

CHAPTER 2

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1: Definitions

For the purposes of this Chapter:

agricultural goods means those goods referred to in Article 2 of the *Agreement on Agriculture*, set out in Annex 1A to the WTO Agreement (WTO Agreement on Agriculture);

agricultural export subsidies means export subsidies as defined in Article 1(e) of the WTO Agreement on Agriculture, including any amendment of that Article;

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 on or in connection with importation;

customs duty means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with paragraph 2 of Article III of GATT 1994;
- (b) anti-dumping or countervailing duty applied consistently with Article VI of GATT 1994, the AD Agreement, and the SCM Agreement; or
- (c) fees or other charges commensurate with the cost of services rendered;

Import Licensing Agreement means the *Agreement on Import Licensing Procedures*, set out in Annex 1A to the WTO Agreement; and

import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party.

Article 2.2: Scope

Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods between the Parties.

Article 2.3: National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Paragraph 1 shall not apply to used goods of the Parties in accordance with domestic laws and regulations of each Party.

Article 2.4: Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate customs duties on originating goods of the other Party in accordance with its schedule in Annex 2-A.
2. Except as otherwise provided in this Agreement, a Party shall not increase any existing customs duty or introduce a new customs duty on an originating good covered by this Agreement.
3. If the Most Favoured Nation (MFN) rate of customs duties applied by a Party on a particular good is lower than the rate of customs duty provided for in its Schedule of Tariff Commitments set out in Annex 2-A, that Party shall apply the lower rate to the originating good of the other Party.

Article 2.5: Acceleration or Improvement of Tariff Commitments

1. On request of a Party, the Parties shall consult to consider accelerating, improving, or broadening the scope of the elimination of customs duties as set out in their schedule in Annex 2-A.
2. An agreement between the Parties to accelerate reduction and/or the elimination of a customs duty on an originating good, shall supersede any duty rate or staging category determined pursuant to their schedule set out in Annex 2-A for that good, when approved by the Parties in accordance with Article 10.2 (Institutional Provisions – Functions of the Joint Commission).
3. A Party may at any time accelerate unilaterally the reduction or elimination of customs duties on originating goods of the other Party set out in Annex 2-A. A Party shall inform the other Party as early as practicable.
4. For greater certainty, a Party may raise a customs duty to the level established in its schedule to Annex 2-A following a unilateral reduction.

Article 2.6: Classification of Goods and Transposition of Schedules of Tariff Commitments

1. The classification of goods in trade between the Parties shall be in conformity with the Harmonized System (HS) and its amendments.
2. The Parties shall decide whether any revisions are necessary to update Annex 2-A due to periodic amendments and transposition of the Harmonized System (HS).
3. Each Party shall ensure that the transposition of the Harmonized System (HS) in its schedule in Annex 2-A, under paragraph 2, does not afford treatment to an originating good of the other Party that is less favourable than that set out in its schedule in Annex 2-A.

Article 2.7: Import Licensing

1. The Parties shall not adopt or maintain a measure that is inconsistent with the Import Licensing Agreement and to this end the Import Licensing Agreement is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Each Party shall ensure that all import licensing measures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement.
3. Each Party shall notify the other Party of its existing import licensing procedures, unless these were already notified or provided under Articles 5 or 7.3 of the Import Licensing Agreement. The notification shall contain the same information as referred to in Articles 5 or 7.3 of the Import Licensing Agreement.
4. On request of the other Party, a Party shall, promptly and to the extent possible, respond to that request for information on import licensing requirements of general application.

Article 2.8: Agricultural Export Subsidies

The Parties shall not introduce or maintain any export subsidies on any agricultural goods.

Article 2.9: Administrative Fees and Formalities

1. Each Party shall ensure that fees and charges of whatever character imposed on or in connection with the importation or exportation of goods shall be consistent with Article VIII:1 of GATT 1994 and its interpretive notes. To this end, Article VIII:1 of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Each Party shall not require consular transactions, including related fees and charges, in connection with the importation of any goods of the other Party.

3. Each Party shall make publicly available online a list of current fees and charges that it imposes in connection with importation and exportation.

