

CHAPTER 2 TRADE IN GOODS

Article 2.1: Scope and Coverage

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

Article 2.2: Definitions

For the purposes of this Chapter:

customs authority means the authority that, according to the laws of each Party, is responsible for the administration and enforcement of customs laws and regulations of the Party:

- (a) for Chile, the National Customs Service, and
- (b) for the UAE, the Federal Authority for Identity, Citizenship, Customs and Port Security;

duty-free means free of customs duty; 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 of the importing Party as a prior condition for importation into the territory of that Party.

Article 2.3: National Treatment

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. To this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.4: Elimination or Reduction of Customs Duties

1. 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.

2. Except as otherwise provided in this Agreement, each Party shall eliminate or reduce customs duties on originating goods of the other Party in accordance with its Schedule set out, for Chile, in Annex 2A (Schedule of Tariff Commitments of Chile) and, for the UAE, in Annex 2B (Schedule of Tariff Commitments of the UAE).

3. Upon the request of either Party, the Parties shall consult to consider accelerating or broadening the scope of the elimination of customs duties set out in their Schedules set out, for Chile, in Annex 2A (Schedule of Tariff Commitments of Chile) and, for the UAE, in Annex 2B (Schedule of Tariff Commitments of the UAE). An agreement between the Parties to accelerate or broaden the scope of elimination of a customs duty on a good shall supersede any duty rate determined pursuant to their Schedules set out, for Chile, in Annex 2A (Schedule of Tariff Commitments of Chile) and, for the UAE, in Annex 2B (Schedule of Tariff Commitments of the UAE), for such good when adopted in accordance with Article 20.3.2(a) (Functions of the Joint Committee).

4. If a Party reduces its most-favored-nation (hereinafter “MFN”) applied rate of customs duty, that duty rate shall apply to an originating good of the other Party if, and for as long as, it is lower than the customs duty rate on the same good in accordance with, for Chile, Annex 2A (Schedule of Tariff Commitments of Chile), and, for the UAE, Annex 2B (Schedule of Tariff Commitments of the UAE).

5. A Party may at any time accelerate or broaden unilaterally the elimination or reduction of customs duties on originating goods of the other Party set out in its Schedule set out, for Chile, in Annex 2A (Schedule of Tariff Commitments of Chile), and, for the UAE, in Annex 2B (Schedule of Tariff Commitments of the UAE). A Party considering doing so shall inform the other Party as early as practicable.

6. For greater certainty with respect to paragraph 5, a Party may:

- (a) raise a customs duty back to the level established in its Schedule set out, for Chile, in Annex 2A (Schedule of Tariff Commitments of Chile), and, for the UAE, in Annex 2B (Schedule of Tariff Commitments of the UAE) following a unilateral reduction, or
- (b) maintain or increase a customs duty as authorized by the WTO Dispute Settlement Body.

Article 2.5: Classification of Goods

1. The classification of goods in trade between the Parties shall be that set out in the respective tariff nomenclature of each Party in conformity with the Harmonized System (HS) and its amendments.
2. The Parties shall mutually decide whether any revisions are necessary to implement Annex 2A (Schedule of Tariff Commitments of Chile) or Annex 2B (Schedule of Tariff Commitments of the UAE) due to periodic amendments or transposition of the Harmonized System (HS).
3. If the Parties decide that revisions are necessary in accordance with paragraph 2, the transposition of the schedules of tariff commitments shall be carried out in accordance with the methodologies and procedures adopted by the Subcommittee on Trade in Goods established under Article 2.20.
4. Each Party shall ensure that the transposition of its schedule of tariff commitments under paragraph 3 does not afford less favourable treatment to an originating good of the other Party than that set out in its Schedule, for Chile, in Annex 2A (Schedule of Tariff Commitments of Chile) and, for the UAE, in Annex 2B (Schedule of Tariff Commitments of the UAE).
5. A Party may amend its existing tariff nomenclature as a result of periodic amendments and transposition of the Harmonized System (HS), provided that the preferential conditions applied in the new tariff lines are not less preferential than those applied originally.

