

Notes / comments:

- text in black is common / agreed;
- text in red is Japan's proposal;
- text in blue is EU's proposal;
- text in green is drafting note.

## **CHAPTER [X]**

### **TRADE IN GOODS**

[EU: SECTION A: COMMON PROVISIONS] [JP: SECTION A: SCOPE AND DEFINITIONS]

#### **ARTICLE [1]: OBJECTIVE**

The Parties [shall] progressively liberalise trade in goods in accordance with the provisions of this Agreement.

#### **ARTICLE [2]: SCOPE**

This Chapter shall apply to trade in goods between the Parties.

#### **ARTICLE [3]: DEFINITIONS**

1. "export licensing procedures" means administrative procedures, whether or not referred to as "licensing", used by a Party for the operation of export licensing regimes requiring the submission of an application or other documentation, other than that required for customs procedures, to the relevant administrative body as a prior condition for exportation from that Party;
2. "non-automatic import or export licensing procedures" [is defined as] licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import or export operations involving the goods subject to licensing procedures;

3. “originating [goods]” means goods which qualify as originating [goods] under the provisions of [Chapter] [ ] (Rules of Origin).

#### **ARTICLE [4]: CUSTOMS DUTY**

1. For the purposes of this Chapter, “customs duty”, which each Party shall reduce or eliminate in accordance with the Schedules set out in Annex [...], consists of any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation. A customs duty does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III of GATT 1994;
- (b) duty applied consistently with the provisions of Articles VI and XIX of GATT 1994, Agreement on Anti-Dumping, SCM Agreement, Agreement on Safeguards, Article 5 of Agreement on Agriculture and Article 22 of DSU; and
- (c) fee or other charge imposed consistently with Article 13 of this Chapter.

#### **[JP: SECTION B: NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS]**

#### **ARTICLE [5]: CLASSIFICATION OF GOODS**

1. For the purposes of this Agreement, the classification of goods in trade between the Parties shall be that set out in each Party's respective Schedule set out in Annex [...] in conformity with the Harmonised [Commodity Description and Coding] System.

[JP: 2. Each Party shall ensure consistency in administrating its tariff classifications and the tariffs imposed on originating goods of the other Party imported into the Area of the former Party.]

2. Each Party shall ensure consistency in applying [its laws and regulations] [of][or] tariff classification of goods originating in the other Party.

#### **ARTICLE [6]: NATIONAL TREATMENT**

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its Notes and Supplementary Provisions. To this end, Article III of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, mutatis mutandis.

[EU: SECTION B: REDUCTION AND ELIMINATION OF CUSTOMS DUTIES]

**ARTICLE [7]: REDUCTION AND ELIMINATION OF CUSTOMS DUTIES [EU: ON IMPORTS]**

1. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate customs duties on [EU: goods originating in] [JP: originating goods of] the other Party in accordance with the Schedules set out in Annexes [...]

2. For each good, the base rate of customs duties, to which reductions or eliminations are to be applied under paragraph 1, shall be that specified in the Schedules included/set out in Annex [X].

[JP: 3. Upon request of either Party, the Parties shall negotiate on issues such as improving market access conditions on originating goods designated for negotiation in the Schedules in Annex [1], in accordance with the terms and conditions set out in such Schedules.]

[EU: 4. [X] years after the entry into force of this Agreement,] [O]on the request of either Party, the Parties shall [option: may] consult to consider accelerating [option: and broadening the scope] of the reduction and elimination of customs duties on imports. A decision by the Parties [in the Committee on Trade in Goods] on such acceleration or broadening shall supersede any duty rate or staging category determined pursuant to their Schedules for that good.]

5. If at any moment a Party reduces its applied most favoured nation (hereinafter referred to as the "MFN") customs duty rates on an originating good of the other Party after the date of entry into force of this Agreement, that duty rate shall apply if and for as long as it is lower

than the customs duty rate on the same good calculated in accordance with its Schedule.

### **ARTICLE [8]: CUSTOMS VALUATION**

For the purposes of determining the customs value of goods traded between the Parties, the provisions of Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement shall apply *mutatis mutandis*.

### **ARTICLE [9]: EXPORT DUTIES**

Neither Party may maintain, or introduce any duties, taxes, fees or other charges of any kind imposed on a good exported from the Party to the other Party. For the purposes of this Article, “fees or other charges of any kind”, shall not include any fees or other charges imposed consistently with Article 13, that are limited to the amount of the approximate cost of service rendered.

### **[EU: ARTICLE [10]: STANDSTILL**

No new customs duties shall be introduced nor shall those already applied be increased in trade between the Parties from the date of entry into force of this Agreement.]

