

CHAPTER 2

TRADE IN GOODS

ARTICLE 2.1

Scope

This Chapter applies to trade in goods between the Parties.

ARTICLE 2.2

National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of another Party. Article III of GATT 1994 applies to this Chapter and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.3

Customs Duties on Imports

1. Each Party shall apply customs duties on imports on goods originating in another Party in accordance with Annexes II-V (Schedules of Tariff Commitments on Goods).
2. Customs duties on imports include any duty or charge of any kind² imposed on or in connection with the importation of goods, but do not include any:
 - (a) internal taxes or other internal charges imposed in accordance with Article III of GATT 1994;
 - (b) anti-dumping or countervailing duties applied in accordance with Articles VI and XVI of GATT 1994, the WTO Agreement on Implementation of Article VI of GATT 1994 (ADA) and the WTO Agreement on Subsidies and Countervailing Measures (ASCM) as well as with Chapter 3 (WTO Trade Defence and Global Safeguards);
 - (c) safeguard measures applied in accordance with Article XIX of GATT 1994 and the WTO Agreement on Safeguards (ASFG) as well as with Chapters 3 (WTO Trade Defence and Global Safeguards) and 4 (Bilateral Safeguard Measures);

² This includes, *inter alia*, *ad valorem* import duties, agricultural components, additional duties on sugar content, additional duties on flour content, specific duties, mixed duties, seasonal duties and additional duties from entry price systems.

- (d) measures authorised by the WTO Dispute Settlement Body or under Chapter 15 (Dispute Settlement);
- (e) fees or other charges, imposed in accordance with Article VIII of GATT 1994; and
- (f) measures adopted to safeguard a State Party's external financial position and its balance of payments, in accordance with Article 2.13 (Balance-of-Payments).

3. Unless otherwise provided for in this Agreement, no Party shall introduce any new customs duties on imports, or increase those already applied on goods originating in another Party in accordance with its Schedule of Tariff Commitments. This paragraph shall not preclude a Party from raising customs duties on imports to the level established in its Schedule of Tariff Commitments following a unilateral reduction.

4. A Party may create a new tariff line as long as the customs duty applicable to the corresponding goods under the new tariff line is equal to or lower than the original tariff line, according to its Schedule of Tariff Commitments, and that the agreed tariff concessions remain unchanged. The respective Schedule of Tariff Commitments shall indicate which version of the Harmonized Commodity Description and Coding System (HS) each Party has used.

ARTICLE 2.4

Goods Re-Entered After Repair

1. For the purposes of this Article, "repair" means any processing operation undertaken on goods to remedy operating defects or material damage, entailing the re-establishment of goods to their original function, or to ensure their compliance with technical requirements for their use, without which such goods could no longer be fit for their intended purposes. Repair of goods includes restoration and maintenance. It shall not include any operation or process that:

- (a) destroys the essential characteristics of the goods or creates new goods or goods fit for different commercial purposes;
- (b) transforms the unfinished goods into finished goods; or
- (c) is used to improve the technical performance of goods.

2. No Party shall apply customs duties to goods referred to in paragraph 1, regardless of their origin, that re-enter its customs territory after those goods have been temporarily exported from its customs territory to the customs territory of another Party for repair, regardless of whether such repair could be performed in the customs territory of the Party from which the goods were exported for repair.

3. Paragraph 2 shall not apply to goods imported in bond, into free trade zones, or zones of similar status, that are exported for repair and are not re-imported in bond, into free trade zones, or zones of similar status.

4. No Party shall apply customs duties to goods, regardless of their origin, imported temporarily from the customs territory of another Party for repair.

ARTICLE 2.5

Exchange of Information on Trade

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics and applied most-favoured-nation tariff rates starting one year after the entry into force of this Agreement until ten years after the tariff elimination is completed for all goods in accordance with Annexes II-V (Schedules of Tariff Commitments on Goods). Unless the EFTA-MERCOSUR Joint Committee (Joint Committee) decides otherwise, this period shall be automatically extended for five years. Thereafter, the Joint Committee may decide on further extension.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level (eight-digit level tariff lines based on Harmonized System Nomenclature) for imports of goods from another Party benefitting from preferential treatment under this Agreement and for imports of goods from another Party that received non-preferential treatment. The preferential and the applied most-favoured-nation tariff rates exchanged shall pertain to the same year as the import statistics.

3. Notwithstanding paragraph 2, no Party shall be obliged to exchange import data that is confidential in accordance with its domestic laws and regulations.

