CHAPTER 2 TRADE IN GOODS

ARTICLE 2.1: SCOPE

Unless otherwise provided, this Chapter shall apply to trade in goods of a Party.

ARTICLE 2.2: 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 interpretive notes, and to this end Article III of GATT 1994, including its interpretive notes, is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.3: ELIMINATION OF CUSTOMS DUTIES

- 1. Unless otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.
- 2. Unless otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule to Annex 2-A.
- 3. If at any moment a Party reduces its applied most-favoured-nation (hereinafter referred to as "MFN") customs duty rate after the date of entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule included in Annex 2-A.
- 4. On request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules to Annex 2-A. An agreement by the Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined in accordance with their Schedules to Annex 2-Afor that good when approved by each Party in accordance with its applicable legal procedures.
- 5. For greater certainty, a Party may raise a customs duty to the level established in its Schedule to Annex 2-A following a temporary unilateral reduction.

ARTICLE 2.4: GOODS RE-ENTERED AFTER REPAIR OR ALTERATION

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether the repair or alteration:

- (a) could be performed in the territory of the Party from which the good was exported for repair or alteration; or
- (b) may have resulted in an increased value of the good.
- 2. Neither Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.
- 3. For the purposes of this Article, repair or alteration 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.

ARTICLE2.5:DUTY-FREE ENTRY OF COMMERCIAL SAMPLES OF NEGLIGIBLE VALUE 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 the other Party, regardless of their origin, but may require that:

- (a) the samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or
- (b) the advertising materials be imported in packets that each contain no more than one copy of each such material and that neither the materials nor the packets form part of a larger consignment.

ARTICLE 2.6: IMPORT AND EXPORT RESTRICTIONS

- 1. Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994, including its interpretive notes, and to this end Article XI of GATT 1994, including its interpretive notes, is incorporated into and made part of this Agreement, *mutatis mutandis*.
- 2. Where a Party proposes to adopt an export prohibition or restriction on foodstuffs or energy and mineral resources in accordance with paragraph 2(a) of Article XI of GATT 1994, the Party shall:
 - (a) seek to limit such proposed prohibition or restriction to the extent necessary, giving due consideration to its possible effects on the other Party's foodstuff or energy and mineral resources security;

- (b) provide notice in writing, as far in advance as practicable, to the other Party of such proposed prohibition or restriction and its reasons together with its nature and expected duration; and
- (c) on request, provide the other Party with a reasonable opportunity for consultation with respect to any matter related to the proposed prohibition or restriction.

ARTICLE 2.7: IMPORT LICENSING

- 1. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.
- 2. Promptly after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing procedures, 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. Prior to applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government Internet site or in a single official journal. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

ARTICLE 2.8: ADMINISTRATIVE FEES AND FORMALITIES

- 1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994, including its interpretive notes, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT1994, and any additional customs duty collected as a result of a measure consistent with Chapter 6 (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 of imports or exports for fiscal purposes.
- 2. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.
- 3. Each Party shall make available and maintain through the Internet a current list of the fees and charges it imposes in connection with importation or exportation.

ARTICLE 2.9: EXPORT DUTIES, TAXES OR OTHER CHARGES

Neither Party shall adopt or maintain any duty, tax or other charge on the export of any good to the territory of the other Party, unless the duty, tax or charge is also adopted or maintained on the good when destined for domestic consumption.

ARTICLE 2.10: NON-TARIFF MEASURES

- 1. Further to Chapter 19 (Transparency), the Parties recognise the importance of ensuring the transparency of non-tariff measures affecting trade between the Parties and that any such measures should not create an unnecessary obstacle to trade between the Parties.
- 2. To this end, the Committee on Trade in Goods established in Article 21.4 (Committees and Working Groups) shall, when a Party identifies a specific non-tariff measure, review that measure. The Committee on Trade in Goods shall review the non-tariff measure only after either Party objectively demonstrates that the relevant coordination mechanism, technical meeting, committee or working group, if any, that is most closely related to such a measure has failed to produce a satisfactory resolution within a reasonable period of time.
- 3. The Committee on Trade in Goods shall, for the non-tariff measure referred to in paragraph 2, consider approaches that may better facilitate trade between the Parties and present to the Parties the results of its consideration, including any recommendations, preferably within 12 months. If necessary, the results of the consideration and recommendations of the Committee on Trade in Goods shall be submitted to the next meeting of the Joint Committee for consideration and/or action.