[JP: Except as otherwise provided for in this Agreement, neither Party shall increase any customs duty on originating goods of the other Party from the rate to be applied in accordance with its Schedule in Annex [...].]

### **[EU: SECTION C: NON-TARIFF MEASURES]**

### **[JP: ARTICLE [11]: EXPORT SUBSIDIES][EU: COMPETITION]**

[JP: Neither Party shall introduce or maintain any export subsidies listed in subparagraphs 1(a) through (f) of Article 9 of the Agreement on Agriculture in Annex 1A to the WTO Agreement on any agricultural good which is listed in Annex 1 to the Agreement on Agriculture and exported to the other Party.]

[EU: 1. For the purposes of this Article, “export subsidies” shall mean subsidies referred to in Article 1 (e) of the WTO Agreement on Agriculture and other subsidies listed in Annex I of Subsidies and countervailing measures ("Illustrative List of Export Subsidies") that may be applied to agricultural goods , subject to paragraph 2.

2. “Measures with equivalent effect” are export credits, export credit guarantees or insurance programmes, as well as other measures that have an equivalent effect to an export subsidy.

3. The Parties reaffirm their commitment expressed in the 2015 Nairobi Ministerial Declaration on Export Competition to exercise utmost restraint with regard to any recourse to all forms of export subsidies and all export measures with equivalent effect.

4. Neither Party shall introduce or maintain [JP: any export subsidies listed in subparagraphs 1(a) through (f) of Article 9 of the Agreement on Agriculture in Annex 1A to the WTO Agreement] [EU: an export subsidy or other measure having an equivalent effect] on any agricultural good [JP: which is listed in Annex 1 to the Agreement on Agriculture and exported to the other Party] [EU: that is exported, or incorporated in a product that is exported, to the territory of the other Party after the other Party has fully eliminated the tariff, immediately or after the transitional period, on that agricultural good in accordance with Annex XX (Tariff Elimination/Schedules)].

[EU: 5. The Parties agree that the international food aid transactions destined for the territory of the Parties or the territory of a non-Party with which both Parties have concluded a preferential trade agreement or arrangement, as well as for the territory of a least developed country, shall be provided in fully untied, in cash and fully grant form with the exception of clearly defined emergency situations<sup>1</sup>.

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<sup>1</sup> Emergency situation refers to a situation where:

- (a) there has been a declaration of an emergency by the recipient country or by the Secretary-General of the United Nations; or
- (b) there has been an emergency appeal from a country; a relevant United Nations agency, including the World Food Programme and the United Nations Humanitarian Programme Cycle; the International Committee of the Red Cross or the International Federation of Red Cross and Red Crescent Societies; a relevant regional or international intergovernmental

**ARTICLE [12]: IMPORT AND EXPORT RESTRICTIONS**

1. Neither Party may adopt or maintain any prohibition or restriction other than customs duties on the importation of any good of the other Party or on the exportation or sale for export of any good destined for [EU: the customs territory of] the other Party, in accordance with Article XI of GATT 1994 and its interpretative notes. To this end, Article XI of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.

2. Where a Party intends to adopt an export prohibition or restriction on any good listed in Annex X in accordance with paragraph 2 of Article XI or Article XX of GATT 1994, the Party shall:

- (a) seek to limit such prohibition or restriction to the extent necessary, giving due consideration to its possible negative effects on the other Party;
- (b) provide the other Party with written notice thereof, wherever possible prior to the introduction of such prohibition or restriction and as far in advance as practicable to, or, if not, no later than 15 days after such introduction, whereby such written notice shall include a description of the good involved, the introduced prohibition or restriction including its nature, its reasons, and the date of introduction of such prohibition or restriction and expected duration; and
- (c) upon request, provide the other Party with a reasonable opportunity for consultation with respect to any matter related to such prohibition or restriction.

**ARTICLE [13]: FEES AND FORMALITIES CONNECTED WITH IMPORTATION  
AND EXPORTATION**

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agency; a non-governmental humanitarian organization of recognised standing traditionally working in conjunction with the former bodies; and in either case, there is an assessment of need coordinated under the auspices of a relevant United Nations agency, including the World Food Programme; the International Committee of the Red Cross or the International Federation of Red Cross and Red Crescent Societies. Needs assessment should be done with the involvement of the recipient government and may involve a relevant regional intergovernmental organization or an NGO, but while the latter bodies may be so involved, this is in a context where they are in coordination with the relevant United Nations agency or ICRC/IFRCRCS as the case may be.

1. Each Party shall ensure, in accordance with Article VIII of GATT 1994, that all fees and charges of whatever character (other than customs duties, export duties and other than taxes within the purview of Article III of GATT 1994) imposed by the Parties on or in connection with importation or exportation shall be limited to the amount of the approximate cost of services rendered which shall not be calculated on an ad valorem basis, and shall not represent an indirect protection to domestic goods or a taxation of imports for fiscal purposes.

