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, and to this end Article III of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement.

2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a province, treatment no less favourable than the most favourable treatment accorded by such province to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part.¹

3. Paragraphs 1 and 2 do not apply to the measures set out in Annex III.2 (Exceptions to Articles III.2 and III.7).

Section II - Tariffs

Article III.3 Tariff Elimination²

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any customs duty, on a good.³

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on goods in accordance with its Schedule to Annex III.3.1 (Tariff Elimination)⁴ and Annex III.3.2 (Special Safeguards).

3. During the tariff elimination process, the Parties agree to apply to originating goods traded between them, the lesser of the customs duties resulting from a comparison between the rate established in accordance with the Tariff Elimination Schedule, and the existing rate pursuant to Article II of GATT 1994.

¹ “Goods of a Party” includes goods produced in the province of that Party.

² For the purpose of Article III.3, a good may refer to an originating good or a good which benefits from tariff elimination under a TPL.

³ This paragraph is not intended to prevent either Party from modifying its tariffs outside this Agreement on goods for which no tariff preference is claimed under this Agreement. This paragraph does not prevent either Party from raising a tariff back to an agreed level in accordance with the phase-out schedule in this Agreement following a unilateral reduction.

⁴ Paragraphs 1 and 2 of this Article are not intended to prevent either Party from maintaining or increasing a customs duty as may be authorized by any dispute settlement provision of the WTO Agreement or any agreement under the WTO Agreement.

4. On the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules or incorporating into one Party's Tariff Elimination Schedule goods that are not subject to the elimination schedule. An agreement between the Parties to accelerate the elimination of a customs duty on a good or to include a good in the Tariff Elimination Schedule shall supersede any duty rate or staging category determined pursuant to their Schedules for such good when approved by each such Party in accordance with its applicable legal procedures.

5. Except as otherwise provided in this Agreement, either Party may adopt or maintain import measures to allocate in-quota imports made pursuant to a tariff rate quota set out in Annex III.3.1 (Tariff Elimination), provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota.

6. On written request of either Party, a Party applying or intending to apply measures pursuant to paragraph 5 shall consult to review the administration of those measures.

Article III.4 Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for:

- (a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter X (Temporary Entry);
- (b) equipment for the press or for sound or television broadcasting and cinematographic equipment;
- (c) goods imported for sports purposes and goods intended for display or demonstration; and
- (d) commercial samples and advertising films;

imported from the territory of the other Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.

2. Except as otherwise provided in this Agreement, neither Party may condition the duty-free temporary admission of a good referred to in paragraph 1(a), (b) or (c), other than to require that such good:

- (a) be imported by a national or resident of the other Party who seeks temporary entry;
- (b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person;
- (c) not be sold or leased while in its territory;
- (d) be accompanied by a bond in an amount no greater than 110 per cent of the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good;⁵

⁵ Where another form of monetary security is used, it shall not be more burdensome than the bonding requirement referred to in this subparagraph. Where a Party uses a non-monetary form of

- (e) be capable of identification when exported;
- (f) be exported on the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and
- (g) be imported in no greater quantity than is reasonable for its intended use.

3. Except as otherwise provided in this Agreement, neither Party may condition the duty-free temporary admission of a good referred to in paragraph 1(d), other than to require that such good:

- (a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party;
- (b) not be sold, leased or put to any use other than exhibition or demonstration while in its territory;
- (c) be capable of identification when exported;
- (d) be exported within such period as is reasonably related to the purpose of the temporary admission; and
- (e) be imported in no greater quantity than is reasonable for its intended use.

4. Where a good is temporarily admitted duty-free under paragraph 1 and any condition the Party imposes under paragraph 2 and 3 has not been fulfilled, a Party may impose:

- (a) the customs duty and any other charge that would be owed on entry or final importation of the good; and
- (b) any applicable criminal, civil or administrative penalties that the circumstances may warrant.

5. Neither Party:

- (a) shall prevent a vehicle or container used in international traffic that enters its territory from the territory of the other Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
- (b) may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;
- (c) may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and
- (d) may require that the vehicle or carrier bringing a container from the territory of the other Party into its territory be the same vehicle or carrier that takes such container to the territory of the other Party.

security, it shall not be more burdensome than existing forms of security used by that Party.

