

## CHAPTER 3

### TRADE IN GOODS

#### Article 3.1: Definitions

For the purposes of this Chapter:

**advertising films and recordings** means recorded audio/visual (film, tape, or disc), or audio (tape or disc) media designed to advertise or promote goods or services by any company, firm or person, having an established business or resident in the territory of a Party, excluding such media for general public exhibition;

**agricultural goods** means those goods referred to in Article 2 of the *Agreement on Agriculture*, which is part of the WTO Agreement;

**commercial samples of negligible value** means commercial samples having a value, individually or in the aggregate as shipped, of not more than one US dollar, or the equivalent amount in the currency of a Party, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

**consular transactions** means 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;

**duty-free** means free of customs duty;

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

**goods admitted for sports purposes** means articles and equipment for use in sports contests, demonstrations or training in the territory of the Party into whose territory such goods are imported;

**goods intended for display or demonstration** includes instruments, apparatus and models designed for demonstrational purposes, unsuitable for other purposes, and classified in Harmonized System Tariff heading 90.23;

**printed advertising materials** means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicise or advertise a good or serviced, are essentially intended to advertise a good or services, and are supplied free of charge.

### **Article 3.2: Scope**

Except as otherwise provided, this Chapter applies to trade in all goods between any of the Parties.

### **Article 3.3: National Treatment**

Each Party shall accord national treatment to the goods of the other Parties in accordance with Article III of GATT 1994. To this end, the provisions of Article III of GATT 1994 are incorporated into and shall form part of this Agreement, *mutatis mutandis*.

### **Article 3.4: Elimination of Customs Duties**

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any customs duty, on an originating good.
2. Except as otherwise provided in this Agreement, and subject to a Party's Schedule as set out in Annex I, as at the date of entry into force of this Agreement each Party shall eliminate all customs duties on originating goods of another Party.
3. On the request of any Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules. An agreement between two or more of the Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules for such good when approved by each Party in accordance with Article 17.2 (*Functions of the Commission*). Any such acceleration shall be extended to all Parties.

### **Article 3.5: Goods Re-entered after Repair and Alteration**

1. The Parties may not apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of another Party for repair or alteration, regardless of whether such repair or alteration could be performed in its own territory.

2. The Parties may not apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of another Party for repair or alteration.

3. For the purposes of this Article, repair and 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) transforms an unfinished good into a finished good.

### **Article 3.6: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Material**

With the exception of liquor and tobacco products, the Parties shall grant customs duty-free entry to commercial samples of negligible value and to printed advertising materials imported from the territory of another 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 another Party or a non-Party; or
- (b) such advertising materials are imported in packets that each contain no more than one copy of each material and that neither such materials nor packets form part of a larger consignment.

### **Article 3.7: Temporary Admission of Goods**

1. With the exception of liquor and tobacco products each Party shall grant customs duty-free temporary admission for:

- (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 business person;
- (b) goods intended for display or demonstration;
- (c) commercial samples and advertising films and recordings; and
- (d) goods admitted for sports purposes, including racing or others similar events, regardless of their origin.

2. Each Party shall, at the request of the person concerned and for reasons deemed valid by its customs authority, extend the time limit for temporary admission beyond the period initially fixed, provided that the period of extension, having regard to the particular goods and circumstances of each case, is reasonable and the period of extension is no greater than the period initially fixed.

3. No Party may condition the duty-free temporary admission of goods referred to in Paragraph 1, other than to require that such goods:

- (a) be used solely by or under the personal supervision of a national or resident of another Party in the exercise of the business activity, trade, profession, or sport of that person;
- (b) not be sold or leased or disposed of or transferred while in its territory;
- (c) be accompanied by a 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 of identification when imported and 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;
- (f) be admitted in no greater quantity than is reasonable for their intended use; and
- (g) be otherwise admissible into the Party's territory under its laws.

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 domestic law.

5. Each Party, through its customs authority, shall adopt procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of another 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 authorised point of departure other than that through which it was admitted.

7. Subject to Chapter 12 (*Trade in Services*):
- (a) each Party shall allow a vehicle or container used in international traffic that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;
  - (b) no Party may require any bond or impose any penalty or charge solely by reason of any difference between the customs authorised point of entry and the customs authorised point of departure of a vehicle or container;
  - (c) no Party may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular customs authorised point of departure; and
  - (d) no Party may require that the vehicle or carrier bringing a container from the territory of another Party into its territory be the same vehicle or carrier that takes such container back to the territory of that other Party.

