

## **CHAPTER 2 TRADE IN GOODS**

### **Article 2.1: Definitions**

For the purposes of this Chapter:

**Customs duty** means any duty or charge of any kind imposed in connection with the importation of a product, including any form of surtax or surcharge in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed in conformity with Article III of the GATT 1994;
- (b) anti-dumping or countervailing duty that is applied consistently with the provisions of Article VI of the GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement; or
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered and which does not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes.

**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 and Coverage**

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

### **Article 2.3: National Treatment on Internal Taxation and Regulation**

The Parties 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: Reduction or Elimination of Customs Duties**

1. Except as otherwise provided for in this Agreement, including as explicitly set out in each Party's Schedule included in Annex 2A (Schedules of Tariff Commitments),

neither Party shall increase any existing customs duty, nor adopt any new customs duty, on an originating good of the other Party.

2. Upon the entry into force of this Agreement, the UAE shall eliminate or reduce its customs duties on goods originating from Viet Nam in accordance with Appendix 2A-a (Tariff Schedule of the UAE) and Viet Nam shall eliminate or reduce its customs duties applied on goods originating from the UAE in accordance with Appendix 2A-b (Tariff Schedule of Viet Nam).
3. Where a Party reduces its most-favoured-nation 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 calculated in accordance with Appendix 2A-a (Tariff Schedule of the UAE) in the case of the UAE or Appendix 2A-b (Tariff Schedule of Viet Nam) in the case of Viet Nam.

#### **Article 2.5: Acceleration or Improvement of Tariff Commitments**

1. Upon request of a Party, the other Party shall consult with the requesting Party to consider accelerating or improving, the scope of the elimination of customs duties as set out in its Schedule included in Annex 2A (Schedules of Tariff Commitments).
2. Further commitments between the Parties to accelerate or improve the scope of the elimination of a customs duty on a good (or to include a good in Annex 2A (Schedules of Tariff Commitments) shall supersede any duty rate or staging category determined pursuant to their respective Schedules for that good. Such amendment shall come into effect in accordance with Article 18.2 (Amendments) of this Agreement.
3. Nothing in this Agreement shall prohibit a Party from unilaterally accelerating or improving the scope of the elimination of customs duties set out in its Schedule to Annex 2A (Schedules of Tariff Commitments) on originating goods. When a Party considers such acceleration or improvement, it shall inform the other Party as early as possible before the new rate of customs duty takes effect. Any such unilateral acceleration or improvement of the scope of the elimination of customs duties will not permanently supersede any duty rate or staging category determined pursuant to its respective Schedule nor serve to waive that Party's right to raise the customs duty back to the level established in its Schedule to Annex 2A (Schedules of Tariff Commitments) following a unilateral reduction.

#### **Article 2.6: Classification of Goods and Transposition of Schedules**

1. The classification of goods in trade between the Parties shall be in accordance with each Party's respective tariff nomenclature in conformity with the Harmonized System (HS).
2. The Parties shall ensure that the transposition of the Harmonized System shall not affect the value of tariff concessions set out in the Schedules of Tariff Commitments

in Appendices 2A-a (Tariff Schedule of the UAE) and 2A-b (Tariff Schedule of Viet Nam).

3. The Parties shall discuss whether any revisions are necessary to implement Appendices 2A-a (Tariff Schedule of the UAE) and 2A-b (Tariff Schedule of Viet Nam) due to periodic amendments and transposition of the Harmonized System in accordance with the methodologies and procedures adopted by the Subcommittee on Trade in Goods.