6. For purposes of paragraph 5, "vehicle" means a truck, a truck tractor, tractor, trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

Article III.5 Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials

Each Party 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 such materials nor packets form part of a larger consignment.

Article III.6 Goods Re-Entered after Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been 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 its territory.⁶

2. Neither Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

Section III - Non-Tariff Measures

Article III.7 Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party may 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, including its interpretative notes, and to this end Article XI of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made a part of this Agreement.

2. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:

- (a) limiting or prohibiting the importation from the territory of the other Party of such good of that non-Party; or
- (b) requiring as a condition of export of such good of the Party to the territory of the other Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

⁶ This paragraph does not cover goods imported in bond, into foreign trade zones, or in similar status, that are exported for repair and are not re-imported in bond, into foreign trade zones, or in similar status.

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Parties, on request of the other Party, shall consult with a view to avoiding undue interference with or distortion of pricing, marketing and distribution arrangements in the other Party.

5. Paragraphs 1 through 4 shall not apply to the measures set out in Annex III.2 (Exceptions to Articles III.2 and III.7).

Article III.8 Wine and Distilled Spirits

1. Neither Party may adopt or maintain any measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with any distilled spirits of the Party.

2. Annex III.8 (Wine and Distilled Spirits) applies to other measures relating to wine and distilled spirits.

Article III.9 Geographical Indications

The Parties shall protect the geographical indications for their products according to their rights and obligations set out in the *Agreement on Trade Related Intellectual Property Rights*, Annex 1C of the WTO Agreement, and any successor agreement to which both Parties are party.

Article III.10 Export Taxes

Subject to the provisions in Annex III.10 (Export Taxes), neither Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of the other Party, unless such duty, tax or charge is adopted or maintained on any such good when destined for domestic consumption.

Article III.11 Other Export Measures

1. Except as set out in Annex III.2 (Exceptions to Articles III.2 and III.7), a Party may adopt or maintain a restriction otherwise justified under Articles XI.2 (a) or XX (g), (i) or (j) of the GATT 1994 with respect to the export of a good of the Party to the territory of the other Party, only if:

- (a) the restriction does not reduce the proportion of the total export shipments of the specific good made available to the other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36-month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree;
- (b) the Party does not impose a higher price for exports of a good to the other Party than the price charged for such good when consumed domestically, by means of any measure, such as licenses, fees, taxation and minimum price requirements. The foregoing provision does not apply to a higher price that may result from a measure taken pursuant to subparagraph (a) that only restricts the volume of exports; and
- (c) the restriction does not require the disruption of normal channels of supply to the other Party or normal proportions among specific goods or categories of goods supplied to the other Party.

2. The Parties shall cooperate in the maintenance and development of effective controls on the export of each other's goods to a non-Party in implementing this Article.

Article III.12 Export Subsidies on Agricultural Goods

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall cooperate in an effort to achieve such an agreement.

2. Notwithstanding any other provisions of this Agreement, the Parties agree to eliminate, as of the date of entry into force of this Agreement, any form of export subsidy for agricultural goods destined for the other Party, and to prevent the reintroduction of such subsidies in any form.

Article III.13 Domestic Support for Agricultural Goods

2. The Parties recognize that domestic support measures can be of crucial importance to their agricultural sectors but may also have distorting effects on the production and trade of agricultural goods.

3. The Parties agree to cooperate in the WTO negotiations on agriculture to achieve:

- (a) the maximum possible reduction or elimination of production and trade-distorting domestic support, including support under “production limiting” or “blue box” programs;
- (b) an overall limit on the amount of domestic support of all types (“green”, “blue” and “amber”);
- (c) a review of the criteria for the “green box” category to ensure that “green” support does not distort production and trade; and
- (d) agreement that “green box” support should not be countervailable.

3. Pending the elimination of trade-distorting domestic support measures, if either Party maintains such a measure which the other Party considers to be distortive of bilateral trade under this Agreement, the Party applying the measure shall, at the request of the other Party, consult with a view to making a best efforts endeavour to avoid nullification or impairment of concessions granted under this Agreement.

Section IV - Consultations

Article III.14 Consultations and Committee on Trade in Goods and Rules of Origin

1. The Parties hereby establish a Committee on Trade in Goods and Rules of Origin, comprising representatives of each Party.

