

## **CHAPTER 1: MARKET ACCESS**

### **Section A: General Provisions**

#### **Article 1.1: Treatment of Customs Duties**

1. Unless otherwise provided in this Agreement, no Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good or service.
2. Unless otherwise provided in this Agreement, each Party shall apply a customs duty on an originating good in accordance with its Schedule to Annex 1 (Tariff Commitments).
3. No Party shall impose customs duties, fees, or other charges on or in connection with the importation or exportation of digital products transmitted electronically, between a person of one Party and a person of another Party.
4. For greater certainty, paragraph 3 does not preclude a Party from imposing internal taxes, fees, or other charges on a digital product transmitted electronically, provided that those taxes, fees, or charges are imposed in a manner otherwise consistent with this Agreement.

#### **Article 1.2: Prohibition on Export Platforms**

1. No Party shall use a duty waiver or refund program to create an export platform with respect to another Party.
2. Accordingly, except as otherwise provided in this Article, no Party shall refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its territory, on condition that the good is:
  - (a) used as a material in the production of another good that is subsequently exported to the territory of another Party; or
  - (b) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party,

in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory and the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

3. No Party shall refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, for non-originating goods that are imported into the territory of that Party and distributed to the territory of the other Party.
4. For purposes of this Article, customs duties shall include:
  - (a) an antidumping or countervailing duty;

- (b) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, or tariff rate quotas or tariff preference levels; or
- (c) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party.

### **Article 1.3: Waiver of Customs Duties**

With respect to a material or good ultimately exported to the territory of another Party, no Party shall waive a customs duty on such material or good if the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

### **Article 1.4: Import and Export Restrictions**

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction on the importation of any good of another Party or on the exportation or sale for export of any good destined for the territory of another Party, except in accordance with Article XI of the GATT 1994, including its interpretative notes.

2. The Parties understand that 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) an export or import price requirement, except as permitted in enforcement of antidumping and countervailing duty orders or price undertakings; or
- (b) import licensing conditioned on the fulfilment of a performance requirement; or

3. If a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent that Party from:

- (a) limiting or prohibiting the importation of the good of that non-Party from the territory of another Party; or
- (b) requiring, as a condition for exporting the good of the Party to the territory of another Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

### **Article 1.5: Currency Manipulation**

Consistent with the recognition in GATT Article XV:4 that exchange actions should not be used to frustrate the intent of the provisions of the Agreement, and consistent with the recognition in GATT Article VI that certain currency depreciation practices can constitute a form of subsidy or

dumping, the Parties affirm that they may use countervailing duty procedures to address exchange actions that frustrate the intent of the provisions of this Agreement.

### **Article 1.6: Confidentiality**

1. If a Party provides information to another Party in accordance with this Chapter and designates the information as confidential or it is confidential under the receiving Party's law, the receiving Party shall keep the information confidential in accordance with its law.
2. A Party may decline to provide information requested by another Party if that Party has failed to act in accordance with paragraph 1.
3. A Party may use or disclose confidential information received from another Party under this Chapter but only for the purposes of administration or enforcement of its customs laws or as otherwise provided under the Party's law, including in an administrative, quasi-judicial, or judicial proceeding.
4. When a Party collects information from a trader under this Chapter, that Party shall apply the provisions set out in Article 10.6 (Protection of Trader Information) to keep the information confidential.

## **Section B: Trade in Agricultural Goods**

### **Article 1.7: Purpose**

1. The Parties recognize the benefits of trade in agricultural goods, while also recognizing the importance of family farms and of sustaining a rural way of life.
2. The Parties therefore seek to balance the goal of liberalizing trade in agricultural goods, with the need to sustain family farming and rural communities.

### **Article 1.8: Scope**

1. This Section applies to measures adopted or maintained by a Party relating to trade in agricultural goods.
2. In the event of any inconsistency between this Section and another provision of this Agreement, this Section shall prevail to the extent of the inconsistency.

### **Article 1.9: International Cooperation**

1. The Parties shall work together to promote increased transparency and to improve and further develop disciplines on rules governing trade in agriculture, with a view toward promoting sustainable development. The Parties affirm that while trade in agricultural products is desirable, the application of market principles to trade in agriculture does not sufficiently take into account non-market consequences, such as rural depopulation.

2. Further to paragraph 1, the Parties shall cooperate in evaluating the consequences of concentration in the agricultural sector on small farmers and rural populations.

#### **Article 1.10: Export Competition**

1. No Party shall adopt or maintain an export subsidy on any agricultural good destined for the territory of another Party.

2. If a Party considers that export financing support granted by another Party results or may result in a distorting effect on trade between the Parties, or considers that an export subsidy is being granted by another Party, with respect to an agricultural good, it may request a discussion on the matter with the other Party. The responding Party shall agree to discuss the matter with the requesting Party as soon as practicable.

#### **Article 1.11: Export Restrictions and Food Security**

1. For the purpose of this Article, “foodstuff” includes fish and fish products intended for human consumption.

2. The Parties recognize that under Article XI:2(a) of the GATT 1994 a Party may temporarily apply an export prohibition or restriction that is otherwise prohibited under Article XI:1 of the GATT 1994 on a foodstuff to prevent or relieve a critical shortage, subject to meeting the conditions set out in Article 12.1 of the Agreement on Agriculture.

3. A Party applying an export prohibition or restriction shall notify the other Party as soon as practicable.

### **Section C: Textiles and Apparel**

#### **Article 1.12: Handmade, Traditional Folkloric, or Indigenous Handicraft Goods**

1. An importing Party and an exporting Party may identify particular textile or apparel goods that they mutually agree are:

- (a) hand-loomed fabrics of a cottage industry;
- (b) hand-made cottage industry goods made of those hand-loomed fabrics; or
- (c) traditional folklore or indigenous handicraft goods.

2. The goods identified pursuant to paragraph 1 shall be eligible for duty-free treatment by the importing Party provided that any requirements agreed by the importing and exporting Parties are met.

## Section D: Definitions

For purposes of this Chapter:

**Agreement on Agriculture** means the *Agreement on Agriculture*, set out in Annex 1A to the WTO Agreement;

**agricultural good** means an agricultural product referred to in Article 2 of the Agreement on Agriculture;

**customs duty** includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;
- (b) fee or other charge in connection with the importation commensurate with the cost of services rendered;
- (c) antidumping or countervailing duty; and
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas, or tariff preference levels;

**export subsidy** has the same meaning as assigned to “export subsidies” in Article 1(e) of the Agreement on Agriculture;

**good** means “good” as defined in Section C of Chapter 2 (Definitions);

**good of a Party** means a domestic product as understood in the GATT 1994 or such good as the Parties may agree, and includes an originating good of a Party;

**material** means “material” as defined in Section C of Chapter 2 (Definitions);

**textile or apparel good** means a “textile or apparel good” as defined in Section C of Chapter 2 (Definitions);

**used** means “used” as defined in Section C of Chapter 2 (Definitions).

## **Annex 1: Tariff Commitments**

[Drafting note: Annex to be negotiated. The Parties should recognize that some product lines are sensitive and that in such cases requiring tariff elimination undermines support for liberalized trade.]