ARTICLE 2.11: COMMITTEE ON TRADE IN GOODS

- 1. The functions of the Committee on Trade in Goods established in accordance with Article 21.4 (Committees and Working Groups) shall include:
 - (a) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate; and
 - (b) addressing tariff and non-tariff barriers to trade in goods between the Parties and, if appropriate, referring such matters, with any recommendation, to the Joint Committee for its consideration.
- 2. The Committee shall meet on request of a Party or the Joint Committee to consider any matters relating to trade in goods.

ARTICLE 2.12: DEFINITIONS

For the purposes of this Chapter:

commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than the amount specified in a Party's laws, regulations or procedures governing temporary admission, or so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;

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;

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; and

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, publicise, or advertise a good or service, or are essentially intended to advertise a good or service, and are supplied free of charge.

ANNEX 2-A ELIMINATION OF CUSTOMS DUTIES

Section A: Tariff Schedule of Korea

- 1. Relation to the Harmonized Tariff Schedule of Korea (HSK). The provisions of this Schedule are generally expressed in terms of the HSK, and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes, and Chapter Notes of the HSK. To the extent that provisions of this Schedule are identical to the corresponding provisions of the HSK, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the HSK.
- 2. <u>Base Rates of Customs Duty</u>. The base rates of customs duty set out in this Schedule reflect the Korean Customs Duty most-favoured-nation rates of duty in effect on 1 January 2010.
- 3. <u>Staging</u>. The following staging categories apply to the reduction or elimination of customs duties by Korea pursuant to Article 2.3:
 - (a) customs duties on originating goods provided for in the items in staging category "0" shall be eliminated entirely and such goods shall be free of customs duty on the date of entry into force of this Agreement;
 - (b) customs duties on originating goods provided for in the items in staging category "3" shall be removed in three equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year three;
 - (c) customs duties on originating goods provided for in the items in staging category "5" shall be removed in five equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year five;
 - (d) customs duties on originating goods provided for in the items in staging category "7" shall be removed in seven equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year seven;
 - (e) customs duties on originating goods provided for in the items in staging category "10" shall be removed in 10 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 10;
 - (f) customs duties on originating goods provided for in the items in staging category "12" shall be removed in 12 equal annual stages beginning on the

- date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 12;
- (g) customs duties on originating goods provided for in the items in staging category "13" shall be removed in 13 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 13;
- (h) customs duties on originating goods provided for in the items in staging category "15" shall be removed in 15 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 15;
- (i) customs duties on originating goods provided for in the items in staging category "17" shall be removed in 17 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 17;
- (j) customs duties on originating goods provided for in the items in staging category "18" shall be removed in 18 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 18;
- (k) customs duties on originating goods provided for in the items in staging category "20" shall be removed in 20 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 20;
- (l) customs duties on originating goods provided for in the items in staging category "B" shall be reduced by 50 per cent in 10 equal annual stages beginning on the date of entry into force of this Agreement and shall remain at that rate thereafter;
- (m) customs duties on originating goods provided for in the items in staging category "S-1" shall be subject to the following provisions:
 - (i) for goods entered into Korea from 1 December through 30 April, customs duties shall be eliminated entirely and such goods shall be free of customs duty on the date of entry into force of this Agreement; and
 - (ii) for goods entered into Korea from 1 May through 30 November, customs duties shall be removed in 15 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 15;
- (n) customs duties on originating goods provided for in the items in staging category "S-2" shall be subject to the following provisions:

- (i) for goods entered into Korea from 1 October through 31 March, customs duties shall remain at base rates; and
- (ii) for goods entered into Korea from 1 April through 30 September, customs duties shall be reduced to 30 per cent *ad valorem* on the date of entry into force of this Agreement. Beginning 1 January of year two, customs duties shall be removed in six equal annual stages, and such goods shall be free of customs duty, effective 1 January of year seven;
- (o) customs duties on originating goods provided for in the items in staging category "S-3" shall be subject to the following provisions:
 - (i) for goods entered into Korea from 1 October through 31 March, customs duties shall remain at base rates; and
 - (ii) for goods entered into Korea from 1 April through 30 September, customs duties shall be removed in 18 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 18;
- (p) customs duties on originating goods provided for in the items in staging category "S-4" shall be subject to the following provisions:
 - (i) for goods entered into Korea from 1 May through 30 November, customs duties shall remain at base rates; and
 - (ii) for goods entered into Korea from 1 December through 30 April, customs duties shall be reduced to 24 per cent *ad valorem* on the date of entry into force of this Agreement. Beginning 1 January of year two, customs duties shall be removed in four equal annual stages, and such goods shall be free of customs duty, effective 1 January of year five;
- (q) customs duties on originating goods provided for in the items in staging category "S-5" shall be subject to the following provisions:
 - (i) for goods entered into Korea from 1 November through 30 April, customs duties shall remain at base rates; and
 - (ii) for goods entered into Korea from 1 May through 31 October, customs duties shall be removed in 15 equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall be free of customs duty, effective 1 January of year 15;
- (r) customs duties on originating goods provided for in the items in staging category "E" shall remain at base rates; and
- (s) no obligations regarding customs duties in this Agreement shall apply with respect to items in staging category "R". Nothing in this Agreement shall

affect Korea's rights and obligations with respect to its implementation of the commitments set out in the WTO document WT/Let/492 (*Certification of Modifications and Rectifications to Schedule LX – Republic of Korea*) dated 13 April, 2005 and any amendments thereto.

- 4. The base rate of customs duty and staging category are indicated in Korea's Schedule.
- 5. Interim staged rates shall be rounded down, at least to the nearest tenth of a percentage point or, if the rate of customs duty is expressed in monetary units, at least to the nearest Korean won.
- 6. For the purposes of this Schedule, **year one** means the year of entry into force of this Agreement.
- 7. For the purposes of this Schedule, beginning in year two, each annual stage of tariff reduction shall take effect on 1 January of the relevant year.

Section B: Tariff Schedule of Australia

- 1. Relation to the Australian Customs Tariff Act 1995. The items set forth in Section B of this Annex are generally expressed in terms of the corresponding items in Schedule 3 to the Australian Customs Tariff Act 1995 (Tariff Act) and the interpretation of the items in Section B of this Annex, including the product coverage of subheadings in Section B of this Annex, shall be governed by the Tariff Act. To the extent that the items set forth in Section B of this Annex are identical to the corresponding items in Schedule 3 of the Tariff Act the items in Section B of this Annex shall have the same meaning as the corresponding items in the Tariff Act.
- 2. <u>Base Rates of Customs Duty</u>. The base rates of customs duty set out in this schedule reflect the Australian most-favoured-nation rates of duty in effect on 1 January 2010.
- 3. <u>Staging</u>. The following staging categories apply to the elimination of customs duties by Australia pursuant to Article 2.3:
 - (a) category "0" customs duties on originating goods provided for in the items in staging category "0" shall be eliminated entirely and such goods shall be free of customs duty on the date of entry into force of this Agreement;
 - (b) category "3" customs duties on goods in category 3 shall be reduced to 3.3 per cent on the date this Agreement enters into force and shall then be reduced to 1.7 per cent on 1 January of year two, and such goods shall be free of customs duty, effective 1 January of year three;
 - category "3A" the *ad valorem* component of compound customs duties on goods in category 3A shall be reduced to 3.3 per cent on the date this Agreement enters into force and shall then be reduced to 1.7 per cent on 1 January of year two. The specific component of compound customs duties on goods in category 3A shall be reduced to A\$8,000 on the date this Agreement enters into force and shall then be reduced to A\$4,000 on 1 January of year two. Such goods shall be free of customs duty, effective 1 January of year three;
 - (d) category "5" customs duties on goods in category 5 shall be reduced to 4 per cent on the date this Agreement enters into force and shall then be removed in four equal annual stages beginning on 1 January of year two, and such goods shall be free of customs duty, effective 1 January of year five;
 - (e) category "8A" customs duties on goods in category 8A shall be removed in five equal annual stages beginning on 1 January of year four, and such goods shall be free of customs duty, effective 1 January of year eight;
- 4. The base rate of customs duty and staging category for an item are indicated for the item in Australia's Schedule.