2. Neither Party shall require consular transactions, including related fees and charges. For the purposes of this paragraph, “consular transactions” means requirements by the consul of the importing Party located in 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.

#### **ARTICLE [14]: IMPORT AND EXPORT LICENSING PROCEDURES**

1. The Parties affirm their existing rights and obligations under the WTO Agreement on Import Licensing Procedures (hereinafter referred to as the "Import Licensing Agreement").

2. The Parties shall adopt or maintain any export licensing procedures in accordance with:

- (a) Paragraphs 1 through 9 of Article 1 of the Import Licensing Agreement;
- (b) Article 3 of the Import Licensing Agreement.

To this end, the provisions referred to in subparagraphs (a), and (b) and (c) of this paragraph are incorporated into and made part of this Agreement, mutatis mutandis and shall apply for any export licensing procedures, between the Parties. The Parties may adopt or maintain any export licensing procedures in accordance with Article 2 of the Import Licensing Agreement, mutatis mutandis. For the purposes of this Article, the provisions on export licensing procedures shall apply to any good listed in Annex X.

3. The Parties shall ensure that all export licensing procedures are neutral in application and administered in a fair, equitable, non-discriminatory and transparent manner.

4. The Parties shall adopt or maintain import or export licensing procedures only when other appropriate procedures to achieve an administrative purpose are not reasonably available.

5. The Parties shall not adopt or maintain non-automatic import or export licensing procedures unless necessary to implement a measure that is consistent with this Agreement. Any Party adopting non- automatic licensing procedures shall indicate clearly the measure being implemented through such licensing procedure.

6. Each Party shall respond within 60 days to enquiries from the other Party regarding any licensing procedures which the Party to which the request is addressed intends to adopt or has adopted or maintained, as well as the criteria for granting and/or allocating import or export licenses.

7. In applying export restrictions to any product in the form of quota, each party shall aim at a distribution of trade in such product approaching as closely as possible the shares which is expected in the absence of such restrictions.

8. If a Party adopts or maintains export licensing procedures, Parties shall hold consultations upon the request of the other Party, on any issues related to the implementation of such procedures with the other Party, and give due consideration to the results of such consultations.

**[EU: ARTICLE [15]: ELIMINATION OF SECTORAL NON-TARIFF MEASURES]**

**[JP: Article [15]: Non-Tariff Measures]**

1. The Parties shall undertake further commitments on sector-specific non-tariff measures on goods as set out in Annexes [...] (hereinafter referred to as “Sectoral Annexes”).

2. Except as otherwise provided in this Agreement, [...] years from the entry into force of this Agreement and on the request of either Party, the Parties shall enter into negotiations with the aim of broadening the scope of their commitments, or undertaking additional commitments on

sector-specific non-tariff measures on goods.]

[JP: 1. Each Party shall not introduce or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the other Party which are inconsistent with its obligations under the WTO Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 and shall ensure full compliance with its obligations under the WTO Agreement.]

#### **ARTICLE [16]: RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS**

1. Nothing in this Chapter shall be construed to prevent a Party from taking any measure for balance- of-payments purposes. A Party taking such measure shall do so in accordance with the conditions established under Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.

2. Nothing in this Chapter shall preclude the use by a Party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund.

[EU: SECTION D: SPECIFIC EXCEPTIONS RELATED TO GOODS]

#### **ARTICLE [17]: GENERAL EXCEPTIONS**

1. Nothing in this Chapter shall prevent the taking of measures in accordance with Article XX of GATT 1994, its Notes and Supplementary Provisions, which are hereby incorporated into and made part of this Agreement , mutatis mutandis.

2. Where a Party intends to take any measures in accordance with subparagraphs (i) and (j) of Article XX of GATT 1994, the Party shall:

- (a) provide the other Party with all relevant information; and
- (b) upon request, provide the other Party with a reasonable opportunity for consultation with respect to any matter related to such measure, with a view to seeking a solution

mutually acceptable to the Parties. The Parties may agree on any means needed to put an end to the matters subject to consultation. Where exceptional and critical circumstances requiring immediate action make prior provision of information or examination impossible, the Party intending to take the measures may apply forthwith the measures necessary to deal with the circumstances and shall immediately inform the other Party thereof.

[EU: SECTION E: INSTITUTIONAL] [JP: SECTION 3: OTHER] PROVISIONS

**[JP: ARTICLE [X.19]: SUB-COMMITTEE ON TRADE IN GOODS**

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Trade in Goods (hereinafter referred to in this Article as “the Sub- Committee”).

