

Chapter 3 National Treatment and Market Access for Goods

Article 3.1 Scope of Application

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

Article 3.2 Classification of Goods

The classification of goods in trade between the Parties shall be in conformity with the Harmonized System.

Article 3.3 National Treatment

1. 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 that end, Article III of the GATT 1994 and its interpretative notes are incorporated into and form an integral part of this Agreement, *mutatis mutandis*.

2. Paragraph 1 shall not apply to the measures set out in Annex 1 (Exceptions to National Treatment, and Import and Export Restrictions) including the measure's continuation, prompt renewal or amendment.

Article 3.4 Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty or adopt any new customs duty on an originating good of the other Party.

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

3. For each product the base rate of customs duties, to which the successive elimination set out in Annex 2 (Schedule of Tariff Commitments) is to be applied, shall be the MFN customs duty rate applied on January 1, 2021.

4. If at any moment a Party reduces its applied MFN customs duty rate after the entry into force of this Agreement, that duty rate shall apply as regards to trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule to Annex 2 (Schedule of Tariff Commitments).

5. At the request of either Party, the Parties shall consult to consider accelerating or improving the customs duties elimination and reduction on originating goods as set out in their Schedules in Annex 2 (Schedule of Tariff Commitments).

6. Notwithstanding Article 14.1 (The Free Trade Commission), an agreement by the Parties to accelerate the elimination of customs duties on originating goods shall supersede any duty rate determined pursuant to their Schedules in Annex 2 (Schedule of Tariff Commitments) for such goods and shall enter into force following approval by each Party in accordance with their respective applicable legal procedures.

7. A Party may at any time accelerate unilaterally the elimination of customs duties on originating goods of the other Party set out in its Schedule in Annex 2 (Schedule of Tariff Commitments). A Party considering doing so shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

8. For greater certainty, a Party may:

(a) raise a customs duty to the level established in its Schedule in Annex 2 (Schedule of Tariff Commitments) following a unilateral reduction, for the respective year; or

(b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO or in accordance with Chapter 13 (Dispute Settlement).

9. The Tariff Reduction Program established in this Chapter shall not apply to used goods, even those that are identified as such under headings or subheadings of the HS. Used goods also include those goods rebuilt, repaired, remanufactured or any other similar name given to goods that after having been used have undergone some process to restore their original characteristics or specifications, or to return them to the functionality they had when new.

Article 3.5 Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any non-tariff measures that prohibit or restrict the importation of any good of

the other Party, or the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes. To this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

2. The Parties understand that the GATT 1994 rights and obligations incorporated in paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

(a) export and import price requirements, except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings; or

(b) voluntary export restraints inconsistent with Article VI of the GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.

3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 1 (Exceptions to National Treatment and Import and Export Restrictions).

Article 3.6 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 are applied in accordance with the Import Licensing Agreement. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Each Party shall notify the other Party 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 its publication. A notification provided under this paragraph shall include the information specified in 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 provided for in Article 4 of the Import Licensing Agreement (hereinafter referred to as “WTO Committee on Import Licensing” in this Chapter) in accordance with paragraphs 1, 2, or 3 of Article 5 of the Import Licensing Agreement.

3. Each Party shall, promptly after the date of entry into force of this Agreement for that Party, notify the other Party 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, 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 this Agreement for that Party to the WTO Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described 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. 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. Each Party shall, to the extent possible, answer within 60 days all reasonable enquiries from the other Party regarding the criteria employed by its respective licensing authorities in granting or denying import licences. The importing Party shall publish sufficient information for the other Parties and traders to know the basis for granting or allocating import licences.

Article 3.7 Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of the GATT 1994 and its interpretive notes, that all fees and charges of whatever character (other than import customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of the 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. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

3. Each Party shall make available and maintain, through the Internet or on a comparable computer-based telecommunications network, a current list of fees and charges it imposes in connection with importation or exportation.

Article 3.8 Temporary Admission or Importation of Goods

1. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:

(a) professional equipment, such as equipment used for scientific research, pedagogical or medical activities, press or television and cinematographic purposes, necessary for a person who qualifies for temporary entry pursuant to the laws of the importing Party;

(b) goods intended for display or demonstration at exhibitions, fairs, meetings, or similar events;

(c) commercial samples; and

(d) goods admitted for sports purposes.

2. Each Party shall, on the request of the person concerned and for reasons its customs administration considers valid, extend the time limit for temporary admission beyond the period initially fixed in accordance with its domestic law.

3. Neither Party may condition the duty-free temporary admission of a good referred to 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 the other 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 the deposit of a bond or security in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;

(d) be capable being identified when exported;

(e) be exported on the departure of the person referenced in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, or within 6 months, unless extended;

(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 domestic law.

