Chapter Three: National Treatment and Market Access for Goods

Article 300: Scope and Coverage

This Chapter applies to trade in goods of a Party, including:

a) goods covered by Annex 300-A (Trade and Investment in the Automotive Sector),

b) goods covered by Annex 300-B (Textile and Apparel Goods), and

c) goods covered by another Chapter in this Part, except as provided in such Annex or Chapter.

Section A National Treatment

Article 301: National Treatment

1. Each Party shall accord national treatment to the goods of another Party in accordance with Article III of the General Agreement on Tariffs and Trade (GATT), including its interpretative notes, and to this end Article III of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this Agreement.

2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded by such state or province to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part.

3. Paragraphs 1 and 2 do not apply to the measures set out in Annex 301.3.

Section B - Tariffs

Article 302: Tariff Elimination

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, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule to Annex 302.2.

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 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 such Party in accordance with its applicable legal procedures.

4. Each Party may adopt or maintain import measures to allocate in-quota imports made pursuant to a tariff rate quota set out in Annex 302.2, provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota.

5. On written request of any Party, a Party applying or intending to apply measures pursuant to paragraph 4 shall consult to review the administration of those measures.

Article 303: Restriction on Drawback and Duty Deferral Programs

1. Except as otherwise provided in this Article, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its territory, on condition that the good is:
   a) subsequently exported to the territory of another Party,
   b) used as a material in the production of another good that is subsequently exported to the territory of another Party, or
   c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory and the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

2. No Party may, on condition of export, refund, waive or reduce:
a) an antidumping or countervailing duty that is applied pursuant to a Party’s domestic law and that is not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters);

b) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

c) a fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures); or

d) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party.

3. Where a good is imported into the territory of a Party pursuant to a duty deferral program and is subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, the Party from whose territory the good is exported:

a) shall assess the customs duties as if the exported good had been withdrawn for domestic consumption; and

b) may waive or reduce such customs duties to the extent permitted under paragraph 1.

4. In determining the amount of customs duties that may be refunded, waived or reduced pursuant to paragraph 1 on a good imported into its territory, each Party shall require presentation of satisfactory evidence of the amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

5. Where satisfactory evidence of the customs duties paid to the Party to which a good is subsequently exported under a duty deferral program described in paragraph 3 is not presented within 60 days after the date of exportation, the Party from whose territory the good was exported:

a) shall collect customs duties as if the exported good had been withdrawn for domestic consumption; and

b) may refund such customs duties to the extent permitted under paragraph 1 on the timely presentation of such evidence under its laws and regulations.

6. This Article does not apply to:

a) a good entered under bond for transportation and exportation to the territory of another Party;

b) a good exported to the territory of another Party in the same condition as when imported into the territory of the Party from which the good was exported (processes such as testing, cleaning, repacking or inspecting the good, or preserving it in its same condition, shall not be considered to change a good’s condition). Except as provided in Annex 703.2, Section A, paragraph 12, where such a good has been commingled with fungible goods and exported in the same condition, its origin for purposes of this subparagraph, may be determined on the basis of the inventory methods provided for in the Uniform Regulations established under Article 511 (Uniform Regulations);

c) a good imported into the territory of a Party that is deemed to beexported from its territory, or used as a material in the production of another good that is deemed to be exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is deemed to be exported to the territory of another Party, by reason of

(i) delivery to a duty-free shop,

(ii) delivery for ship’s stores or supplies for ships or aircraft, or

(iii) delivery for use in joint undertakings of two or more of the Parties and that will subsequently become the property of the Party into whose territory the good was deemed to be imported;

d) a refund of customs duties by a Party on a particular good imported into its territory and subsequently exported to the territory of another Party, where that refund is granted by reason of the failure of such good to conform to sample or specification, or by reason of the shipment of such good without the consent of the consignee;

e) an originating good that is imported into the territory of a Party and is subsequently exported to the territory of another Party, or used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, or
f) a good set out in Annex 303.6.

7. Except for paragraph 2(d), this Article shall apply as of the date set out in each Party’s Section of Annex 303.7.

8. Notwithstanding any other provision of this Article and except as specifically provided in Annex 303.8, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a non-originating good provided for in item 8540.11.aa (color cathode-ray television picture tubes, including video monitor tubes, with a diagonal exceeding 14 inches) or 8540.11.cc (color cathode-ray television picture tubes for high definition television, with a diagonal exceeding 14 inches) that is imported into the Party’s territory and subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party.