2. The functions of the Sub-Committee shall be:

- (a) reviewing and monitoring the implementation and operation of this Chapter;
- (b) considering any other matter related to this Chapter, including those related to the classification of goods under the Harmonized System;
- (c) reporting the findings of the Sub-Committee to the Joint Committee; and
- (d) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be agreed by the Parties.]

**ARTICLE (?): REMANUFACTURED GOODS**

Unless otherwise provided for in this Agreement, each Party shall provide that remanufactured goods are treated as new goods. A Party may require that remanufactured goods are identified as such for distribution or sale.

For the purposes of this Article, “remanufactured goods” means goods classified in HS under heading 40.12 , Chapter 84 through 90 or under heading 94.02, that:

- (a) are entirely or partially composed of parts obtained from used goods;
- (b) have a similar life expectancy and performs the same as such goods when new; and
- (c) have a factory warranty similar to that applicable to such a good when new.

**[EU: ARTICLE (?): ORIGIN MARKING**

Except as otherwise provided in this Agreement, where Japan applies obligatory country of origin marking requirements to non-agricultural products falling under the scope of this Chapter, Japan shall accept the marking "Made in EU" or a similar marking in Japanese, as fulfilling such requirements.]

[JP: Except as otherwise provided for in this Agreement, where a Party applies obligatory country of origin marking requirements to goods other than food, agricultural or fishery goods as defined in the laws and regulations of that Party, the marking “Made in Japan” or a similar marking in the local language of the importing country, in case of the Union, and the marking "Made in EU" or a similar marking in Japanese, in case of Japan, shall be accepted as fulfilling such requirements.]

Drafting note: This article is a package of Paragraph 2 of Classification of Goods (26 October 2016)

**ARTICLE (?): GOODS RE-ENTERED AFTER REPAIR AND ALTERATION**

1. No Party shall apply a customs duty to a good, regardless of its origin, that re-enters its [customs] territory after that good has been temporarily exported from its [customs] territory to the [customs] territory of the other Party for repair or alteration, regardless of whether such repair or alteration could have been performed in the [customs] territory of the Party from which the good was temporarily exported for repair or alteration, provided that the goods re-enter into the [customs] territory of that Party within the period as specified in its laws and

regulations<sup>2</sup>.

2. Paragraph 1 does not apply to a good under customs control in the customs territory of a Party without payment of import duties and taxes that is exported for repair or alteration and is not [re-entered] into that customs territory under customs control without payment of import duties and taxes.

3. No Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the [customs] territory of the other Party for repair or alteration, provided that the good is re-exported from the [customs] territory of the importing Party within the period as specified in its laws and regulations<sup>3</sup>.

4. For the purposes of this Article, repair or alteration means any operation or process undertaken on goods to remedy operating defects or material damage and entailing the re-establishment of goods to their original function or to ensure their compliance with technical requirements for their use. Repair or alteration of goods include restoring and maintenance regardless of a possible increase of the value of the good, but 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; or
- (c) is used to change the function of a good.

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<sup>2</sup> In the Union, the outward processing procedure as laid down in Regulation (EU) No 952/2013 is used for the purpose of this paragraph.

<sup>3</sup> In the Union, the inward processing procedure as laid down in Regulation (EU) No 52/2013 is used for the purpose of this paragraph.

**Annex []**

Referred to in Chapter [] (Trade in Goods)

List of goods in relation to Article [12]( IMPORT AND EXPORT RESTRICTIONS) and  
Article [14]( IMPORT AND EXPORT LICENSING PROCEDURES)

Note: This Annex is based on the Harmonised System, as amended on 1 January 2012.

Chapter	Description of Goods
25	SALT; SULPHUR; EARTHS AND STONE; PLASTERING MATERIALS, LIME AND CEMENT
26	ORES, SLAG AND ASH
27	MINERAL FUELS, MINERAL OILS AND PRODUCTS OF THEIR DISTILLATION; BITUMINOUS SUBSTANCES; MINERAL WAXES
28	INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE
71	NATURAL OR CULTURED PEARLS, PRECIOUS OR SEMI-PRECIOUS STONES, PRECIOUS METALS, METALS CLAD WITH PRECIOUS METAL,
72	IRON AND STEEL
73	ARTICLES OF IRON OR STEEL
74	COPPER AND ARTICLES THEREOF
75	NICKEL AND ARTICLES THEREOF
76	ALUMINIUM AND ARTICLES THEREOF
78	LEAD AND ARTICLES THEREOF
79	ZINC AND ARTICLES THEREOF
80	TIN AND ARTICLES THEREOF
81	OTHER BASE METALS; CERMETS; ARTICLES THEREOF]