

CHAPTER 2
NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

ARTICLE 2.1: SCOPE

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

SECTION A: DEFINITIONS

ARTICLE 2.2: DEFINITIONS

For the purposes of this Chapter:

advertising films and recordings means recorded visual media or audio materials, consisting essentially of images and/or sound, showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party, provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public;

commercial sample of negligible value means a commercial sample having a value, individually or in the aggregate as shipped, of not more than 1 USD, or the equivalent amount in the currency of either of the Parties, or so marked, torn, perforated or otherwise treated that it is unsuitable for sale or for use except as a commercial sample;

export subsidies shall have the meaning assigned to that term in Article 1(e) of the Agriculture Agreement.;

goods intended for display or demonstration includes their component parts, ancillary apparatus, and accessories;

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;

import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party; **performance requirement** means a requirement that:

- (a) a given level or percentage of goods or services be exported;
- (b) domestic goods or services of the Party granting a waiver of customs duties or import license be substituted for imported goods;
- (c) a person benefiting from a waiver of customs duties or an import license purchase other goods or services in the territory of the Party granting the

waiver of customs duties or the import license, or accord a preference to domestically produced goods;

- (d) a person benefiting from a waiver of customs duties or an import license produce goods or supply services, in the territory of the Party granting the waiver of customs duties or the import license, with a given level or percentage of domestic content; or
- (e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows, but does not include a requirement that an imported good be:
 - (f) subsequently exported;
 - (g) used as a material in the production of another good that is subsequently exported;
 - (h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or
 - (i) substituted by an identical or similar good that is subsequently exported; and

printed advertising material means a good classified in Chapter 49 of the HS including a brochure, pamphlet, leaflet, trade catalogue, flyers, yearbook published by a trade association, tourist promotional material or poster, that is:

- (a) used to promote, publicize or advertise a good or service;
- (b) essentially intended to advertise a good or service; and
- (c) supplied free of charge.

SECTION B: NATIONAL TREATMENT

ARTICLE 2.3: 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. To this end, Article III of the GATT 1994, are incorporated into and made part of this Agreement, mutatis mutandis.
2. Paragraph 1 shall not apply to the measures set out in Annex 2-A

SECTION C: TARIFF ELIMINATION

ARTICLE 2.4: TARIFF ELIMINATION FOR INDUSTRIAL GOODS

1. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods of the other Party, in accordance with Annex 2-B.
2. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any customs duty, on an originating good of the other Party.
3. If, at any time, a Party reduces its applied customs tariff MFN after the date of entry into force of this Agreement, such tariff shall apply only if it is lower than the tariff resulting from the application of Annex 2-B.
4. On the request of either Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in the Annex 2-B.
5. For greater certainty, a Party may:
 - (a) modify a tariff outside this Agreement on a good for which no tariff preference is claimed under this Agreement;
 - (b) raise a customs duty back to the level established in Annex 2-B, following a unilateral reduction; or
 - (c) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

ARTICLE 2.5: PREFERENTIAL TREATMENT FOR FISHERY GOODS

1. The Parties grant tariff concessions to fishery goods originating in the Parties, as specified in Annex 2-C.
2. For greater certainty, a Party may:
 - (a) modify a tariff outside this Agreement on a good for which no tariff preference is claimed under this Agreement;
 - (b) raise a customs duty back to the level established in Annex 2-C, following a unilateral reduction; or
 - (c) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

SECTION D: SPECIAL REGIMES

ARTICLE 2.6: TEMPORARY ADMISSION OF GOODS

1. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:
 - (a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, 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 admitted for sports purposes and goods intended for display or demonstration; and
 - (c) commercial samples and advertising films and recordings.
2. Each Party shall, upon request of the person concerned and for reasons its Customs Authority considers valid, extend the time limit for temporary admission beyond the period initially fixed.
3. No Party may condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that the good be:
 - (a) admitted by a national or resident of the other Party seeking temporary entry;
 - (b) used solely by or under the personal supervision of a national or resident of the other Party in the exercise of trade, business, professional, or sport activities;
 - (c) not sold or leased while in its territory;
 - (d) accompanied by a security in an amount no greater than the import duties and other charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
 - (e) capable of identification when exported;
 - (f) exported upon the departure of the person referenced in subparagraph (b), or within such other period related to the purpose of the temporary admission as the importing Party establish; or within one year, unless extended;
 - (g) admitted in no greater quantity than is reasonable for its intended use; or
 - (h) otherwise admissible into the Party's territory under its 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 law.