2. The Committee shall meet periodically, and at any other time on the request of either Party or the Commission, to ensure the effective implementation and administration of this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations. In this regard, the Committee shall:

- (a) monitor the implementation and administration by the Parties of this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional

Provisions) and any Uniform Regulations to ensure their uniform interpretation;

- (b) at the request of either party, review any proposed modification of or addition to this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) or any Uniform Regulations;
- (c) recommend to the Commission any modification of or addition to this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) or any Uniform Regulations and to any other provision of this Agreement as may be required to conform with any change to the Harmonized System; and
- (d) consider any other matter relating to the implementation and administration by the Parties of this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations referred to it by:
 - (i) a Party;
 - (ii) the Customs Sub-Committee established under Article V.13 (The Customs Sub-Committee); or
 - (iii) the Sub-Committee on Agriculture established under paragraph 4.

3. If the Committee fails to resolve a matter referred to it pursuant to paragraph 2 (b) or (d) within 30 days of such referral, either Party may request a meeting of the Commission under Article XIII.1 (The Free Trade Commission).

4. The Parties hereby establish a Sub-Committee on Agriculture that shall:

- (a) provide a forum for the Parties to consult on issues relating to market access for agricultural goods;
- (b) monitor the implementation and administration of this Chapter, Chapter IV (Rules of Origin), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations as they affect agricultural goods;
- (c) meet periodically or whenever so requested by either Party;
- (d) refer to the Committee any matter under sub-paragraph (b) on which it has been unable to reach agreement;
- (e) submit to the Committee for its consideration any agreement reached under this paragraph;
- (f) report to the Committee; and
- (g) follow-up and promote cooperation in matters relating to agricultural goods.

5. Each Party shall to the greatest extent practicable, take all necessary measures to implement any modification of or addition to this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade

Facilitation and Additional Provisions) and any Uniform Regulations within 180 days of the date on which the Commission agrees on the modification or addition.

6. The Parties shall convene on the request of either Party a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, and regulation of transportation for the purpose of addressing issues related to movement of goods through the Parties' ports of entry.

7. Nothing in this Chapter shall be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to a matter under consideration by the Committee or from taking such other action as it considers necessary, pending a resolution of the matter under this Agreement.

Article III.15 Customs Valuation Agreement

The Customs Valuation Agreement and any successor Agreement shall govern the customs valuation rules applied by the Parties to their reciprocal trade. The Parties agree that they will not make use in their reciprocal trade of the options and reservations permitted under Article 20 and paragraphs 2, 3 and 4 of Annex III of the Customs Valuation Agreement.

Section V - Definitions

Article III.16 Definitions

For purposes of this Chapter:

advertising films means recorded visual media, with or without sound-tracks, consisting essentially of images showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film and that do not form part of a larger consignment;

agricultural goods means the products listed in Annex 1 of the *WTO Agreement on Agriculture* with any subsequent changes agreed in the WTO to be automatically effective for this Agreement.

commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than one U.S. dollar, or the equivalent amount in the currency of either of the Parties, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

consumed means:

- (a) actually consumed; or
- (b) further processed or manufactured so as to result in a substantial change in value, form or use of the good or in the production of another good;

customs duty includes any customs or import duty and a 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 consistently with Article III:2 of the GATT 1994, or any equivalent provision of a successor agreement to

which both Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

- (b) antidumping measure or countervailing duty that is applied pursuant to a Party's domestic law and not applied inconsistently with Chapter VII (Antidumping Measures);
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered; and
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

distilled spirits include distilled spirits and distilled spirit-containing beverages;

duty-free means free of customs duties;

export subsidies means subsidies contingent on export performance as defined in Article 1.(e) of the *WTO Agreement on Agriculture*, with any subsequent changes agreed in the WTO to be automatically effective for this Agreement;

goods imported for sports purposes means sports requisites for use in sports contests, demonstrations or training in the territory of the Party into whose territory such goods are imported;

goods intended for display or demonstration includes their component parts, ancillary apparatus and accessories;

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, publicize or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

repair or alteration does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good;⁷

total export shipments means all shipments from total supply to users located in the territory of the other Party;

total supply means all shipments, whether intended for domestic or foreign users, from:

- (a) domestic production;
- (b) domestic inventory; and
- (c) other imports as appropriate.

⁷ An operation or process that is part of the production or assembly of an unfinished good into a finished good is not a repair or alteration of the unfinished good; a component of a good is a good that may be subject to repair or alteration.