9. For purposes of this Article:

- **customs duties** are the customs duties that would be applicable to a good entered for consumption in the customs territory of a Party if the good were not exported to the territory of another party;
- **identical or similar goods** means "identical or similar goods" as defined in Article 415 (Rules of Origin Definitions);
- **material** means "material" as defined in Article 415;
- **used** means "used" as defined in Article 415.

10. For purposes of the Article:

Where a good referred to by a tariff item number in this Article is described in parentheses following the tariff item number, the description is provided for purposes of reference only.

**Article 304: Waiver of Customs Duties**

1. Except as set out in Annex 304.1, no Party may adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

2. Except as set out in Annex 304.2, no Party may, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of any existing waiver of customs duties.

3. If a waiver or a combination of waivers of customs duties granted by a Party with respect to goods for commercial use by a designated person can be shown by another Party to have an adverse impact on the commercial interests of a person of that Party, or of a person owned or controlled by a person of that Party that is located in the territory of the Party granting the waiver, or on the other Party’s economy, the Party granting the waiver shall either cease to grant it or make it generally available to any importer.

4. This Article shall not apply to measures subject to Article 303.

**Article 305: Temporary Admission of Goods**

1. Each Party shall grant duty-free temporary admission for:
   a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter Sixteen (Temporary Entry for Business Persons),
   b) equipment for the press or for sound or television broadcasting and cinematographic equipment,
   c) goods imported for sports purposes and goods intended for display or demonstration, and
   d) commercial samples and advertising films, imported from the territory of another Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.

2. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in paragraph 1(a), (b) or (c), other than to require that such good:
   a) be imported by a national or resident of another Party who seeks temporary entry;
   b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person;
c) not be sold or leased while in its territory;

d) be accompanied by a bond in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good;

e) be capable of identification when exported;

f) be exported on the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and

g) be imported in no greater quantity than is reasonable for its intended use.

3. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in paragraph 1(d), other than to require that such good:

a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or non-Party;

b) not be sold, leased or put to any use other than exhibition or demonstration while in its territory;

c) be capable of identification when exported;

d) be exported within such period as is reasonably related to the purpose of the temporary admission; and

e) be imported in no greater quantity than is reasonable for its intended use.

4. A Party may impose the customs duty and any other charge on a good temporarily admitted duty-free under paragraph 1 that would be owed on entry or final importation of such good if any condition that the Party imposes under paragraph 2 or 3 has not been fulfilled.

5. Subject to Chapters Eleven (Investment) and Twelve (Cross Border 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 port of entry and the port 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 port 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 to the territory of another Party.

6. For purposes of paragraph 5, "vehicle" means a truck, a truck tractor, tractor, trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

Article 306: Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials

Each Party shall grant 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 non-Party; or

b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 307: Goods Re-Entered after Repair or Alteration
1. Except as set out in Annex 307.1, no Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been 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 territory.

2. Notwithstanding Article 303, no Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of another Party for repair or alteration.

3. Annex 307.3 applies to the Parties specified in that Annex respecting the repair and rebuilding of vessels.

**Article 308: Most Favored Nation Rates of Duty on Certain Goods**

1. Annex 308.1 applies to certain automatic data processing goods and their parts.

2. Annex 308.2 applies to certain color television tubes.

3. Each Party shall accord most favored nation duty-free treatment to any local area network apparatus imported into its territory, and shall consult in accordance with Annex 308.3.

**Section C - Non-Tariff Measures**

**Article 309: Import and Export Restrictions**

1. Except as otherwise provided in this Agreement, no Party may adopt or maintain any prohibition or restriction on the importation of any good of another Party or on the exportation or sale for export of any good destined for the territory of another Party, except in accordance with Article XI of the GATT, including its interpretative notes, and to this end Article XI of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made a part of this Agreement.

2. The Parties understand that the GATT rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:

   a) limiting or prohibiting the importation from the territory of another Party of such good of that non-Party; or

   b) requiring as a condition of export of such good of the Party to the territory of another Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Parties, on request of any Party, shall consult with a view to avoiding undue interference with or distortion of pricing, marketing and distribution arrangements in another Party.

5. Paragraphs 1 through 4 shall not apply to the measures set out in Annex 301.3.

**Article 310: Customs User Fees**

1. No Party may adopt any customs user fee of the type referred to in Annex 310.1 for originating goods.

2. The Parties specified in Annex 310.1 may maintain existing such fees in accordance with that Annex.

**Article 311: Country of Origin Marking**

Annex 311 applies to measures relating to country of origin marking.

**Article 312: Wine and Distilled Spirits**

1. No Party may adopt or maintain any measure requiring that distilled spirits imported from the territory of another Party for bottling be blended with any distilled spirits of the Party.