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, plus any other charges or penalties provided for under its laws.

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 provide that its customs administration or other competent authority shall relieve the importer or another person responsible for a good admitted under this Article from any liability for failure to re-export the good on presentation of proof to the satisfaction of the customs administration of the importing Party that the good has been destroyed by reason of force majeure.

Article 3.9 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 the other Party, subject to its laws and regulations, regardless of their origin.

Article 3.10 Scope and Coverage of Trade in Agricultural Goods.

For the purposes of this Agreement, agricultural goods are those goods referred to in Article 2 of the WTO Agreement on Agriculture.

Article 3.11 Export Subsidies on Agricultural Products.

1. The Parties reaffirm their commitments made in the Ministerial Decision of 19 December 2015 on Export Competition (WT/MIN(15)/45, WT/L/980), adopted in Nairobi on 19 December 2015, including elimination of scheduled export subsidy entitlements for agricultural goods.

2. Neither Party shall maintain, introduce, or reintroduce export subsidies on any agricultural good destined for the territory of the other Party.

3. If a Party considers that the other Party has not fulfilled its obligations under this Agreement by maintaining, introducing or reintroducing an export subsidy, that Party may request consultations with the other Party in accordance with Chapter 13 (Dispute Settlement) with the aim of achieving a mutually satisfactory solution.

Article 3.12 Domestic Support Measures for Agricultural Products

In order to establish a fair and market-oriented agriculture trading system, the Parties agree to cooperate in the WTO agricultural negotiations on domestic support

measures to provide for substantial and progressive reduction in agriculture support and protection, resulting in correcting and preventing restrictions and distortions in world agricultural markets.

Article 3.13 Andean Price Band System

Ecuador will continue to apply the Andean Price Band System established in Andean Community Decision No. 371 and its amendments, or successor systems for agricultural goods listed in Annex 3 (Andean Price Band System).

Article 3.14 Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods comprising representatives of each Party.

2. The Committee on Trade in Goods shall be coordinated by:

(a) In the case of China, the Ministry of Commerce, or its successor, and

(b) In the case of Ecuador, the Ministry of Production, Foreign Trade, Investment and Fisheries or its successor.

3. The agreements of the Committee shall be adopted by consensus and reported to the appropriate bodies.

4. The Committee shall meet at least once a year. When special circumstances arise, the Parties shall meet at any time at the request of a Party after having agreed upon it.

5. The Committee's functions shall include, *inter alia*:

(a) monitoring compliance, application, and correct interpretation of the provisions of this Chapter and its Annexes, to ensure each Party's obligations under this Agreement;

(b) reviewing the future amendments to the HS to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between:

(i) subsequent amendments to Harmonized System 2021 and Annex 2 (Schedules of Tariff Commitments); or

(ii) the Annex 2 (Schedules of Tariff Commitments) and national nomenclatures;

(c) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate;

(d) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures and, if appropriate, referring such matters to the Free Trade Commission for consideration;

(e) coordinating the exchange of information on trade in goods between the Parties;

(f) consulting on and endeavoring to resolve any difference that may arise between the Parties on matters related to the classification of goods under the HS;

(g) establishing ad-hoc working groups with specific mandates; and

(h) The Committee shall establish an Ad-Hoc Working Group on Trade in Agricultural and Fishery Goods. With the aim of resolving any obstacles to trade in agricultural and fishery goods between the Parties, the Working Group shall meet within 30 days after the Parties agree to it.

Article 3.15 Transposition of Schedules of Tariff Commitments

Each Party shall ensure that the transposition of its Schedule in Annex 2 (Schedules of Tariff Commitments), undertaken in order to implement Annex 2 (Schedules of Tariff Commitments) in the nomenclature of the revised HS following periodic amendments to the HS, is carried out without impairing the tariff commitments set out in Annex 2 (Schedules of Tariff Commitments)

Article 3.16 Definitions

For the purposes of this Chapter:

Import Licensing Agreement means the WTO Agreement on Import Licensing Procedures;

SCM Agreement means the WTO Agreement on Subsidies and Countervailing Measures;

goods temporarily admitted for sports purposes means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory such goods are admitted;

consular transactions means any 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;

export subsidies shall have the meaning assigned to that term in Article 1(e) of the WTO Agreement on Agriculture, including any amendment of that Article;

import licensing procedure 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 the importing Party;

duty-free means free of customs duty; and

originating good means a good that qualifies as an originating good in accordance with Chapter 4 (Rules of Origin and Implementation Procedures).