

2. Replace Chapter 2 (Trade in Goods) with:

CHAPTER 2

TRADE IN GOODS

SECTION A

General Provisions and Market Access for Goods

Article 1

National Treatment on Internal Taxation and Regulation

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

Article 2

Reduction or Elimination of Customs Duties

Except as otherwise provided in this Agreement, each Party shall progressively reduce or eliminate customs duties on originating goods of the other Parties in accordance with its schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments).

Article 3

Acceleration of Tariff Commitments

1. Nothing in this Agreement shall preclude the Parties from negotiating and entering into arrangements to accelerate or improve tariff commitments made under this Agreement. An agreement among the Parties to accelerate or improve tariff commitments shall be incorporated into this Agreement, in accordance with Article 6 (Amendments) of Chapter 21 (Final Provisions). Such acceleration or improvement of tariff commitments shall be implemented by the Parties.

2. Two or more Parties may also enter into consultations to consider accelerating or improving tariff commitments set

out in their schedules of tariff commitments in Annex 1 (Schedules of Tariff Commitments). An agreement between these Parties to accelerate or improve their respective tariff commitments under this Agreement shall be incorporated into this Agreement, in accordance with Article 6 (Amendments) of Chapter 21 (Final Provisions). Tariff concessions arising from such acceleration or improvement of tariff commitments shall be extended to all Parties.

3. A Party may, at any time, unilaterally accelerate the reduction or elimination of customs duties on originating goods of the other Parties set out in its schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments). A Party intending to do so shall inform the other Parties before the new rate of customs duties takes effect, or in any event, as early as practicable.

Article 4 **Temporary Admission of Goods**

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes, if such goods:

- (a) are brought into its customs territory for a specific purpose;
- (b) are intended for re-exportation within a specific period; and
- (c) have not undergone any change, except normal depreciation and wastage due to the use made of them.

2. Each Party shall, on the request of the person concerned and for reasons its customs authority considers valid, extend the time limit for duty-free temporary admission provided for in Paragraph 1 beyond the period initially fixed.

3. No Party shall condition the duty-free temporary admission of a good provided for in Paragraph 1, other than to require that the good:

- (a) be used solely by or under the personal supervision of a national or resident of another Party in the exercise of the business activity, trade, profession, or sport of that person;
- (b) not be sold or leased while in its territory;
- (c) be accompanied by a security or guarantee in an amount no greater than the customs duties, taxes, fees, and charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
- (d) be capable of identification when imported and exported;
- (e) be exported on the departure of the person referred to in Subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish in accordance with its laws and regulations;
- (f) be admitted in no greater quantity than is reasonable for its intended use; and
- (g) be otherwise admissible into the Party's territory under its laws and regulations.

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, in addition to any other charges or penalties provided for in its laws and regulations.

5. Each Party shall permit a good temporarily admitted under this Article to be re-exported through a customs port other than that through which it was admitted.

6. Each Party shall, if it is in accordance with its laws and regulations,¹ provide that the importer or other person responsible for a good admitted under this Article shall not be liable for failure to export the good on presentation of satisfactory proof to the importing Party that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.

Article 5

Temporary Admission for Containers and Pallets

1. Each Party shall, as provided for in its laws and regulations, or the provisions of the related international agreements to which it is party, grant duty-free temporary admission for containers and pallets, regardless of their origin, in use or to be used in the shipment of goods in international traffic.

2. For the purposes of this Article, “container” means an article of transport equipment (lift-van, movable tank, or other similar structure):

- (a) fully or partially enclosed to constitute a compartment intended for containing goods;
- (b) of a permanent character and accordingly strong enough to be suitable for repeated use;
- (c) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

¹ This Paragraph shall apply to Parties who have relevant laws and regulations.

- (d) designed for ready handling, particularly when being transferred from one mode of transport to another;
- (e) designed to be easy to fill and to empty; and
- (f) having an internal volume of one cubic metre or more.

“Container” shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. “Container” shall not include vehicles, accessories or spare parts of vehicles, or packaging or pallets. “Demountable bodies” shall be regarded as containers.

3. For the purposes of this Article, “pallet” means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling of fork lift trucks or pallet trucks; it may or may not have a superstructure.