- 5. Interim staged rates shall be rounded down, at least to the nearest tenth of a percentage point or, if the rate of duty is expressed in monetary units, at least to the nearest Australian dollar.
- 6. For the purposes of this Schedule, **year one** means the year of entry into force of this Agreement.
- 7. For the purposes of this Schedule, beginning in year two, each annual stage of tariff reduction shall take effect on 1 January of the relevant year.

Appendix 2-A-1

Korea

- 1. This Appendix applies to tariff rate quotas (TRQs) provided for in this Agreement and sets out modifications to the Harmonized Schedule of Korea (HSK) that reflect the TRQs that Korea shall apply to certain originating goods under this Agreement. In particular, originating goods of Australia included under this Appendix shall be subject to the rates of duty as set out in this Appendix in lieu of the rates of duty specified in Chapters 1-97 of the HSK. Notwithstanding any other provision of the HSK, originating goods of Australia in the quantities described in this Appendix shall be permitted entry into the territory of Korea as provided in this Appendix. Furthermore, any quantity of originating goods imported from Australia under a TRQ provided for in this Appendix shall not be counted toward the inquota amount of any TRQ provided for such goods elsewhere in the HSK.
- 2. Any enterprise or national of a Party that fulfils Korea's importing legal and administrative requirements shall be eligible to be considered for a quota allocation under this TRQ.
- 3. Each Party shall implement and administer the TRQs set out in this Appendix in accordance with Article XIII of GATT 1994, including its interpretive notes, and the Import Licensing Agreement.
- 4. Over the course of each year, Korea's administering authority shall publish, in a timely fashion on its designated publicly available Internet site, administration procedures, utilisation rates and remaining available quantities for each TRQ.
- 5. Each Party shall notify the other Party of any new or modified administration of a TRQ established in this Appendix prior to its application. On written request of a Party, the Parties shall consult regarding a Party's administration of its TRQs at the next meeting of the Committee on Trade in Goods to arrive at a mutually satisfactory agreement on administration. The Parties shall consider prevailing supply and demand conditions in the consultations.

Butter and other fats and oils derived from milk

Year	Quantity (Metric Tonnes)
1	113
2	115
3	118
4	120
5	122
6	125
7	127
8	130
9	132
10	135
11	138
12	141
13	143
14	146
15	Unlimited

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be removed in accordance with staging category 15 as described in paragraph 3(h) of Annex 2-A.
- (c) Subparagraph (a) applies to the following HSK provisions: 0405100000 and 0405900000.

