

CHAPTER TWO TRADE IN GOODS

Article 2.1: 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 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; and

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

Article 2.2: Objectives

The Parties shall liberalize trade in goods under this Agreement, in conformity with Article XXIV of GATT 1994.

Article 2.3: Scope and Coverage

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

Article 2.4: Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods of the other Party in accordance with its respective Schedule of Tariff Commitments reflected in Annex 2-A.

2. 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 (MFN) applied rate of customs duty for those goods in a Party, where that MFN

applied rate is lower than the preferential rate of customs duty provided for in that Party's Schedule of Tariff Commitments. Subject to each Party's laws and regulations, each Party shall provide that an importer may apply for a refund of any excess duty paid for a good if the importer did not make a claim for the lower MFN rate applicable at the time of importation.

3. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on originating goods of the other Party, as provided in its Schedule of Tariff Commitments.

Article 2.5: Acceleration of Tariff Commitments

1. A Party may, at any time, unilaterally improve or accelerate its tariff commitments set out in its Schedule of Tariff Commitments. Such Party shall inform the other Party as early as practicable before the new preferential rate of customs duty takes effect.

2. Upon request of a Party, the Parties will consult to consider accelerating the reduction or elimination of customs duties set out in their respective Schedule of Tariff Commitments. An agreement by the Parties to accelerate the reduction or elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their respective Schedules of Tariff Commitments reflected in Annex 2-A.

3. Following a unilateral improvement or acceleration of its tariff commitments referred to in Paragraph 1, a Party may raise its preferential customs duty to a level not in excess of that set out in its Schedule of Tariff Commitments for that year. Such Party shall inform the other Party of the date from which the new preferential rate of customs duty comes into effect as early as practicable before such date.

Article 2.6: Classification of Goods

The classification of goods in trade between the Parties shall be in conformity with the Harmonized System (HS).

Article 2.7: Agricultural Export Subsidies

The Parties reaffirm their commitments made in the 2015 Ministerial Decision on Export Competition, adopted in Nairobi, including elimination of scheduled export subsidy entitlements for agriculture goods.

Article 2.8: Goods in Transit

Each Party shall continue to facilitate customs clearance of goods in transit from or to the other Party in accordance with paragraph 3 of Article V of GATT 1994 and the relevant provisions of the Trade Facilitation Agreement.

Article 2.9: 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 import duties and taxes, if such goods:

- (a) are brought into its customs territory for a specific purpose;
- (b) are intended for re-exportation within a specific period; and
- (c) 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 duty-free temporary admission provided for in paragraph 1 beyond the period initially fixed.

3. Neither Party shall condition the duty-free 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 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 2.10: Customs Valuation

For purposes of determining the customs value of goods traded between the Parties, Article VII of GATT 1994 and Part I of the Customs Valuation Agreement shall apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.11: Quantitative Restrictions and Non-Tariff Measures

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 under the WTO Agreement. To this end, Article XI of GATT 1994 shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. In this regard, 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 in accordance with this Agreement.

3. Each Party shall ensure the transparency of its non-tariff measures permitted under paragraph 2 and shall ensure that any such measures are not

prepared, adopted, or applied with the view to or with the effect of creating unnecessary obstacles to trade between the Parties.

Article 2.12: Import Licensing

1. With respect to the rights and obligations of the Parties concerning import licensing, the *Agreement on Import Licensing Procedures* in Annex 1A to the WTO Agreement shall apply and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing procedures¹, if any. The notification shall:

- (a) include the information specified in Article 5 of the Import Licensing Agreement; and
- (b) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.

3. Before applying any new or modified import licensing procedure, a Party shall notify the other Party of the new procedure or modification, and to the extent possible, publish in an official government website at least 20 days before the new procedure or modification takes effect.

Article 2.13: Fees and Formalities

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, and other than taxes within the purview of Article III of GATT 1994, and any additional customs duty collected as a result of a measure consistent with Chapter Three (Trade Remedies)) 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 in connection with importation or exportation and shall make such information available on the internet.

¹ Existing import licensing procedures being referred to in this paragraph are those which have not yet been notified to the WTO at the date of entry into force of this Agreement.

3. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party.

Article 2.14: National Treatment on Internal Taxation and Regulation

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

Article 2.15: Agricultural Safeguard Measures

1. Notwithstanding Article 2.4, a Party may apply an agricultural safeguard measure only up to the end of that particular year when it was imposed, in the form of a higher import duty on an originating agricultural good listed in that Party's Schedule to Annex 2-B, consistent with paragraphs 2 through 7 if the aggregate volume of imports of that good in any year exceeds a trigger level as set out in its Schedule to Annex 2-B.

2. The duty under paragraph 1 shall not exceed the lesser of:

- (a) the prevailing most-favored-nation (MFN) applied rate;
- (b) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement; or
- (c) the duty rate set out in the applying Party's Schedule to Annex 2-B.

3. The duties each Party applies under paragraph 1 shall be set according to the maximum duty that may be applied each year for each such good in the Party's Schedule to Annex 2-B.

4. Neither Party may apply or maintain an agricultural safeguard measure and at the same time apply or maintain, with respect to the same good:

- (a) a bilateral transitional safeguard measure under Chapter Three (Trade Remedies);
- (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement; or
- (c) a measure under any agricultural safeguard provisions of the

Agreement on Agriculture in Annex 1A to the WTO Agreement.

5. A Party shall implement any agricultural safeguard measure in a transparent manner. Within 60 days after imposing a measure, the Party applying the measure shall notify the other Party in writing and provide the other Party with relevant data concerning the measure. On the written request of the other Party, a Party shall consult with the other Party within 45 days upon receipt of the written request regarding the application of the measure.

6. The implementation and operation of this Article may be the subject of discussion and review in the Committee on Trade in Goods under Article 2.20.

7. Neither Party shall apply or maintain an agricultural safeguard measure on an originating agricultural good if the period specified in the agricultural safeguard provisions of the Party's Schedule to Annex 2-B has expired.

Article 2.16: Sanitary and Phytosanitary Measures

1. The Parties affirm 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.

2. Neither Party shall have recourse to Chapter Nine (Dispute Settlement) for any matter arising under this Article.

Article 2.17: Technical Barriers to Trade

The Parties affirm 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.

Article 2.18: Modification of Concessions

In exceptional circumstances, where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, subject to an agreement with the other Party, modify or withdraw a concession contained in its schedule of tariff commitments. In order to reach such agreement, a Party shall engage in negotiations with the other Party. In such negotiations, the Party proposing to modify or withdraw a concession shall maintain a level of reciprocal and mutually advantageous concessions no less favorable to the other Party than that provided for in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. The mutually agreed outcome of the negotiations, including any compensatory adjustments, shall be

incorporated into this Agreement in accordance with Article 12.2 (Amendments).

Article 2.19: Contact Points

The Parties shall exchange contact details of focal points for this Chapter in order to facilitate the communication and the exchange of information.

Article 2.20: Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods composed of government representatives of each Party.
2. The Committee on Trade in Goods may consider any matter arising under this Chapter, including Annex 2-A.
3. The functions of the Committee on Trade in Goods shall include:
 - (a) monitoring the implementation and administration of this Chapter, including utilization of their respective preferences, and undertaking consultations, as appropriate;
 - (b) preparing technical amendments, including the transposition of the Tariff Elimination or Reduction Schedules according to the amendments in the HS;
 - (c) reviewing and making appropriate recommendations to the Joint Committee on matters arising from the implementation and administration of the Chapter;
 - (d) addressing matters related to trade in goods between the Parties, especially those related to quantitative restrictions, non-tariff measures, and, if appropriate, referring such matters to the Joint Committee for its consideration; and
 - (e) carrying out other functions as may be delegated by the Joint Committee or agreed by the Parties.
4. The Committee on Trade in Goods shall strengthen their cooperation to facilitate the exchange of information between the competent authorities of the Parties, for purposes of carrying out the functions under paragraph 3.

5. The Committee on Trade in Goods shall meet at least once a year or as otherwise agreed. Meetings may be conducted in person or by any technological means available to the Parties.