ARTICLE 2.6

Quantitative Restrictions

Except as otherwise provided for in this Agreement, no Party may adopt or maintain any prohibition or restriction on the importation of goods of another Party or on the exportation or sale for export of goods destined for the territory of another Party, whether applied by quotas, licences or other measures, except those in accordance with Article XI of GATT 1994, including its interpretative notes. To this end, Article XI of GATT 1994 applies to this Chapter and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.7

Import Licensing

1. The WTO Agreement on Import Licensing Procedures applies to this Chapter and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. The State Parties may only adopt or maintain licensing procedures as a condition for importation if other appropriate procedures to achieve an administrative purpose are not reasonably available.
3. The State Parties shall not adopt or maintain import licensing procedures in order to implement a measure that is inconsistent with this Agreement, GATT 1994 or the WTO Agreement on Trade-Related Investment Measures. A Party adopting non-automatic licensing procedures shall clearly indicate the measure implemented through such licensing procedures.
4. The State Parties shall ensure that all import licensing procedures are neutral in application, and administered in a fair, equitable, non-discriminatory, transparent, predictable and least trade-restrictive manner.
5. If a State Party has denied an application for an import licence it shall, without undue delay, provide the applicant with a written explanation of the reasons for the denial;
6. Each State Party shall provide effective, non-discriminatory and prompt and easily accessible procedures in accordance with its domestic laws and regulations to guarantee the right of appeal against administrative decisions on applications for import licences. Appeal procedures shall include administrative review by the supervising authority or judicial review in accordance with the domestic laws and regulations of each State Party. If the denial of an import licence is upheld in an appeal, the State Party granting the licence shall provide the applicant with a written justification without undue delay.
7. A State Party adopting or amending regulations related to import licensing that are likely to affect trade between the Parties, shall promptly notify the other State Parties. The notice shall clearly state the purpose of such licensing procedures and any conditions on eligibility for obtaining an import licence. A notification made by a State Party in accordance with the WTO Agreement on Import Licensing Procedures shall be deemed equivalent to a notification under this Agreement.

ARTICLE 2.8

Rules of Origin and Administrative Cooperation

The provisions on rules of origin and administrative cooperation procedures applicable between the State Parties are set out in Annex I (Rules of Origin).

ARTICLE 2.9

Trade Facilitation

The provisions on trade facilitation applicable between the State Parties are set out in Annex VI (Trade Facilitation).

ARTICLE 2.10

State Trading Enterprises

Article XVII of GATT 1994 and the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994 apply to this Chapter and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.11

General Exceptions

Article XX of GATT 1994 and its interpretative notes apply to this Chapter and Chapters 5 (Technical Barriers to Trade) and 6 (Sanitary and Phytosanitary Measures) and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.12

Security Exceptions

Article XXI of GATT 1994 applies to this Chapter and Chapters 5 (Technical Barriers to Trade) and 6 (Sanitary and Phytosanitary Measures) and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.13

Balance-of-Payments

1. A State Party, in serious balance of payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under GATT 1994 and the WTO Understanding on the Balance of Payments Provisions of the General Agreement on Tariffs and Trade 1994, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation.
2. The State Party introducing a measure under this Article shall promptly notify the Joint Committee.

ARTICLE 2.14

Sub-Committee on Trade in Goods

1. A Sub-Committee on Trade in Goods (Sub-Committee) is hereby established.
2. The mandate of the Sub-Committee is set out in Annex VII (Mandate of the Sub-Committee on Trade in Goods).

ARTICLE 2.15

Tariff Rate Quota Administration

1. A Party granting bilateral tariff rate quotas (TRQ) as referred to in Annexes II, IV, and V (Schedules of Tariff Commitments on Goods) shall administer its bilateral TRQ in a manner that does not result in underfill due to domestic laws, regulations, or administrative procedures related to TRQ administration.
2. TRQ administration shall be transparent, based on clearly specified timeframes, procedures, and requirements, no more administratively burdensome than necessary, and conducted in a timely manner.
3. The Party granting the bilateral TRQ shall make publicly available, in a timely and continuous manner, relevant information concerning TRQ administration, including volume available, eligibility criteria, intra-quota tariffs whenever applicable and effective fill rates.
4. A Party shall promptly notify the other Parties of any changes to its domestic laws, regulations, or administrative procedures that may affect TRQ administration and, on request of another Party, shall provide information and respond to questions pertaining to such domestic laws, regulations or administrative procedures related to TRQ administration.
5. In cases where an exporting State Party considers that a bilateral TRQ is being consistently underfilled due to the importing State Party's domestic laws, regulations, or administrative procedures related to TRQ administration:
 - (a) the importing Party shall, upon request and within 30 days from receipt of the request, undertake consultations with the exporting State Party to address any such measure, including by providing, if applicable, information on any reasonable commercial conditions that may have caused the TRQ underfill; and
 - (b) if consultations under subparagraph (a) do not result in a satisfactory resolution, the Sub-Committee on Trade in Goods and the Joint Committee shall, as appropriate, make recommendations or take decisions to ensure the proper implementation of the obligations set out on this Article and in Annexes II, IV and V (Schedules of Tariff Commitments on Goods).

6. Products exported under bilateral TRQ granted by an EFTA State shall be accompanied by an official document issued by the exporting MERCOSUR State Party. The model of the official document shall be communicated to the EFTA States by MERCOSUR no later than at entry into force of this Agreement.

ARTICLE 2.16

Wine Terms

The State Parties have addressed the use of certain wine terms in the Record of Understanding on Trade in Wine Products which constitutes an integral part of this Agreement.

ARTICLE 2.17

Review

Upon request of a Party, beginning three years from the entry into force of this Agreement, the Parties shall undertake a review of the tariff commitments in Annexes II to V (Schedules of Tariff Commitments on Goods). As a result of such review, the Parties may agree to enter into negotiations on possible improvement of market access conditions under this Chapter and Annexes II to V (Schedules of Tariff Commitments on Goods).