Fresh, grated or powdered, processed, and all other cheeses

Year	Quantity (Metric Tonnes)
1	4,630
2	4,769
3	4,912
4	5,059
5	5,211
6	5,367
7	5,528
8	5,694
9	5,865
10	6,041
11	6,222
12	6,409
13	4,443
14	4,576
15	4,714
16	4,855
17	5,001
18	383
19	394
20	Unlimited

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be removed in accordance with:
 - (i) staging category 13 as described in paragraph 3(g) of Annex 2-A for the following HSK provision: 0406901000;
 - (ii) staging category 18 as described in paragraph 3(j) of Annex 2-A for the following HSK provisions: 0406101010,0406101020, 0406101090 and 0406300000; and
 - (iii) staging category 20 as described in paragraph 3(k) of Annex 2-A for the following HSK provisions: 0406200000, 0406902000, 0406903000, 0406904000 and 0406909000.
- (c) Subparagraph (a) applies to the following HSK provisions:
 - (i) from year 1 through year 12, 0406101010, 0406101020, 0406101090, 0406200000, 0406300000, 0406901000, 0406902000, 0406903000, 0406904000 and 0406909000;

- (ii) from year 13 through year 17, 0406101010, 0406101020, 0406101090, 0406200000, 0406300000, 0406902000, 0406903000, 0406904000 and 0406909000; and
- (iii) from year 18 through year 19, 0406200000, 0406902000, 0406903000, 0406904000 and 0406909000.

Oranges

8. (a) The aggregate quantity of originating goods of Australia described in subparagraph (c) that shall be permitted to enter duty free in a particular year is specified below:

Year	Quantity
	(Metric Tonnes)
1	20
2	20
3	20
4	20
5	20
6	20
7	30
8	30
9	30
10	30

After year 10, the in-quota quantity shall remain the same as the quantity of year 10.

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be treated in accordance with staging category S-2 as described in paragraph 3(n) of Annex 2-A.
- (c) Subparagraph (a) applies to the following HSK provision: 0805100000.

Malt and malting barley

Year	Quantity (Metric Tonnes)
1	10,000
2	10,200
3	10,404
4	10,612
5	10,824
6	11,041
7	11,262
8	11,487
9	11,717
10	11,951
11	12,190
12	12,434
13	12,682
14	12,936
15	Unlimited

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be removed in accordance with staging category 15 as described in paragraph 3(h) of Annex 2-A.
- (c) Subparagraph (a) applies to the following HSK provisions: 1003001000 and 1107100000.

10. (a) The aggregate quantity of originating goods of Australia described in subparagraph (d) that shall be permitted to enter duty free in a particular year is specified below:

Year	Quantity (Metric Tonnes)
1	500
2	550
3	600
4	650
5	700
6	750
7	800
8	850
9	900
10	950
11	1,000

After year 11, the in-quota quantity shall remain the same as the quantity of year 11.

- (b) Identity-preserved soybeans means a shipment of soybeans containing not less than 95 per cent of any single variety of soybean and not more than 1 per cent of foreign material. Identity preserved soybeans may not be shipped in bulk, but shall be shipped in bags or containers.
- (c) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be treated in accordance with staging category E as described in paragraph 3(r) of Annex 2-A.
- (d) Subparagraph (a) applies to the following HSK provisions: 1201009010 and 1201009090.

Fodder, other

Year	Quantity (Metric Tonnes)
1-14	50,000(per year)
15	unlimited

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be removed in accordance with staging category 15 as described in paragraph 3(h) of Annex 2-A.
- (c) Subparagraph (a) applies to the following HSK provision: 1214909090.

Prepared dry milk and other

Year	Quantity (Metric Tonnes)
1	470
2	484
3	499
4	514
5	529
6	545
7	561
8	578
9	595
10	613
11	632
12	651
13	35
14	36
15	Unlimited

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be removed in accordance with:
 - (i) staging category 13 as described in paragraph 3(g) of Annex 2-A for the following HSK provision: 1901101010; and
 - (ii) staging category 15 as described in paragraph 3(h) of Annex 2-A for the following HSK provision: 1901101090.
- (c) Subparagraph (a) applies to the following HSK provisions:
 - (i) from year 1 through year 12, 1901101010 and 1901101090; and
- (ii) from year 13 through year 14, 1901101090.