2. Annex 312.2 applies to other measures relating to wine and distilled spirits.
Article 313: Distinctive Products

Annex 313 applies to standards and labelling of the distinctive products set out in that Annex.

Article 314: Export Taxes

Except as set out in Annex 314, no Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of another Party, unless such duty, tax or charge is adopted or maintained on:

a) exports of any such good to the territory of all other Parties; and

b) any such good when destined for domestic consumption.

Article 315: Other Export Measures

1. Except as set out in Annex 315, a Party may adopt or maintain a restriction otherwise justified under Articles XI:2(a) or XX(g), (i) or (j) of the GATT with respect to the export of a good of the Party to the territory of another Party, only if:

   a) the restriction does not reduce the proportion of the total export shipments of the specific good made available to that other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36-month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree;

   b) the Party does not impose a higher price for exports of a good to that other Party than the price charged for such good when consumed domestically, by means of any measure, such as licenses, fees, taxation and minimum price requirements. The foregoing provision does not apply to a higher price that may result from a measure taken pursuant to subparagraph (a) that only restricts the volume of exports; and

   c) the restriction does not require the disruption of normal channels of supply to that other Party or normal proportions among specific goods or categories of goods supplied to that other Party.

2. The Parties shall cooperate in the maintenance and development of effective controls on the export of each other’s goods to a non-Party in implementing this Article.

Section D - Consultations

Article 316: Consultations and Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.

2. The Committee shall meet on the request of any Party or the Commission to consider any matter arising under this Chapter.

3. The Parties shall convene at least once each year a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, and regulation of transportation for the purpose of addressing issues related to movement of goods through the Parties’ ports of entry.

Article 317: Third Country Dumping

1. The Parties affirm the importance of cooperation with respect to actions under Article 12 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

2. Where a Party presents an application to another Party requesting antidumping action on its behalf, those Parties shall consult within 30 days respecting the factual basis of the request, and the requested Party shall give full consideration to the request.

Section E - Definitions

Article 318: Definitions

For purposes of this Chapter:

advertising films means recorded visual media, with or without soundtracks, consisting essentially of images showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film and that do not form part of a larger consignment;
**commercial samples of negligible value** means commercial samples having a value, individually or in the aggregate as shipped, of not more than one U.S. dollar, or the equivalent amount in the currency of another Party, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

**consumed** means:

a) actually consumed; or

b) further processed or manufactured so as to result in a substantial change in value, form or use of the good or in the production of another good;

**customs duty** includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT, or any equivalent provision of a successor agreement to which all Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

b) antidumping or countervailing duty that is applied pursuant to a Party's domestic law and not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters);

c) fee or other charge in connection with importation commensurate with the cost of services rendered;

d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels; and

e) fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures);

**distilled spirits** include distilled spirits and distilled spirit containing beverages;

**duty deferral program** includes measures such as those governing foreign trade zones, temporary importations under bond, bonded warehouses, "maquiladoras", and inward processing programs;

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

**goods imported for sports purposes** means sports requisites 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 their component parts, ancillary apparatus and accessories;

**item** means a tariff classification item at the eight- or 10-digit level set out in a Party's tariff schedule;

**local area network apparatus** means a good dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input or output units, including in-line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof suitable for use solely or principally with a private network, and providing for the transmission, receipt, error-checking, control, signal conversion or correction functions for non-voice data to move through a local area network;

**performance requirement** means a requirement that:

a) a given level or percentage of goods or services be exported;

b) domestic goods or services of the Party granting a waiver of customs duties be substituted for imported goods or services;

c) a person benefitting from a waiver of customs duties purchase other goods or services in the territory of the Party granting the waiver or accord a preference to domestically produced goods or services;

d) a person benefitting from a waiver of customs duties produce goods or provide services, in the territory of the Party granting the waiver, with a given level or percentage of domestic content; or

e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;
**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, publicize or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

**repair or alteration** does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good;

**satisfactory evidence** means:

a) a receipt, or a copy of a receipt, evidencing payment of customs duties on a particular entry;

b) a copy of the entry document with evidence that it was received by a customs administration;

c) a copy of a final customs duty determination by a customs administration respecting the relevant entry;

d) any other evidence of payment of customs duties acceptable under the Uniform Regulations established in accordance with Chapter Five (Customs Procedures);

**total export shipments** means all shipments from total supply to users located in the territory of another Party;

**total supply** means all shipments, whether intended for domestic or foreign users, from:

a) domestic production;

b) domestic inventory; and

c) other imports as appropriate; and

**waiver of customs duties** means a measure that waives otherwise applicable customs duties on any good imported from any country, including the territory of another Party.