### **Article 2.7: Import and Export Restrictions**

1. Except as otherwise provided for 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, in accordance with Article XI of the GATT 1994, including its Notes and Supplementary Provisions. To that end, Article XI of the GATT 1994, including its Notes and Supplementary Provisions, are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Paragraph 1 shall prohibit a Party from adopting or maintaining:
  - (a) import licensing conditioned on the fulfilment of a performance requirement; or
  - (b) voluntary export restraints.
3. Paragraphs 1 and 2 shall not apply to the goods listed in Annex 2B (Goods to Which Viet Nam May Apply Specific Measures). Any amendment to Viet Nam's laws and regulations that reduces the scope of the goods listed in Annex 2B (Goods to Which Viet Nam May Apply Specific Measures) shall automatically apply under this Agreement. Any preference accorded by Viet Nam regarding the scope of the goods listed in Annex 2B (Goods to Which Viet Nam May Apply Specific Measures) to any other trading partner shall automatically apply under this Agreement. Viet Nam shall notify the UAE of any amendment or preference referred to in this paragraph.
4. When a Party adopts or maintains an import or export prohibition or restriction it shall ensure full transparency thereof.

## **Article 2.8: Import Licensing**

1. No Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement<sup>1</sup>, which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Before applying any new or modified import licensing procedure, a Party shall publish it in such a manner as to enable governments and traders to become acquainted with it, including through publication on an official government internet site. To the extent possible, that Party shall do so at least 20 days before the new procedure or modification takes effect. Upon request of the other Party, that Party shall exchange information concerning its implementation in a reasonable period.
3. Within 30 days after this Agreement enters into force, each Party shall notify the other Party of its existing import licensing procedures, if any. The notification shall include the information specified in Article 5.2 of the Import Licensing Agreement.
4. A Party shall be deemed to comply with the above paragraph if it has notified the WTO Committee on Import Licensing together with the information specified in Article 5.2 of the Import Licensing Agreement.

## **Article 2.9: Customs Valuation**

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

## **Article 2.10: Export Subsidies**

Upon entry into force of this Agreement, neither Party shall adopt nor maintain any export subsidy on any good destined for the territory of the other Party in accordance with the SCM Agreement and the Agreement on Agriculture.

## **Article 2.11: Restrictions to Safeguard the Balance-of-Payments**

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.
2. Any such measures taken for trade in goods shall be in accordance with Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the

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<sup>1</sup> For the purposes of paragraph 1 and for greater certainty, in determining whether a measure is inconsistent with the Import Licensing Agreement, the Parties shall apply the definition of “import licensing” contained in that Agreement.

GATT 1994, the provisions of which are incorporated into and made part of this Agreement, *mutatis mutandis*.

#### **Article 2.12: 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 and export duties, charges equivalent to an internal tax or other internal charges 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 of goods are limited in amount to the approximate cost of services rendered, which shall not be calculated on an ad valorem basis, and shall not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.
2. Each Party shall promptly publish details and shall make such information available on the internet regarding the fees and charges it imposes in connection with importation or exportation.

#### **Article 2.13: Non-Tariff Measures**

1. Neither Party shall adopt nor 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 with this Agreement.
2. Each Party shall ensure that its laws, regulations, procedures and administrative rulings relating to non-tariff measures are not prepared, adopted or applied with the view to, or with the effect of, creating unnecessary obstacles to trade with the other Party.
3. If a Party considers that a non-tariff measure of the other Party is creating an unnecessary obstacle to trade, that Party may nominate such non-tariff measure for review by the Subcommittee on Trade in Goods by notifying through a written request, which shall be submitted before the date of the next scheduled meeting of the Subcommittee on Trade in Goods. A nomination of a non-tariff measure for review shall include reasons for its nomination, how the measure adversely affects trade between the Parties, and if possible, suggested solutions. The Subcommittee on Trade in Goods shall immediately review the measure with a view to securing a mutually agreed solution to the matter. Review by the Subcommittee on Trade in Goods is without prejudice to the Parties' rights under Chapter 17 (Dispute Settlement).

#### **Article 2.14: State Trading Enterprises**

The Parties affirm their existing rights and obligations under Article XVII of the GATT 1994, including its notes and supplementary provisions and obligations and the WTO

understanding on the interpretation of Article XVII of the GATT 1994, which are incorporated into and made part of this Agreement, *mutatis mutandis*.