4. Subject to Chapter 8 (Trade in Services) and Chapter 11 (Investment), in respect of containers granted temporary admission pursuant to Paragraph 1:²

- (a) each Party shall allow a container used in international traffic that enters its territory from the territory of another Party to exit its territory on any

² For greater certainty, nothing in this Paragraph shall affect the right of a Party to adopt or maintain measures in accordance with Article 1 (General Exceptions) or Article 2 (Security Exceptions) of Chapter 18 (General Provisions and Exceptions).

route that is reasonably related to the economic and prompt departure of such container;³

- (b) no Party shall require any security or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a container;
- (c) no Party shall condition the release of any security that it imposes in respect of the entry of a container into its territory on the container's exit through any particular port of departure; and
- (d) no Party shall require that the carrier bringing a container from the territory of another Party into its territory be the same carrier that takes the container to the territory of another Party.

Article 6

Duty-Free Entry of Samples of No Commercial Value

Each Party shall grant duty-free entry to samples of no commercial value, imported from the territory of another Party, subject to its laws and regulations, regardless of their origin.

Article 7

Elimination of Agricultural Export Subsidies

Consistent with their rights and obligations under the WTO Agreement, each Party agrees to eliminate and not reintroduce all forms of export subsidies for agricultural goods destined for the other Parties.

³ For greater certainty, nothing in this Subparagraph shall be construed to prevent a Party from adopting or maintaining highway and railway safety or security measures of general application, or from preventing a container from entering or exiting its territory in a location where the Party does not maintain a customs port. A Party may, in accordance with its laws and regulations, provide the other Parties with a list of ports available for exit of containers.

Article 8

Transposition of Schedules of Tariff Commitments

1. Each Party shall ensure that the transposition of its Schedule in Annex 1 (Schedules of Tariff Commitments), undertaken in order to implement Annex 1 (Schedules of Tariff Commitments) in the nomenclature of the revised HS Code following periodic amendments to the HS Code, is carried out without impairing the tariff commitments set out in Annex 1 (Schedules of Tariff Commitments).

2. The transposition of the schedules of tariff commitments referred to in Paragraph 1 shall be carried out in accordance with the methodologies and procedures adopted by the Committee on Trade in Goods. The procedures should, at a minimum, provide for:

- (a) the timely circulation by each Party of a draft schedule of tariff commitments in the nomenclature of the revised HS Code, accompanied by a two-way transposition setting out, at national tariff line level:
 - (i) a concordance between the draft schedule of tariff commitments in the nomenclature of the revised HS Code and the schedule of tariff commitments in the nomenclature of the then current HS Code; and
 - (ii) a concordance between the schedule of tariff commitments in the nomenclature of the then current HS Code and the draft schedule of tariff commitments in the nomenclature of the revised HS Code;
- (b) the provision of comments by other Parties on the draft schedules circulated in accordance with Subparagraph (a), and consultations between the

Parties, as necessary, with a view to resolving any concerns raised;

- (c) the requirement to make publicly available in a timely manner the schedules of tariff commitments in the nomenclature of the revised HS Code shall be made publicly available in a timely manner, following completion of the process in Subparagraphs (a) and (b); and
- (d) the positive consideration of proposals for technical assistance for the purpose of implementing Subparagraph (a).

Article 9 Modification of Concessions

In exceptional circumstances, where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, with the agreement of all other interested Parties, modify or withdraw a concession contained in its Schedule in Annex 1 (Schedules of Tariff Commitments). In order to seek to reach such agreement, the relevant Party shall engage in negotiations with any interested Parties. In such negotiations, the Party proposing to modify or withdraw its concessions shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the trade of all other interested Parties than that provided for in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. The mutually agreed outcome of the negotiations, including any compensatory adjustments, shall apply to all the Parties and shall be incorporated into this Agreement in accordance with Article 6 (Amendments) of Chapter 21 (Final Provisions).

SECTION B

Non-Tariff Measures

Article 10

Application of Non-Tariff Measures

1. A Party shall not adopt or maintain any non-tariff measure on the importation of any good of another Party or on the exportation of any good destined for the territory of another Party, except in accordance with its rights and obligations under the WTO Agreement or this Agreement.
2. Each Party shall ensure the transparency of its non-tariff measures permitted under Paragraph 1 and shall ensure that any such measures are not prepared, adopted, or applied with the view to or with the effect of creating unnecessary obstacles to trade among the Parties.