Article 2.6: Temporary Admission

1. Each Party shall, in accordance with its laws and regulations, grant temporary admission free of customs duties for the following goods imported from the other Party regardless of their origin:
 - (a) professional and scientific equipment and materials, including their spare parts, and included goods for sports purposes, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;
 - (b) goods intended for display or use at playgrounds, theaters, exhibitions, fairs or other similar events, including but not necessarily limited to commercial samples, advertising materials including printed materials, films and recordings;

- (c) containers and pallets in use or to be used for refilling;
- (d) machinery and equipment for completion of projects or for conducting the experiments and tests relating to such projects, or for repair, and
- (e) goods entered for completion of processing.

2. A Party shall not impose any condition on the temporary admission of a good referred to in paragraph 1, other than to require that such good:

- (a) be accompanied by a security deposit in an amount no greater than the customs duty or charges that would otherwise be owed on importation, releasable on exportation of the good;
- (b) be exported on the departure of the person referred to in paragraph 1 or within such period of time as is reasonably related to the purpose of temporary admission;
- (c) be capable of identification when exported;
- (d) not be sold or leased while in its territory;
- (e) not be imported in a quantity greater than is reasonable for its intended use, and
- (f) be otherwise admissible into the importing Party's territory under its laws.

3. If any condition that a Party imposes under paragraph 2 has not been fulfilled, that Party may apply the customs duty and any other charge that would normally be owed on importation of the good.

4. Each Party shall, at the request of the importer and for reasons deemed valid by its customs administration, extend the time limit for temporary admission beyond the period initially fixed.

5. Each Party shall relieve the importer of liability for failure to export a temporarily admitted good upon presentation of satisfactory proof to the Party's customs administration that the good has been destroyed within the original time limit for temporary admission or any lawful extension. A Party may condition relief of liability under this paragraph by requiring the importer to receive prior approval from the customs administration of the importing Party before the good can be so destroyed.

6. Each Party, through its customs administration, shall adopt and maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, these procedures shall provide that when such goods accompany a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.

Article 2.7: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall, in accordance with its laws and regulations, 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 the solicitation of orders for services provided from the territory, of the other Party or a non-Party, or
- (b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 2.8: Goods Returned or Re-Entered After Repair or Alteration

1. A Party shall not apply a customs duty to a good, regardless of its origin, that re-enters its territory within one year after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could have been performed in its territory, except that a customs duty may be applied to the addition resulting from the repair or alteration that was performed in the territory of the other Party.

2. A Party shall not apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration, provided that such good is exported from the territory of the importing Party within one year of its entry.

3. For purposes of this Article, “repair” or “alteration” means any operation or process undertaken on a good to remedy operational defects or material damage and entailing the re-establishment of the good to its original function, or to ensure its compliance with technical requirements for its use. Repair or alteration of a good includes restoring, renovating, cleaning, re-sterilising, maintenance, or other operation or process regardless of a possible increase in the value of the good that does not:

- (a) destroy a good's essential characteristics or create a new or commercially different good;
- (b) transform an unfinished good into a finished good, or
- (c) change the function of a good.

Article 2.9: Import and Export Restrictions

1. Unless otherwise provided in this Agreement, a Party shall not adopt or maintain any prohibition or restriction on the importation of any good 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 its WTO rights and obligations or this Agreement. To this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 and shall ensure that any such 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 2.10: Import Licensing

1. A Party shall not adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Each Party shall ensure that all automatic and non-automatic import licensing measures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement.

3. Promptly after the date of entry into force of this Agreement, each Party shall notify the other Party of any new import licensing procedure and any modification to its existing import licensing procedures, to the extent practicable before it takes effect. In no case shall a Party provide the notification later than 60 days after the date of its publication. The information in any notification under this Article shall be in accordance with Article 5 of the Import Licensing Agreement.

4. A Party shall not apply an import licensing procedure to a good of the other Party unless it has, provided a notification in accordance with Paragraphs 2 and 3 of Article 5 of the Import Licensing Agreement.

5. Upon request of the other Party, a Party shall, promptly and to the extent possible, respond to the request of that other Party for information on import licensing requirements of general application.