### **Article 2.15: Temporary Admission of Goods**

1. Each Party shall, in accordance with its respective domestic 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, including their spare parts, and including equipment for the press or television, software, and broadcasting and cinematographic equipment, 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, demonstration or use at theaters, exhibitions, fairs, or other similar events;
  - (c) commercial samples and advertising films and recordings;
  - (d) goods admitted for sports purposes;
  - (e) containers and pallets that are used for the transportation of equipment or used for refilling; and
  - (f) goods entered for completion or processing<sup>2</sup>.
2. Each Party shall, at the request of the importer and for reasons deemed valid by its Customs Authority, extend the time limit for temporary admission beyond the period initially fixed.
3. Neither Party shall condition the temporary admission of a good referred to in paragraph 1, other than to require that the good:
  - (a) not be sold or leased while in its territory;
  - (b) be accompanied by a security in an amount no greater than the custom duties and any other tax imposed on imports that would otherwise be owed on entry or final importation, releasable on exportation of the good;
  - (c) be capable of identification when exported;

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<sup>2</sup> Processing shall be regulated in accordance with each Party's domestic laws.

- (d) be exported in accordance with the time period granted for temporary admission in accordance with its domestic law related to the purpose of the temporary admission;
  - (e) not be admitted in a quantity greater than is reasonable for its intended use; or
  - (f) be otherwise admissible into the importing Party's territory under its laws and regulations.
4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, that Party may apply the customs duty, and any other tax or charge that would normally be owed on the importation of the good and any other charges or penalties provided for under its laws and regulations.
  5. Each Party through its Customs Authority shall adopt and maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when a good accompanies 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.
  6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted in accordance with its customs procedures.
  7. Each Party shall provide that the importer of 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. A Party may condition relief of liability under this paragraph by requiring the importer to receive prior approval from the Customs Authority of the importing Party before the good can be so destroyed.

#### **Article 2.16: Goods Re-Entered After Repair or Alteration**

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory in accordance with its laws, regulations and procedures after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory from which the good was exported, except that a customs duty or other taxes may be applied to the addition resulting from the repair or alteration that was performed in the territory of the other Party.
2. Neither Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

3. For the purposes of this Article, “repair” or “alteration” does not include an operation or process that:
  - (a) destroys a good’s essential characteristics or creates a new or commercially different good;
  - (b) transforms an unfinished good into a finished good; or
  - (c) results in a change of the classification at a six-digit level of the Harmonized System (HS).

**Article 2.17: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials**

Each Party, in accordance with its respective domestic laws and regulations, shall 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 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 the materials nor the packets form part of a larger consignment.

**Article 2.18: Subcommittee on Trade in Goods**

1. The Parties hereby establish a Subcommittee on Trade in Goods under the Joint Committee comprising representatives of each Party.
2. The Subcommittee shall meet once a year or meet upon request of either Party to consider any matter arising under this Chapter. The Parties shall agree on the time, venue and means of the meetings. The Subcommittee may carry out its work through whatever means that are appropriate, which may include electronic mail, videoconferencing, or other means.
3. The functions of the Subcommittee shall include, *inter alia*:
  - (a) monitoring and reviewing the implementation and administration of this Chapter, including any matter related to its implementation, and making reports and recommendations, if appropriate;
  - (b) promoting trade in goods between the Parties, including through consultations on accelerating or improving the scope of preferential



treatment or tariff elimination under this Agreement and other issues, as appropriate;

- (c) addressing barriers to trade in goods between the Parties including those related to the application of non-tariff measures which may restrict trade in goods between the Parties and, if appropriate, referring such matters to the Joint Committee for its consideration;
- (d) providing advice and recommendations to the Joint Committee on cooperation needs regarding trade in goods matters;
- (e) reviewing amendments to the Harmonized System (HS) to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between such amendments to the Harmonized System (HS), Annex 2A (Schedules of Tariff Commitments), and national nomenclatures;
- (f) consulting on and endeavouring to resolve any difference that may arise among the Parties on matters related to the classification of goods under the Harmonized System (HS), including adoption and review of transposition methodologies and guidelines;
- (g) reviewing data on trade in goods in relation to the implementation of this Chapter;
- (h) assessing matters that relate to trade in goods and undertaking any additional work that the Joint Committee may assign to it.