Article 11

Quantitative Restrictions and Non-Tariff Measures

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction other than duties, taxes, or other charges, whether made effective through quotas, import or export licences, or other measures, on the importation of any good of another Party or on the exportation of any good destined for the territory of another Party, except in accordance with its rights and obligations under the relevant provisions of the WTO Agreement. To this end, Article XI of GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.
2. Where a Party adopts an export prohibition or restriction in accordance with Subparagraph 2(a) of Article XI of GATT 1994, that Party shall, upon request:

- (a) inform another Party or Parties of such prohibition or restriction and its reasons together with its nature and expected duration, or publish such prohibition or restriction; and
- (b) provide another Party or Parties that may be seriously affected with a reasonable opportunity for consultation with respect to matters related to such prohibition or restriction.

Article 12

Publication and Administration of Trade Regulations

1. Article X of GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.
2. In accordance with its laws and regulations and to the extent possible, each Party shall make laws, regulations, decisions and rulings of the kind referred to in Paragraph 1 available on the internet.

Article 13

Technical Consultations on Non-Tariff Measures

1. A Party may request technical consultations with another Party on a measure it considers to be adversely affecting its trade. The request shall be in writing and shall clearly identify the measure and the concerns as to how the measure adversely affects trade between the Party requesting technical consultations (the “requesting Party” for the purposes of this Article) and the Party to which a request has been made (the “requested Party” for the purposes of this Article).
2. Where the measure is covered by another Chapter, any consultation mechanism provided in that Chapter shall be used, unless otherwise agreed between the requesting Party and the requested Party (collectively, “the consulting Parties”).

3. Except as provided in Paragraph 2, the requested Party shall respond to the requesting Party and enter into technical consultations within 60 days of the receipt of the written request referred to in Paragraph 1, unless otherwise determined by the consulting Parties, with a view to reaching a mutually satisfactory solution within 180 days of the request. Technical consultations may be conducted via any means mutually agreed by the consulting Parties.

4. Except as provided in Paragraph 2, the request for technical consultations shall be circulated to all the other Parties. Other Parties may request to join the technical consultations on the basis of interests set out in their requests. The participation of any other Party is subject to the consent of the consulting Parties. The consulting Parties shall give full consideration to such requests.

5. If the requesting Party considers that a matter is urgent or involves perishable goods, it may request that technical consultations take place within a shorter time frame than that provided for under Paragraph 3.

6. Except as provided in Paragraph 2, each Party shall submit an annual notification to the Committee on Trade in Goods regarding any use of technical consultations under this Article, whether as the requesting Party or the requested Party. This notification shall contain a summary of the progress and outcomes of the consultations.

7. For greater certainty, technical consultations under this Article shall be without prejudice to a Party's rights and obligations pertaining to dispute settlement proceedings under Chapter 20 (Consultations and Dispute Settlement) and the WTO Agreement.

Article 14
Non-Tariff Measures on Essential Goods during
Humanitarian Crises, Epidemics or Pandemics

1. During a humanitarian crisis, epidemic or pandemic, nothing in this Article shall prevent a Party from exercising its rights or obligations under the WTO Agreement, or any other international agreements to which it is a party.

2. During a humanitarian crisis, epidemic or pandemic, which adversely impacts Parties on a substantial scale, each Party shall, to the extent possible:

- (a) facilitate timely information-sharing with regard to non-tariff measures on essential goods;
- (b) refrain from introducing trade-restricting non-tariff measures on essential goods unless necessary, and in which case such non-tariff measures must be targeted, proportionate, transparent, temporary and in conformity with its rights and obligations under the WTO Agreement and other relevant international agreements; and
- (c) endeavour to ensure the timely notification and publication, in accordance with the WTO Agreement, of regulatory information on matters pertaining to its non-tariff measures on essential goods.

3. The Committee on Trade in Goods shall be convened, where necessary and possible, to identify and resolve any unnecessary non-tariff measures on trade in essential goods in an expedited and timely manner during a humanitarian crisis, epidemic or pandemic. A Party may request essential goods from another Party and the requested Party shall, to the extent possible, positively consider the request, subject to the requested Party's internal situation and considerations.

4. Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Article.

Article 15

Import Licensing Procedures

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement.⁴ No Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Each Party shall, promptly after the date of entry into force of the Second Protocol for that Party, notify the other Parties of its existing import licensing procedures. The notification shall include the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if:

- (a) it has notified the procedures to the WTO Committee on Import Licensing established by Article 4 of the Import Licensing Agreement (the “WTO Committee on Import Licensing”), together with the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement; and
- (b) in the most recent annual submission due before the date of entry into force of the Second Protocol for that Party to the WTO Committee on Import Licensing in response to the annual questionnaire on import licensing procedures referred to in paragraph 3 of Article 7 of the Import Licensing Agreement, it has provided, with respect to those existing import licensing procedures, the information requested in that questionnaire.

⁴ For the purposes of this Article, “Import Licensing Agreement” means the *Agreement on Import Licensing Procedures* in Annex 1A of the WTO Agreement.

3. Each Party shall notify the other Parties of any new import licensing procedure and any modification it makes to its existing import licensing procedures, to the extent possible 30 days before the new procedure or modification takes effect. In no case shall a Party provide the notification later than 60 days after the date of the new or modified procedure's publication. A notification provided under this Paragraph shall include the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this Paragraph if it notifies a new import licensing procedure or a modification to an existing import licensing procedure to the WTO Committee on Import Licensing in accordance with paragraph 1, 2, or 3 of Article 5 of the Import Licensing Agreement.

4. Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government website. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

5. The notification required under Paragraphs 2 and 3 is without prejudice to whether the import licensing procedure is consistent with this Agreement.

6. A notification made under Paragraph 3 shall state if, under any import licensing procedure that is a subject of the notification:

- (a) the terms of an import license for any product limit the permissible end users of the product; or
- (b) the Party imposes any of the following conditions on eligibility for obtaining a license to import the product:
 - (i) membership in an industry association;

- (ii) approval by an industry association of the request for an import license;
- (iii) a history of importing the product, or similar products;
- (iv) minimum importer or end user production capacity;
- (v) minimum importer or end user registered capital; or
- (vi) a contractual or other relationship between the importer and distributor in the Party's territory.

7. Each Party shall, to the extent possible,⁵ answer within 60 days all reasonable enquiries from another Party regarding the criteria employed by its licensing authorities when granting or denying import licenses. Each Party shall publish sufficient information for the other Parties and traders to know the basis for granting or allocating import licenses.

8. No Party shall refuse an application for an import license for minor documentation errors that do not alter the basic data contained therein. Minor documentation errors may include formatting errors, such as the width of a margin or the font used, and spelling errors which are obviously made without fraudulent intent or gross negligence.

9. If a Party denies an import license application with respect to a good of another Party, it shall, on request of the applicant and within a reasonable period after receiving the written request, provide the applicant with a written explanation of the reason for the denial.

⁵ Paragraphs 7 and 9 of this Article may be reviewed during the review process set out in Article 9 (Review) of Chapter 21 (Final Provisions).

Article 16
Fees and Charges Connected with Importation and
Exportation

1. Each Party shall ensure, in accordance with paragraph 1 of Article VIII of GATT 1994 and its interpretive notes, that all fees and charges of whatever character (other than import or export duties, charges equivalent to an internal tax or other internal charge applied consistently with paragraph 2 of Article III of GATT 1994, and anti-dumping 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 goods or a taxation of imports or exports for fiscal purposes.

2. No Party shall apply fees and charges imposed in connection with importation or exportation until information on them, and on any updates or changes to those fees and charges, has been published, in accordance with its laws and regulations. Such information shall include the reason for the fees and charges, the responsible authority, and when and how payment is to be made. Such information shall be published promptly on the internet to the extent possible.

3. No Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of another Party.

4. No Party shall require that any customs documentation supplied in connection with the importation of any good of another Party be endorsed, certified, or otherwise sighted or approved by the importing Party's overseas representatives, or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

5. Each Party shall, in accordance with its laws and regulations, periodically review its fees and charges in

connection with importation or exportation, with a view to reducing their number and diversity if practicable.

