

PART TWO

Trade in Goods

Chapter 3

National Treatment and Market Access for Goods

Article 3.01 Scope and Coverage

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

Section A: National Treatment

Article 3.02 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 are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. For purposes of paragraph 1, each Party shall grant the goods of the other Party the treatment no less favorable than the most favorable treatment granted by this Party to the like, directly competitive or substitutable goods of its national origin.
3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 3.03.7.

Section B: Customs Tariff

Article 3.03 Customs Tariff Elimination Schedule

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any new customs duty, on an originating good.
2. Except as otherwise provided in this Agreement, on the date of entry into force of this Agreement the Parties shall progressively eliminate its customs duties on imported goods originating from the other Party, in accordance with Annex 3.03.
3. Paragraph 1 does not prevent a Party from increasing a customs duty to a level no higher than the one established in the Customs Tariff Elimination Schedule, when it has previously been reduced unilaterally to a level below the one established on the Customs Tariff Elimination Schedule. During the customs tariff elimination process the Parties shall undertake to apply in their trade of originating goods the lower customs tariff obtained by comparing the level established in accordance with

its respective Customs Tariff Elimination Schedule and the level in force according to Article I of GATT 1994.

4. For greater certainty, a Party may:
 - (a) raise a customs duty back to the level established in its Schedule to Annex 3.03 following a unilateral reduction; or
 - (b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.
5. No party may apply or maintain an agricultural safeguard measure:
 - (a) on or after the date that a good is subject to duty-free treatment under the Party's Schedule to Annex 3.03; or
 - (b) that increases in the in-quota duty on a good subject to a TRQ.
6. Except as otherwise provided in paragraph 1 through 4, a Party could maintain, adopt or modify customs duties on goods excluded from the Customs Tariff Elimination Schedule as provided in Annex 3.03.

Article 3.04 Waiver of Customs Duties

A Party may maintain or adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement for such time as it is in Annex VII countries for purposes of the SCM Agreement. Thereafter, a Party shall maintain any such measures in accordance with Article 27.04 of the SCM Agreement.

Article 3.05 Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:
 - (a) professional equipment, including equipment for the press or television, software and broadcasting and cinematographic equipment, necessary for carrying out the business, trade, or professional activities;
 - (b) goods intended for display or demonstration;
 - (c) commercial samples and advertising films and recordings; and
 - (d) goods admitted for sporting purposes.

2. Each Party shall, at the request of the person concerned and for reasons its customs authority considers valid, extend the time limit for temporary admission beyond the period initially fixed pursuant to the laws of the importing country.

3. No Party may condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that such good:

- (a) not be sold or leased while in its territory;
- (b) be accompanied by a security in an amount no greater than the duties and charges that would otherwise be owed on entry or final importation, reimbursable at the time the product leaves the country;
- (c) be capable of identification when exported;
- (d) be exported according to the national legislation of the Party; and
- (e) be admitted in no greater quantity than is reasonable for its intended use.

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 plus any other charges or penalties provided for under its law.

Article 3.06 Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

A 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) the entry of such samples and advertisement materials shall be governed by respective import regulations of the Parties.

Article 3.07 Goods Re-imported after Repair or Alteration

1. No Party may apply a customs duty to a good, regardless of its origin, that is re-imported into its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration.

2. No 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.

3. The terms “re-imported into its territory” referred to in paragraph 1, and “imported temporarily” referred to in paragraph 2, shall be understood under the respective laws of the Parties.

4. For 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; or
- (b) transforms an unfinished good into a finished good.

Article 3.08 Customs Valuation

Upon the entry into force of this Agreement, the principles of customs valuation applied to regulating trade between the Parties shall be those established in the Customs Valuation Agreement of WTO, including its annexes. Besides, the Parties shall not determine the customs value of the goods based on the officially established minimum value.

Section C: Non-Tariff Measures

Article 3.09 Domestic Supports

1. The Parties recognize that domestic support measures could be of vital importance for their respective agricultural sectors, but also distort trade and affect production. In this respect, the Parties shall apply domestic supports in accordance with the WTO Agriculture Agreement and any other successor agreements to which the Parties are signatories. Where a Party decides to support its agricultural producers, it shall endeavor to achieve an domestic support policy that:

- (a) has a minimal or no effect at all that distorts trade or production; or
- (b) is in conformity with its respective agreements within the WTO.

