CHAPTER 2
NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1: Scope and Coverage

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

Section A: Definitions

Article 2.2: Definitions

For purposes of this Chapter:

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 purposes 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; and

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.

Section B: National Treatment

Article 2.3: National Treatment

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

Section C: Tariff Reduction or Elimination

Article 2.4: 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.

2. Except as otherwise provided in this Agreement, each Party shall gradually reduce or eliminate its customs duties on originating goods in accordance with its Schedule in Annex 2-A.

3. On the request of either Party, the Parties shall consult to consider accelerating the reduction or elimination of customs duties set out in their Schedules in Annex 2-A. An agreement by the Parties to accelerate the reduction or elimination of a customs duty on an originating good shall supersede any duty rate or staging category determined pursuant to their Schedules in Annex 2-A for that good when approved by each Party in accordance with its applicable legal procedures.

4. A Party may unilaterally accelerate the reduction or elimination of customs duties set out in its Schedule in Annex 2-A at any time if it so wishes. The Party shall notify the other Party through a diplomatic note immediately after completion of the internal procedures required for the amendments to enter into force.

5. In accordance with the WTO Agreement, originating goods of the other Party shall be eligible, at the time of importation, for the most-favored-nation (hereinafter referred to as "MFN") applied rate of customs duty for those goods in a Party, where that rate is lower than the rate of customs duty provided for in that Party's Schedule in Annex 2-A. Each Party shall make publicly available any amendments to the MFN rate on the internet.

6. For greater certainty, a Party may:

(a) raise a customs duty to the level established in its Schedule in Annex 2-A following a unilateral reduction or elimination; or

(b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

Article 2.5: Customs Valuation

For purposes of determining the customs value of goods traded between the Parties, the provisions of Article VII of GATT 1994, and the provisions of Part I and the Interpretative Notes of Annex I of the Customs

Valuation Agreement shall apply, *mutatis mutandis*.

Section D: Special Regimes

Article 2.6: Temporary Admission of Goods

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of customs duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

2. Each Party shall, at the request of the person concerned and for reasons its customs authority considers valid, extend the time limit for temporary admission provided for in paragraph 1 beyond the period initially fixed.

3. Neither Party shall condition the temporary admission of a good provided for 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 a security or guarantee in an amount no greater than the customs duties, taxes, fees, and charges that would otherwise be owed on entry or final importation, releasable on the exportation of the good;

(d) be capable of identification when imported and exported;

(e) be exported on the departure of the person referred to in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, 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 laws and regulations.

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 in addition to any other charges or penalties provided for under its laws and regulations.

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.

Article 2.7: 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.

Section E: Non-Tariff Measures

Article 2.8: Application of Non-Tariff Measures

1. A Party shall not adopt or 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 this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 and shall ensure that any such measures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

Article 2.9: General Elimination of Quantitative Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, 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 rights and obligations under the relevant provisions of the WTO Agreement. To this end, Article XI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Where a Party adopts an export prohibition or restriction in

accordance with subparagraph 2(a) of Article XI of GATT 1994, the Party shall, upon request:

(a) inform the other Party of such prohibition or restriction and its reasons together with its nature and expected duration, or publish such prohibition or restriction; and

(b) provide the other Party with a reasonable opportunity for consultation with respect to matters related to such prohibition or restriction.

Article 2.10: Technical Consultations on Non-Tariff Measures

1. A Party may request technical consultations with the other Party (hereinafter referred to as the "requested Party") on a measure the Party considers to be adversely affecting its trade. The request shall be in writing and shall clearly identify the measure and the concerns as to how the measure adversely affects trade between the Party requesting technical consultations (hereinafter referred to as the "requesting Party") and the requested Party.

2. Where the measures are covered by another Chapter, its Chapter-specific consultation mechanism shall be used, unless otherwise agreed between the Parties.

3. Except as provided in paragraph 2, the requested Party shall respond and enter into technical consultations within 60 days after the receipt of the written request referred to in paragraph 1, unless otherwise determined by the Parties, with a view to reaching a mutually satisfactory solution within 180 days of the request. Technical consultations may be conducted via any means mutually agreed by the Parties.

4. If the requesting Party considers that the matter is urgent or involves perishable goods, it may request that technical consultations take place within a shorter time frame than that provided for under paragraph 3. Nothing in this paragraph shall be construed to prevent a Party from applying sanitary and phytosanitary (hereinafter referred to as "SPS") measures.