6. The Committee on Trade in Goods shall report to the Joint Committee on the results of its meetings.

ANNEX 2-A
REDUCTION OR ELIMINATION OF CUSTOMS DUTIES

1. The following staging categories apply to the reduction or elimination of customs duties by each Party pursuant to Article 2.4.1:

- (a) customs duties on originating goods provided for in the items in staging category “Cat 0” in a Party’s Schedule shall be eliminated entirely and such goods shall be free of any customs duty on the date of entry into force of this Agreement;
- (b) customs duties on originating goods provided for in the items in the following staging categories in a Party’s Schedule shall be eliminated from the base rate beginning on the date this Agreement enters into force as follows, and as indicated in each Party’s Tariff Schedule:
 - (i) for originating goods in staging category “Cat 3” in a Party’s Schedule, such goods shall be free of any customs duty effective 1 January of year 3;
 - (ii) for originating goods in staging category “Cat 5” in a Party’s Schedule, such goods shall be free of any customs duty effective 1 January of year 5;
 - (iii) for originating goods in staging category “Cat 7” in a Party’s Schedule, such goods shall be free of any customs duty effective 1 January of year 7;
 - (iv) for originating goods in staging category “Cat 10” in a Party’s Schedule, such goods shall be free of any customs duty effective 1 January of year 10; and
 - (v) for originating goods in staging category “Cat 15” in a Party’s Schedule, such goods shall be free of any customs duty effective 1 January of year 15.
- (c) customs duties on originating goods provided for in the items in staging category “SL” in a Party’s Schedule shall be reduced from the base rate to the end rates as indicated in each Party’s Tariff Schedule.

2. The originating goods provided for in the items in staging category “EX” in a Party’s Schedule shall be excluded from any commitment of reduction or elimination of customs duties.
3. The base rate of customs duty set out in a Party’s Schedule to this Annex reflects the lower of each Party’s MFN applied customs duty rates in effect on 1 January 2018, and its preferential customs duty rates under the Korea-ASEAN FTA, in effect on 1 January 2016.
4. The interim rate of customs duty at each stage of reduction for an item is to be indicated in each Party’s Schedule.
5. For purposes of this Annex and a Party’s Schedule, year one means the year this Agreement enters into force as provided for in Article 12.5 (Entry into Force).
6. For purposes of this Annex and as indicated in each Party’s Schedule, beginning in year two, each annual stage of tariff reduction shall take effect on 1 January of the relevant year.
7. The Parties shall ensure that the transposition of HS code shall not affect the value of tariff concessions under this Annex.
8. For Korea, the provisions of its Tariff Schedule are generally expressed in terms of the Harmonized Tariff Schedule of Korea (HSK), and the interpretation of the provisions of its Schedule shall be governed by the General Notes, Section Notes, and Chapter Notes of the HSK. To the extent that provisions of its Schedule are identical to the corresponding provisions of the HSK, the provisions of its Schedule shall have the same meaning as the corresponding provisions of the HSK.
9. For the Philippines, the provisions of its Tariff Schedule are generally expressed in terms of the ASEAN Harmonized Tariff Nomenclature of the Philippines (AHTN), and the interpretation of the provisions of its Schedule shall be governed by the General Notes, Section Notes, and Chapter Notes of the AHTN. To the extent that provisions of its Schedule are identical to the corresponding provisions of the AHTN, the provisions of its Schedule shall have the same meaning as the corresponding provisions of the AHTN.

ANNEX 2-B
AGRICULTURAL SAFEGUARD MEASURES

Schedule of Korea

1. This Annex sets out those originating goods that may be subject to agricultural safeguard measures under Article 2.15, the trigger levels for applying such measures, and the maximum duty that may be applied each year for each such good.

2. For greater certainty, no agricultural safeguard measures may be applied or maintained on originating goods after the date the safeguard duties set out below are zero for such goods.

For banana as covered below;

Coverage: HSK provision 0803900000

Year	1	2	3	4	5	6
Trigger Level (MT)	322,687	325,687	328,687	331,687	334,687	337,687
Safeguard Duty (%)	30	30	30	30	30	27

Year	7	8	9	10	11
Trigger Level (MT)	340,687	343,687	346,687	349,687	N/A
Safeguard Duty (%)	24	21	18	15	0