5. Each Party 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 goods 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.
7. Each Party shall 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 thereof.
8. Except as otherwise provided in this Agreement, the Party shall not:
 - (a) prevent a vehicle or container used in international traffic that enters its territory from the territory of the other Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
 - (b) 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 vehicle or container;
 - (c) condition the release of any obligation, including any security, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and
 - (d) require that the vehicle or carrier bringing a container from the territory of the other Party into its territory be the same vehicle or carrier that takes the container to the territory of the other Party.
9. For purposes of paragraph 8, **vehicle** means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

ARTICLE 2.7: GOODS RE-ENTERED AFTER REPAIR OR ALTERATION

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that reenters its territory 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 of the Party from which the good was exported for repair or alteration.
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 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; or
- (b) results in a change of the classification at a six digit level of the HS.

ARTICLE 2.8: DUTY- FREE ENTRY OF COMMERCIAL SAMPLES OF NEGLIGIBLE VALUE AND PRINTED ADVERTISING MATERIALS

1. Each Party shall grant duty-free entry to commercial samples of negligible value, and printed advertising materials, imported from the territory of the other Party, regardless of their origin, however, it 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 material and that neither such materials nor the packets form part of a larger consignment.

SECTION E: NON-TARIFF MEASURES

ARTICLE 2.9: IMPORT AND EXPORT RESTRICTIONS

1. Except as otherwise provided in this Agreement, neither Party may 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 Article XI of the GATT 1994. To this end, Article XI of the GATT 1994 are incorporated into and made a part of this Agreement, *mutatis mutandis*.
2. Paragraph 1 shall not apply to the measures set out in Annex 2-A
3. The Parties understand that the GATT 1994 rights and obligations incorporated by 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 antidumping duty orders and undertakings;
 - (b) import licensing conditioned on the fulfillment of a performance requirement;
or

- (c) voluntary export restraints inconsistent with Article VI of the GATT 1994, as implemented under Article 18 of the Subsidies Agreement and Article 8.1 of the Anti-dumping Agreement.

ARTICLE 2.10: IMPORT LICENSING PROCEDURES

No Party shall maintain or adopt a measure that is inconsistent with the Agreement on Import Licensing Procedures of the WTO (hereinafter referred to as the “Import Licensing Agreement”), and the same is incorporated into this Agreement, *mutatis mutandis*.

ARTICLE 2.11: ADMINISTRATIVE FEES AND FORMALITIES

1. Each Party shall ensure, in accordance with Article VIII of the GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of the GATT 1994, and antidumping 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.

ARTICLE 2.12: DUTIES ON EXPORTS

1. Neither Party may adopt or maintain any duty, tax, or other charge on the export of any good to the territory of the other Party.
2. Paragraph 1 shall not apply to measures set out in Annex 2-A

ARTICLE 2.13: BALANCE OF PAYMENTS

The rights and obligations of the Parties relating to balance of payments shall be governed by the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994*, part of Annex 1A of the WTO Agreement.

SECTION F: OTHER MEASURES

ARTICLE 2.14: CUSTOM VALUATION

1. The Customs Valuation Agreement and any successor agreement shall govern customs valuation rules applied by the Parties to their reciprocal trade. To this end, the

Customs Valuation Agreement and any successor agreement are incorporated and made part of this Agreement, *mutatis mutandis*.