5. The technical consultations under this Article shall be without prejudice to the rights and obligations pertaining to dispute settlement proceedings under Chapter Ten (Dispute Settlement) and the WTO Agreement.

Article 2.11: Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import

licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the *Agreement on Import Licensing Procedures*, in Annex 1A to the WTO Agreement (hereinafter referred to as the "Import Licensing Agreement"). Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Promptly after entry into force of this Agreement, each Party shall notify the other Party of any existing import licensing procedures. The notification shall include the information specified in Article 5.2 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if:

(a) it has notified that procedure to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement together with the information specified in Article 5.2 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 Article 7.3 of the Import Licensing Agreement, it has provided, with respect to that procedure, the information requested in that questionnaire.

3. Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government internet site. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

4. The notification required under paragraph 2 is without prejudice to whether the import licensing procedure is consistent with this Agreement.

5. No application shall be refused for minor documentation errors which do not alter the basic data contained therein. Minor documentation errors may include, but are not limited to, formatting errors (for instance, the width of a margin or the font used) and errors with spelling which are obviously made without fraudulent intent or gross negligence.

6. Each Party shall, to the extent possible, answer within 60 days all reasonable enquiries from the other Party with regard to the criteria employed by its respective licensing authorities in granting or denying import licenses. The importing Party shall publish sufficient information for the other Party and traders to know the basis for granting or allocating import licenses.

7. If a Party denies an import license application with respect to a good

of the other Party, it shall, on the request of the applicant and within a reasonable period after receiving the request provide the applicant with an explanation of the reason for the denial.

Article 2.12: Fees and Formalities Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 that all fees and charges of whatever character (other than import or export duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of 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 on imports or exports for fiscal purposes.

2. Each Party shall promptly publish details of the fees and charges that it imposes on or in connection with importation or exportation and shall make such information available on the internet.

3. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party. Neither Party shall require that any customs documentation supplied in connection with the importation of any good of the other Party be endorsed, certified or otherwise sighted or approved by the importing Party's overseas representatives, or persons or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

Article 2.13: Sanitary and Phytosanitary Measures

1. The Parties reaffirm their existing rights and obligations with respect to each other under the *Agreement on the Application of Sanitary and Phytosanitary Measures*, in Annex 1A to the WTO Agreement taking into account relevant decisions of the WTO Committee on Sanitary and Phytosanitary Measures and international standards, guidelines and recommendations.

2. The Parties shall encourage technical cooperation and communication in the field of SPS issues subject to the availability of appropriate resources.

3. Chapter Ten (Dispute Settlement) shall not be applied to any SPS matter arising under this section.

Article 2.14: Technical Barriers to Trade

1. The Parties reaffirm their existing rights and obligations with respect to each other under the *Agreement on Technical Barriers to Trade*, in Annex 1A to the WTO Agreement.

2. The Parties shall strengthen their cooperation in the fields of standards, technical regulations, and conformity assessment procedures with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. The Parties will seek to identify, develop, and promote trade facilitating initiatives regarding standards, technical regulations, and conformity assessment procedures that are appropriate for particular issues or sectors as agreed upon by the Parties on the mutually determined terms and conditions.

Section F: Institutional Provisions

Article 2.15: Committee on Trade in Goods

1. For purposes of the effective implementation and operation of this Chapter and Chapter Five (Trade Remedies), the function of the Committee on Trade in Goods (hereinafter referred to in this Article as the "Committee") established in accordance with Article 12.4 (Committees and Subsidiary Bodies) shall include:

(a) reviewing and monitoring the implementation and operation of this Chapter and Chapter Five (Trade Remedies) and, if appropriate, making a report and recommendation;

(b) promoting trade in goods between the Parties, including through consultations on accelerating reduction or elimination of customs duties 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 for its consideration;

(d) addressing any issues related to measures to update each Party's Schedule of tariff concessions to reflect amendments of the Harmonized System, including the transposition of the Parties' Schedules of tariff concessions and exchanging transposed Schedules of tariff concessions and correlation

tables in a timely manner; and

(e) discussing any matter arising under this Chapter and Chapter Five (Trade Remedies) as agreed.

2. The Committee shall meet on the request of a Party or the Joint Committee to consider matters arising under this Chapter and Chapter Five (Trade Remedies).