SECTION C

Institutional Arrangements

Article 17 Sectoral Initiatives

1. The Parties shall make reasonable efforts to initiate a work programme on sector-specific issues, to be established and overseen by the Committee on Trade in Goods. The Parties shall endeavour to finalise such a work programme no later than two years after the initiation of the work programme.

2. The Parties shall agree on the sectors to be included in such a work programme, taking into consideration the interests of all the Parties, including those sectors proposed during the course of the negotiation of the Second Protocol or other sectors as may be identified by a Party.

3. Any work programme initiated under this Article should be conducted to:

- (a) enhance the Parties' understanding of the issues;
- (b) facilitate input from businesses and other relevant stakeholders; and
- (c) explore possible actions by the Parties that would facilitate trade.

4. Based on the outcome of any work programme initiated under this Article, the Committee on Trade in Goods may make recommendations to the FTA Joint Committee.

Article 18
Contact Points and Consultations

1. Each Party shall designate a contact point to facilitate communication among the Parties on any matter relating to this Chapter.

2. Where a Party considers that any proposed or actual measure of another Party or Parties may materially affect trade in goods between the Parties, that Party may, through the contact point, request detailed information relating to that measure and, if necessary, request consultations with a view to resolving any concerns about the measure. The other Party or Parties shall respond promptly to such requests for information and consultations.

Article 19
Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods consisting of representatives of the Parties.

2. The Committee on Trade in Goods may meet at the request of any Party or the FTA Joint Committee to consider any matter arising under this Chapter, or under:
 - (a) Chapter 3 (Rules of Origin);
 - (b) Chapter 4 (Customs Procedures and Trade Facilitation);
 - (c) Chapter 5 (Sanitary and Phytosanitary Measures);
 - (d) Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures); and
 - (e) Chapter 7 (Safeguard Measures).

3. The functions of the Committee on Trade in Goods shall include:

- (a) monitoring and reviewing the implementation and operation of Chapter 2 (Trade in Goods);
- (b) identifying and recommending measures to promote and facilitate improved market access, including through consultations on the acceleration or improvement of tariff commitments under this Agreement;
- (c) addressing and minimising unnecessary barriers to trade in goods between the Parties, including those relevant issues on tariff and non-tariff measures, other than technical issues solely within the competence of another subsidiary body;
- (d) considering matters related to the classification of goods under the HS Code for the application of Annex 1 (Schedules of Tariff Commitments) and the transposition of each Party's Schedule in Annex 1 (Schedules of Tariff Commitments) following periodic amendments to the HS Code, in accordance with Article 8 (Transposition of Schedules of Tariff Commitments);
- (e) reviewing non-tariff measures covered by this Chapter with a view to considering the scope for additional means to enhance the facilitation of trade in goods between the Parties. The Committee on Trade in Goods shall submit to the FTA Joint Committee an initial report on progress in this work, including any recommendations, within two years of entry into force of the Second Protocol. Any Party may nominate non-tariff measures for consideration by the Committee on Trade in Goods;

- (f) discussing any other matter related to Chapter 2 (Trade in Goods), including the implementation and promotion of good regulatory practice on measures affecting trade in goods and exploring avenues for enhancing co-operation on the use of good regulatory practice and supply chain connectivity, as appropriate;
- (g) inviting, as agreed by all Parties, input to the Committee on Trade in Goods from businesses, including MSMEs and other stakeholders, on matters affecting trade in goods;
- (h) making publicly available information on its work programmes (including work on non-tariff measures), as agreed by all Parties;
- (i) receiving reports from, and reviewing the work of:
 - (i) the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin);
 - (ii) the SPS Sub-Committee established pursuant to Article 10 (Meetings Among the Parties on Sanitary and Phytosanitary Matters) of Chapter 5 (Sanitary and Phytosanitary Measures); and
 - (iii) the STRACAP Sub-Committee established pursuant to Article 13 (Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures) of Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures); and

- (j) reporting, as required, to the FTA Joint Committee.

4. The Committee on Trade in Goods may agree to establish subsidiary working groups or refer issues for consideration to the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin).

5. The Committee on Trade in Goods may hold its meetings in person, or by any other means as mutually determined by the Parties, and whenever necessary, invite relevant officials to its meetings.

Article 20 Application

Each Party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Chapter by the regional and local governments and authorities within its territories.