

## **CHAPTER THREE**

### **AGRICULTURE**

#### **ARTICLE 3.1: SCOPE AND COVERAGE**

1. This Chapter applies to measures adopted or maintained by a Party relating to trade in agricultural goods.<sup>1</sup>
2. In addition, Article 3.2 shall apply with respect to all goods included in Appendix 2-B-1 of a Party's Schedule to Annex 2-B (Tariff Elimination), whether or not those goods are agricultural goods.

#### **ARTICLE 3.2: ADMINISTRATION AND IMPLEMENTATION OF TARIFF-RATE QUOTAS**

1. Each Party shall implement and administer the tariff-rate quotas set out in Appendix 2-B-1 of its Schedule to Annex 2-B (Tariff Elimination) (TRQs) in accordance with Article XIII of GATT 1994, including its interpretive notes, and the Import Licensing Agreement.
2. Each Party shall ensure that:
  - (a) its procedures for administering its TRQs are transparent, made available to the public, timely, non-discriminatory, responsive to market conditions, minimally burdensome to trade, and reflect end-user preferences;
  - (b) any person of a Party that fulfills the importing Party's legal and administrative requirements shall be eligible to apply and to be considered for a quota allocation under the Party's TRQs. Unless the Parties otherwise agree, any processor, retailer, restaurant, hotel, food service distributor or institution, or other person is eligible to apply and to be considered to receive a quota allocation. Any fees charged for services related to an application for a quota allocation shall be limited to the actual cost of the service rendered;
  - (c) except as specified in Appendix 2-B-1 of its Schedule to Annex 2-B, it does not allocate any portion of a quota to a producer group, condition access to a quota allocation on the purchase of domestic production, or limit access to a quota allocation to processors; and
  - (d) it allocates quotas in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that importers request. Except as otherwise provided in each TRQ provision and the applicable tariff line in Appendix 2-B-1 of a Party's Schedule to Annex 2-B, each quota allocation shall be valid for any item or mixture of items subject to a particular TRQ, regardless of the item's or mixture's specification or grade,

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<sup>1</sup> For greater clarity, Article 3.1 is subject to paragraph 3(l) of the General Notes accompanying Korea's Schedule to Annex 2-B.

and shall not be conditioned on the item's or mixture's intended end-use or package size.

3. Each Party shall identify the entities responsible for administering its TRQs.
4. Each Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilize quota quantities.
5. Neither Party may condition application for, or utilization of, quota allocations under a TRQ on the re-export of a good.
6. On the written request of either Party, the Parties shall consult regarding a Party's administration of its TRQs.
7. Except as otherwise provided in Appendix 2-B-1 of its Schedule to Annex 2-B, each Party shall make the entire quota quantity established in that Appendix available to quota applicants beginning on the date the Agreement enters into force during the first year, and on the first business day of each year thereafter. Over the course of each year, the importing Party's administering authority shall publish, in a timely fashion on its designated publicly available Internet site, utilization rates and remaining available quantities for each TRQ.

#### ARTICLE 3.3: AGRICULTURAL SAFEGUARD MEASURES

1. Notwithstanding Article 2.3 (Elimination of Customs Duties), a Party may apply a measure in the form of a higher import duty on an originating agricultural good listed in that Party's Schedule to Annex 3-A, consistent with paragraphs 2 through 8 if the aggregate volume of imports of that good in any year exceeds a trigger level as set out in its Schedule to Annex 3-A (trigger level).
2. The duty under paragraph 1 shall not exceed the lesser of the prevailing most-favored-nation (MFN) applied rate, or the MFN applied rate of duty in effect on the day immediately preceding the date this Agreement enters into force, or the tariff rate set out in its Schedule to Annex 3-A.
3. The duties each Party applies under paragraph 1 shall be set according to its Schedule to Annex 3-A.
4. Neither Party may apply or maintain an agricultural safeguard measure under this Article and at the same time apply or maintain, with respect to the same good:
  - (a) a safeguard measure under Chapter Ten (Trade Remedies); or
  - (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.
5. A Party shall implement any agricultural safeguard measure in a transparent manner. Within 60 days after imposing an agricultural safeguard 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 exporting Party, the Parties shall consult regarding application of the measure.

6. The Joint Committee or the Committee on Agricultural Trade established under Article 3.4 may review and discuss the implementation and operation of this Article.

7. Neither Party may apply or maintain an agricultural safeguard measure on an originating agricultural good:

- (a) if the period specified in the agricultural safeguard provisions of the Party's Schedule to Annex 3-A has expired; or
- (b) if the measure increases the in-quota duty on a good subject to a TRQ set out in Appendix 2-B-1 of its Schedule to Annex 2-B.

8. Originating agricultural goods from either Party shall not be subject to any duties applied pursuant to any agricultural safeguard measure taken under the Agriculture Agreement.

#### ARTICLE 3.4: COMMITTEE ON AGRICULTURAL TRADE

1. Not later than 90 days after the date this Agreement enters into force, the Parties shall establish a Committee on Agricultural Trade, comprising representatives of each Party.

2. The Committee shall provide a forum for:

- (a) monitoring and promoting cooperation on the implementation and administration of this Chapter;
- (b) consulting on matters related to this Chapter in coordination with other committees, subcommittees, working groups, or other bodies established under this Agreement; and
- (c) undertaking any additional work that the Joint Committee may assign.

3. The Committee shall meet at least once a year unless the Parties otherwise agree. Meetings of the Committee shall be chaired by the representatives of the Party hosting the meeting.

#### ARTICLE 3.5: DEFINITIONS

For purposes of this Chapter:

**Agriculture Agreement** means the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement; and

**agricultural goods** means those goods referred to in Article 2 of the Agriculture Agreement.