**Article 3.8: Non-Tariff Measures**

- 1. No Party shall adopt or maintain any non-tariff measures on the importation of any good of another Party or on the exportation of any good destined for the territory of another Party except in accordance with its rights and obligations under the WTO Agreement or in accordance with other provisions of this Agreement.
- 2. Paragraph 1 shall not apply to the measures set out in Annex 3.A.

**Article 3.9: Administrative Fees and Formalities**

- 1. The Parties agree that fees, charges, formalities and requirements imposed in connection with the importation and exportation of goods shall be consistent with their obligations under GATT 1994.
- 2. No Party may require consular transactions, including related fees and charges, in connection with the importation of any good of the other Parties.
- 3. Each Party shall 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 3.10: Export Duties**

No Party may adopt or maintain any duty, tax, or other charge on the export of any good to the territory of the other Parties, unless such duty, tax, or charge is adopted or maintained on any such good when destined for domestic consumption.<sup>1</sup>

### **Article 3.11: Agricultural Export Subsidies**

1. The Parties share the objective of the multilateral elimination of all forms of export subsidies for agricultural goods and shall cooperate in an effort to achieve such an agreement and prevent their reintroduction in any form.
2. Notwithstanding any other provisions of this Agreement, the Parties agree to eliminate, as of the date of entry into force of this Agreement, all forms of export subsidy for agricultural goods destined for the other Parties, and to prevent the reintroduction of such subsidies in any form.

### **Article 3.12: Price Band System**

1. Chile may maintain its Price Band System as established in Article 12 of Law 18.525 and its subsequent legal modifications or succeeding system, for the products covered by that law.<sup>2</sup>
2. With respect to the products referred to in Paragraph 1, Chile shall give to the other Parties a treatment not less favourable than the preferential tariff treatment given to any third country, including countries with which Chile has concluded or will conclude in the future an agreement notified under Article XXIV of GATT 1994.

### **Article 3.13: Special Agricultural Safeguard Measures**

1. Chile may apply a special safeguard measure to a limited number of specified sensitive agricultural goods listed in Annex 3.B.
2. Chile shall endeavour to apply special safeguard measures in a manner that is consistent with its commitments under this Agreement to liberalise and promote the expansion of trade in these goods among the Parties.

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<sup>1</sup> For greater certainty, this Article shall not apply to fees, charges, formalities and requirements on the exportation of goods imposed consistent with the provisions of Article VIII of GATT 1994.

<sup>2</sup> The only products covered by the Price Band System are HS 1001.9000, 1101.0000, 1701.1100, 1701.1200, 1701.9100, 1701.9910, 1701.9920 and 1701.9990.

3 Chile may impose a special safeguard measure on a good only during the period, following the grace period specified in Chile's Schedule as set out in Annex I, in which tariffs are being eliminated. Chile may not impose a special safeguard measure on a good after that good achieves duty-free status under this Agreement.

4. Notwithstanding Article 3.4, Chile may impose a special safeguard measure in the form of additional import duties as set out below on those goods listed in Annex 3.B. The sum of any such additional duty and any import duties or other charges applied pursuant to Article 3.4 shall not exceed the lesser of:

- (a) the prevailing most-favoured-nation applied rate; or
- (b) the base rate.

5. Chile may impose a special safeguard measure if the quantity of imports of the good during any semester exceeds the quantity trigger level, corresponding to that specific semester, for those goods listed in Annex 3.B.

6. Chile may maintain a special safeguard measure, under Paragraph 5, only until the end of the semester in which Chile applies the measure.

7 Supplies of the good in question which were *en route* on the basis of a contract settled before the additional customs duty is imposed under the terms of this Article shall be exempted from any such additional customs duty, provided that they may be counted in the volume of imports of the good in question during the following semester for the purposes of triggering the provisions of Paragraph 5 in that semester.

8. Chile may not apply, with respect to the same good, a special safeguard measure and at the same time apply or maintain a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

9. Chile shall apply any special safeguard measure in a transparent manner. Chile shall ensure that the current volume of imports is published in a manner which is readily accessible to the other Parties, and shall give notice in writing, including relevant data, to the other Parties as far in advance as may be practicable and in any event within 10 working days of the implementation of such action. If Chile decides not to apply a special safeguard measure where the specified trigger volume has been or is about to be met, it shall notify the other Parties promptly of its decision.

10. Upon request of a Party, Chile shall consult promptly and cooperate in exchanging information, as appropriate, with respect to the conditions for applying a special safeguard measure.

11. The Committee on Trade in Goods may review the implementation and operation of this Article.

12. For purposes of this Article, **special safeguard measure** means a special safeguard measure described in Paragraph 4 and **base rate** means the rate of customs duty for an imported good as indicated in the Schedule of the importing Party as set out in Annex I.