2. In order to ensure transparency in their policies of support to agriculture, the Parties agree to undertake studies of such policies on an ongoing basis. For such purposes, the information acquired shall be used as the main reference in their respective annual notifications to the Committee on Agriculture of the WTO and copies of the notifications may be exchanged upon request of a Party. Without prejudice to the foregoing, each Party may request additional information and explanations from the other Party. Such requests shall be immediately answered. The resulting information and evaluations may be, at the request of the other Party, subject to consultation with the Committee on Trade in Goods.

Article 3.10 Exports Subsidies

Except as otherwise provided in article 3.04, no Party may adopt or maintain export subsidies on goods in their reciprocal trade.

Article 3.11 Import and Export Restrictions

1. The Parties commit themselves to eliminate the non-tariff barriers to trade, with exception of the Parties' rights in accordance with Articles XX and XXI of GATT 1994.
2. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any goods 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 its interpretative notes, and to this end Article XI of GATT 1994 and its interpretative notes are incorporated into and form an integral part of this Agreement, *mutatis mutandis*.
3. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 2 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:
 - (a) export and import price requirements, except as permitted in enforcement of countervailing and antidumping duty orders and undertakings;
 - (b) import licensing conditioned on the fulfillment of a performance requirement, except as provided in a Party's Schedule to Annex 3.03; or
 - (c) voluntary export restraints inconsistent with Article VI of the GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.
4. 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 of goods to the non-Party from the territory of the other Party; or
 - (b) requiring as a condition of export of such goods of the Party to the territory of the other Party, that the goods not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.
5. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Party, on the request of the other Party, shall consult with a view to avoiding undue interference with or distortion of pricing, marketing or distribution arrangements in the other Party.
6. Paragraphs 2 through 4 shall not apply to the measures set out in Annex 3.03.7.

Article 3.12 Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII.1 of the GATT 1994 and its interpretative notes, that all 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 the 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 products or a taxation of imports or exports for fiscal purposes.
2. No Party may require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.
3. Each Party shall make available and maintain through the Internet a current list of the fees and charges it imposes in connection with importation or exportation.

Article 3.13 Export Taxes

No 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 the supply is insufficient for domestic consumption.

Article 3.14 Obligations under Intergovernmental Agreement

Before adopting a measure consistent with an intergovernmental agreement on products in accordance with paragraph (h) in Article XX of GATT 1994, which may affect trade in basic commodity between the parties, a Party shall consult with the other party to avoid nullification or impairment of concessions granted by a Party in accordance with Article 3.03.

Article 3.15 Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprised of representatives of each Party.
2. The Committee shall meet, on request of either Party or the Commission, to consider any matter arising from this Chapter, Chapter 4 (Rules of Origin and Related Customs Procedures), or Chapter 5 (Trade Facilitation).
3. The Committee's functions shall include:
 - (a) promoting trade in goods between the Parties, including through consultations on accelerating customs tariff reduction under this Agreement and other issues as considered appropriate; and

- (b) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, submitting such matters to the Commission for its consideration.

Section D: Definitions

Article 3.16 Definitions

For purposes of this Chapter:

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

consular transactions means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party, for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required for or in connection with the import;

consumed means:

- (a) actually consumed; or
- (b) processed or manufactured in such a manner that it allows for substantial change in value, form, or use of the good or in the production of another good;

duty-free means free of customs duty;

export subsidies shall have the meaning assigned to that term in Article 1(e) of the WTO Agriculture Agreement, including any amendment to that article;

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

goods temporarily admitted for sporting purposes means sports equipment for use in sports contests or events, or training in the territory of the Party into which such goods are admitted;

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, and tourist promotional materials and posters that are used to promote, publicize, or advertise a good or service, and are supplied free of charge;

temporary admission of goods means the temporary admission or temporary importation of goods or goods imported temporarily for repair or alteration.