Article 2.10: Import and Export Restrictions

1. Each Party shall not 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 goods destined for the territory of the other Party, except in accordance with Article XI of GATT 1994. To this end, Article XI of GATT 1994 and its interpretative notes shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.
2. Paragraph 1 shall not apply to used goods of the Parties in accordance with domestic laws and regulations of each Party.

Article 2.11: Non-Tariff Measures

1. The Parties shall not adopt or maintain any non-tariff measures on the importation of any goods of the Party or on the exportation of any goods destined to the territory of the other Party, except in accordance with its obligations under the WTO Agreement or this Agreement.
2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 and that those measures are not prepared, adopted, or applied with a view to or with the effect of creating unnecessary obstacles to trade between the Parties.

Article 2.12: Geographical Indications¹

1. For the purposes of this Agreement, “geographical indications” are indications consisting of or containing the name of a geographical area, or another indication known as referring to that area, which identifies a good as originating in that geographical area, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
2. Each Party shall provide the means to apply for protection of geographical indications. Each Party shall accept applications, without the requirement for intercession by a Party on behalf of its persons.
3. The terms listed in Annex 2-B and Annex 2-C are respectively geographical indications in Indonesia and Peru, within the meaning of paragraph 1 of Article 22 of the *Agreement on Trade-*

¹ Without prejudice of the definition provided in paragraph 1, and if it is in accordance with a Party’s legislation, this Article may also include and apply to appellations of origin, which are, by definition, denominations consisting of or containing the name of a geographical area, or another denomination known as referring to that area, which serves to designate a good as originating in that geographical area, where the quality or characteristics of the good are due exclusively or essentially to the geographical environment, including natural and human factors, and which has given the good its reputation.

Related Aspects of Intellectual Property Rights, set out in Annex 1C to the WTO Agreement (TRIPS Agreement). Each Party shall provide protection in its territory to the terms listed in the relevant Annex of the other Party upon their registration in accordance with its domestic laws and regulations.

4. Subject to the TRIPS Agreement and domestic laws and regulations, the Parties may request the protection of additional geographical indications. To that end, the Parties shall protect, in accordance with this Chapter, those geographical indications.

5. On request of a Party and once the protection of the additional geographical indication has been granted in the territory of the other Party, the Committee on National Treatment and Market Access for Goods may decide to add geographical indications to Annex 2-B and Annex 2-C, as applicable.

6. If the protection of a geographical indication has ceased in its country of origin, or if the interested Party decides to do so, it may request the Committee on National Treatment and Market Access for Goods to remove the listed geographical indication from the relevant Annex.

7. The Parties shall take all necessary measures to ensure mutual protection of their geographical indications in accordance with the TRIPS Agreement and its laws and regulations. Each Party shall provide interested parties with the legal means to prevent the use of those geographical indications for identical or similar goods not originating in the place identified by the geographical indication in question.

Article 2.13: Committee on National Treatment and Market Access for Goods

1. The Parties hereby establish a Committee on National Treatment and Market Access for Goods, comprising representatives of the Parties.

2. For the purposes of the effective implementation and operation of this Chapter, the functions of the Committee on National Treatment and Market Access for Goods shall be:

- (a) monitoring the implementation and operation of this Chapter;
- (b) reviewing future amendments to the Harmonized System (HS) to ensure that each Party's commitments under this Chapter are not altered, and consulting to resolve any conflicts between:
 - (i) amendments to the Harmonized System (HS) and Annex 2-A; or
 - (ii) Annex 2-A and national nomenclatures.
- (c) consulting on and endeavoring to resolve any differences that may arise between the Parties on matters related to the classification of goods under the Harmonized System (HS) and Annex 2-A;

- (d) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate;
- (e) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures and, if appropriate, refer these matters to the Joint Commission for its consideration;
- (f) reporting the conclusions and the outcome of discussions to the Joint Commission;
- (g) consulting any issues related to this Chapter; and
- (h) carrying out other functions as delegated by the Joint Commission.

3. The Committee on National Treatment and Market Access for Goods shall meet at a venue and time in person or by any other means as may be agreed by the Parties.