Article 2.11: Customs Valuation

The Parties shall determine the customs value of goods traded between them in accordance with Article VII of the GATT 1994 and the Customs Valuation Agreement, *mutatis mutandis*.

Article 2.12: Export Subsidies

A Party shall not adopt or maintain any export subsidy on any good destined to the territory of the other Party in accordance with the SCM Agreement and the Agreement on Agriculture.

Article 2.13: Transparency

Article X of the GATT 1994 is incorporated into and made a part of this Agreement, *mutatis mutandis*.

Article 2.14: Export Duties, Taxes, or other Charges

A Party shall not adopt or maintain any duty, tax, or other charge on the export of any good destined to the territory of the other Party, unless such duty, tax, or charge is adopted or maintained on any such good when destined for domestic consumption.

Article 2.15: Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of the GATT 1994 and its interpretive notes, that fees and charges of whatever character (other than import and export duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of the GATT 1994, and antidumping and countervailing duties applied pursuant to its laws or regulations) 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. Each Party shall as much as possible, make available through the internet or a comparable computer-based telecommunications network, a current list of the fees and charges it imposes in connection with importation or exportation.

Article 2.16: Non-Tariff Measures

1. Unless otherwise provided, neither Party shall adopt or maintain any non-tariff measure 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 this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in 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 between the Parties.

3. Each Party shall ensure that its laws, regulations, procedures and administrative rulings relating to non-tariff measures are promptly published, including on the internet where feasible, or otherwise made available in such a manner as to enable the other Party to become acquainted with them.

4. If a Party considers that a non-tariff measure of the other Party is an unnecessary obstacle to trade, that Party may nominate such a non-tariff measure for review by the Joint Committee by notifying the other Party at least 30 days before the date of the next scheduled meeting of the Joint Committee. A nomination of a non-tariff measure for review shall include reasons for its nomination and, if possible, suggested solutions. The Joint Committee shall immediately review the measure with a view to securing a mutually agreed solution to the matter. Review by the Joint Committee is without prejudice to the Parties' rights under Chapter 18 (Dispute Settlement).

Article 2.17: State Trading Enterprises

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994.

Article 2.18: Exchange of Data

1. The Parties recognise the value of trade data in accurately analysing the implementation of this Agreement. The Parties shall cooperate with a view to conducting periodic exchanges of data relating to trade in goods between the Parties.
2. The Parties may engage in such periodic exchanges within the Subcommittee on Trade in Goods.
3. A Party shall give positive consideration to a request from the other Party for technical assistance for the purposes of exchange of data under paragraph 1.

Article 2.19: Subcommittee on Trade in Goods

1. The Parties hereby establish a Subcommittee on Trade in Goods (“Subcommittee”), comprising of representatives of the Parties.
2. To facilitate communications between the Parties on any matter relating to this Chapter, each Party, within 60 days of the entry into force of the Agreement, shall designate a contact point.
3. The functions of the Subcommittee shall be:
 - (a) reviewing and monitoring the implementation and operation of this Chapter;
 - (b) considering any issue related to this Chapter as may be agreed by the Parties;
 - (c) establishing any working groups, as and when necessary;
 - (d) carrying out other functions as may be assigned by the Joint Committee in accordance with Chapter 20 (Administration of the Agreement);
 - (e) identifying and recommending measures to promote and facilitate trade in goods between the Parties including through consultations on improved market access, including any broadening or acceleration of tariff commitments under Article 2.4 and other related issues as appropriate;
 - (f) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures with a view to not create unnecessary obstacles to trade, and when appropriate, referring such matters to the Joint Committee for its consideration, and

- (g) reporting to the Joint Committee about the implementation of this Chapter including any recommendations for its consideration.

4. The Subcommittee shall meet at such venue and time as may be agreed by the Parties. Meetings may be held via teleconference, videoconference or through any other means as mutually determined by the Parties.

ANNEX 2C
NATIONAL TREATMENT AND IMPORT AND EXPORT RESTRICTIONS

Measures of Chile

Article 2.9 (Import and Export Restrictions) shall not apply to measures of Chile relating to imports of used vehicles.