2. Customs legislation of each Party shall comply with Article VII of the GATT 1994 and the Customs Valuation Agreement.

ARTICLE 2.15: COMMITTEE ON TRADE IN GOODS

1. The Parties hereby establish a Committee on Trade in Goods, (hereinafter the Committee), comprising representatives of each Party.
2. Committee meetings and any *Ad-hoc* working group will be chaired by representatives of the *Ministry of Economy and Industry of the State of Israel* and the *Ministry of Commerce and Industries of the Republic of Panama (Ministerio de Comercio e Industrias de la República de Panamá)*, or their respective successors.
3. The Committee shall have the following functions:
 - (a) monitoring the implementation and administration of this Chapter;
 - (b) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement, and other issues as appropriate;
 - (c) 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 Joint Committee as referred to in Article 12.1 (Establishment and Functions of the Joint Committee), for its consideration;
 - (d) reviewing the amendments to the HS to ensure that each Party's obligations under this Agreement are not altered, and if necessary consult to resolve any conflicts;
 - (e) establish *Ad-hoc* working groups with specific mandates; and
 - (f) consider any other matter arising under this Chapter.
 - (g) carry out the assignments arising by Chapter 5 (Sanitary and Phytosanitary Measures) and Chapter 6 (Technical Barriers to Trade)
4. All decisions of the Committee shall be taken by mutual agreement.

SECTION G: AGRICULTURE

ARTICLE 2.16: SCOPE

1. This Section shall apply to the measures adopted or maintained by the Party relating to trade in agricultural goods.
2. The term “agricultural goods” means, for the purposes of this Agreement, the goods listed in Annex I of the Agreement on Agriculture.
3. For agricultural goods, the provisions of this Section shall prevail over the provisions of any other Section or Chapter of this Agreement.

ARTICLE 2.17: PREFERENTIAL TREATMENT OF AGRICULTURAL GOODS

1. The Parties grant tariff concessions and reduce or eliminate customs duties to agricultural goods originating in the Parties, as indicated in the Annex 2-D.
2. For greater certainty, a Party may:
 - (a) modify a tariff outside this Agreement on a good for which no tariff preference is claimed under this Agreement;
 - (b) raise a customs duty back to the level established in Annex 2-D, following a unilateral reduction; or
 - (c) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

ARTICLE 2.18: ADMINISTRATION AND IMPLEMENTATION OF TARIFF-RATE QUOTAS

1. Each Party shall implement and administer tariff rate quotas for imports of agricultural goods set out in Annex 2-D in accordance with Article XIII of GATT 1994, and the Import Licensing Agreement.
2. Upon request of the exporting Party, the importing Party shall provide information to the exporting Party with respect to the administration of the tariff rate quotas of the importing Party.

ARTICLE 2.19: EXPORT SUBSIDIES

1. The Parties share the objective of eliminating export subsidies for agricultural goods in the framework of the WTO negotiations. This is without prejudice to the rights of the Parties in those multilateral negotiations.
2. From the entry into force of this Agreement, no Party may adopt or maintain any export subsidy on any agricultural good destined for the territory of the other Party.

3. Notwithstanding paragraph 2, a Party may adopt or maintain an export subsidy in accordance with its law and its WTO commitments on an agricultural good that is exported to the other Party.

A Party which is considering the application of a measure to counter the effects of the export subsidy shall discuss, at the request of the other Party, with a view to agreeing on such measures that either Party may adopt in accordance with the laws of a Party and its WTO commitments. If no mutually satisfactory measures are agreed upon, the importing Party may increase the rate of duty on such imports up to the applied MFN tariff rate.

ANNEX 2-A

EXCEPTIONS TO NATIONAL TREATMENT AND IMPORT AND EXPORT RESTRICTIONS

SECTION A: MEASURES OF ISRAEL

The provisions of Articles 2.3, 2.9, and 2.12 shall not apply to measures adopted by Israel with respect of:

- (a) controls and charges maintained by Israel on the export of metal waste and scrap;
- (b) Israeli law on imports of non-kosher meat.
- (c) actions authorized by the Dispute Settlement Body of the WTO.

SECTION B: MEASURES OF PANAMA

The provisions of Articles 2.3 and 2.9 shall not apply to measures adopted by Panama in respect of:

- (a) a measure to regulate the importation of lottery tickets in official circulation pursuant to Cabinet Decree No. 19 of June 30, 2004;
- (b) import controls on used vehicles pursuant to Law No. 36 of May 17, 1996;
- (c) a measure regulating the importation of used motor vehicles, pursuant to Law No. 45 of October 31, 2007;
- (d) import controls of video and other games classified under heading 95.04 providing cash prizes pursuant to Decree-Law No. 2 of February 10, 1998; and