

02 TRADE IN GOODS

ARTICLE 1

Definitions

For the purposes of this Chapter:

- (a) “customs duties” means any duties or charges of any kind imposed in connection with the importation of a good, and any surtaxes or surcharges imposed in connection with such importation, but does not include:
- (i) charges equivalent to an internal tax including excise duties and a goods and services tax imposed consistently with a Party’s WTO obligations;
 - (ii) fees or other charges that:
 - (A) are limited in amount to the approximate cost of services rendered; and
 - (B) do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes; and
 - (iii) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI of the GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994, and the WTO Agreement on Subsidies and Countervailing Measures;
- (b) “export subsidy” means a subsidy as defined by Article 3 of the WTO Agreement on Subsidies and Countervailing Measures and includes export subsidies listed in Article 9 of the WTO Agreement on Agriculture; and
- (c) “the GATT 1994” means the WTO General Agreement on Tariffs and Trade 1994, including Annex I (Notes and Supplementary Provisions).

ARTICLE 2

National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994. To this end, the provisions of Article III of the GATT 1994, are incorporated into and shall form part of this Agreement.

ARTICLE 3

Customs Duties

1. Each Party shall eliminate all customs duties on goods originating in the territory of the other Party that meet the requirements for “originating goods” as set out in Chapter 3 (Rules of Origin). All customs duties on such goods shall thereby be free from the date of entry into force of this Agreement.
2. The classification of goods traded between the Parties shall be in conformity with the Harmonized Commodity Description and Coding System (HS).

ARTICLE 4

Customs Value

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of the GATT 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994.

ARTICLE 5

Export Duties

A Party shall not impose export duties on the goods set out in Annex 1 (Export Duties), when exported from its territory to the territory of the other Party.

ARTICLE 6

Non-tariff Measures

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party except in accordance with its WTO rights and obligations or in accordance with other provisions of this Agreement.
2. Each Party shall ensure the transparency of its non-tariff measures permitted under Article 6.1 and that they are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade between the Parties.

ARTICLE 7

Subsidies and Countervailing Measures

1. The Parties agree to prohibit export subsidies on all goods, including agricultural goods.

2. The Parties reaffirm their commitment to abide by the provisions of the WTO Agreement on Subsidies and Countervailing Measures.

ARTICLE 8

Anti-Dumping Measures

1. With respect to the application of anti-dumping measures, the Parties reaffirm their commitment to the provisions of the WTO Agreement on Implementation of Article VI of the GATT 1994.

2. The Parties agree to observe the following practices in anti-dumping cases between them:

(a) the time frame to be used for determining the volume of dumped imports in an investigation or review shall be representative of the imports of both dumped and non-dumped goods, for a reasonable period, and such reasonable period shall normally be at least 12 months;

(b) if a decision is taken to impose an anti-dumping duty pursuant to Article 9.1 of the WTO Agreement on Implementation of Article VI of the GATT 1994, the Party taking such a decision, shall normally apply the “lesser duty” rule, by imposing a duty which is less than the dumping margin where such lesser duty would be adequate to remove the injury to the domestic industry; and

(c) notification procedures shall be as follows:

(i) immediately following the acceptance by a Party of a properly documented application from an industry in that Party for the initiation of an anti-dumping investigation in respect of goods from the other Party, the first Party shall immediately inform the other Party;

(ii) where a Party considers that, in accordance with Article 5 of the WTO Agreement on Implementation of Article VI of the GATT 1994, there is sufficient evidence to justify the initiation of an anti-dumping investigation, it shall give written notice to the other Party and shall act in accordance with Article 17.2 of that Agreement concerning consultations.

3. At reviews of this Agreement under Article 3 (Review) of Chapter 17 (Final Provisions), the Parties shall review this Article, including a consideration of any recommendations by the WTO Committee on Anti-Dumping Practices.

ARTICLE 9

Safeguard Measures

A Party shall not initiate or take any safeguard measure within the meaning of the WTO Agreement on Safeguards against the goods of the other Party from the date of entry into force of this Agreement.

ARTICLE 10

Transparency

Article X of the GATT 1994 is incorporated into and shall form part of this Agreement.

ARTICLE 11

Measures to Safeguard the Balance of Payments

Where a Party is in serious balance of payments and external financial difficulties or threat thereof, it may, in accordance with the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the GATT 1994, adopt restrictive import measures.

ARTICLE 12

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions prevail, or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures:

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importations or exportations of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII of the GATT 1994, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

- (e) relating to the products of prison labour;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the WTO and not disapproved by it or which is itself so submitted and not so disapproved;
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Chapter relating to non-discrimination;
- (j) essential to the acquisition or distribution of products in general or local short supply; Provided that any such measures shall be consistent with the principle that all WTO members are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Chapter shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

ARTICLE 13

Security Exceptions

Nothing in this Chapter shall be construed:

- (a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests;
- (b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to fissionable materials or the materials from which they are derived;
 - (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.