#### **Article 3.14: Committee on Trade in Goods**

1. The Parties may establish a Committee on Trade in Goods that may meet on the request of any Party or the Commission to consider any matter arising under this Chapter and Chapter 4 (*Rules of Origin*).

2. The Committee's functions shall include:

- (a) reviewing the implementation of the Chapters referred to above; and
- (b) identification and recommendation of measures to promote and facilitate improved market access, including addressing barriers to trade in goods among the Parties, and to accelerate the tariff elimination under this Agreement.

## **Annex 3.A**

### **Import and Export Measures**

#### **Measures of Chile**

Article 3.8 shall not apply to measures of Chile relating to imports of used vehicles.

### Annex 3.B

#### Special Safeguard Measures

For purposes of Article 3.13, goods originating in Brunei Darussalam, New Zealand or Singapore that may be subject to a special safeguard measure and the trigger levels for each such good are set out below:

#### List of Chile

Code	Description	Quantity Trigger Level
0402.1000	-In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1.5 %	Basket 1
	- In powder, granules or other solid forms, of a fat content, by weight, exceeding 1.5%:	
0402.21	--Not containing added sugar or other sweetening matter :	
	---Milk	
0402.2111	----Of a fat content exceeding 1.5% but not exceeding 6%	Basket 1
0402.2112	----Of a fat content exceeding 6% but not exceeding 12%	Basket 1
0402.2113	----Of a fat content of 12%	Basket 1
0402.2114	----Of a fat content exceeding 12% but not exceeding 18%	Basket 1
0402.2115	----Of a fat content of 18%	Basket 1
0402.2116	----Of a fat content exceeding 18% but not exceeding 24%	Basket 1
0402.2117	----Of a fat content of 24% but not exceeding 26% Basket	1
0402.2118	----Of a fat content of 26% and more	Basket 1
0402.2120	---Cream	Basket 2
0402.29	--Other	
	---Milk	
0402.2911	----Of a fat content exceeding 1.5% but not exceeding 6%	Basket 1
0402.2912	----Of a fat content exceeding 6% but not exceeding 12%	Basket 1
0402.2913	----Of a fat content of 12%	Basket 1
0402.2914	----Of a fat content of 12% but not exceeding 18%	Basket 1
0402.2915	----Of a fat content of 18%	Basket 1

Code	Description	Quantity	Trigger Level
0402.2916	----Of a fat content exceeding 18% but not exceeding 24%		Basket 1
0402.2917	----Of a fat content of 24% but not exceeding 26%		Basket 1
0402.2918	----Of a fat content of 26% and more		Basket 1
0402.2920	--Cream		Basket 1
	- Other		
0402.91	--Not containing added sugar or other sweetening matter		
0402.9110	---Milk, whether in liquid or semi-solid form		Basket 3
0402.9120	--Cream		Basket 3
0402.99	--Other		
0402.9910	--Condensed milk		Basket 4
0402.9990	--Other		Basket 5
04.03	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa		
0403.9000	-Other		Basket 6
04.04	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included		
0404.1000	-Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter		Basket 6
04.05	Butter and other fats and oils derived from milk; dairy spreads		
0405.1000	-Butter		Basket 7
0405.2000	-Dairy spreads		Basket 7
0405.9000	-Other		Basket 8
04.06	Cheese and curd		
0406.10	-Fresh (unripened or uncured) cheese, including whey cheese, and curd		
0406.1030	--Mozzarella cheese		Basket 9
0406.1090	--Other		Basket 9
0406.90	-Other cheese :		
0406.9010	--Gouda and Gouda-type cheese		Basket 9
0406.9020	--Cheddar and Cheddar-type cheese		Basket 9
0406.9030	--Edam and Edam-type cheese		Basket 9
0406.9090	--Other		Basket 9

Basket 1 : 112.2 tons  
Basket 2 : 5.4 tons  
Basket 3 : 27.6 tons  
Basket 4 : 2.4 tons  
Basket 5 : 0.6 tons  
Basket 6 : 156 tons  
Basket 7 : 240 tons  
Basket 8 : 3.6 tons  
Basket 9 : 87 tons

Notes:

- The quantities set out above for baskets correspond to each semester. The semesters run from January 1 to June 30 and July 1 to December 31 for each year.
- Each basket will have an annual growth rate of 8 percent which will be calculated at the end of each calendar year.
- In the first calendar year following entry into force of the Agreement, the 8 percent annual growth rate will apply to that calendar year and each calendar year thereafter.