PART 3: TRADE IN GOODS

Article 4

Tariffs

Each Party shall eliminate all tariffs on goods originating in the other Party as of the date of entry into force of this Agreement. All tariffs on goods originating in either Party shall remain free after that date.

Article 5

Rules of Origin[1]

1 Goods exported from one Party to the other Party, or which entered the commerce of Australia only for the purpose of unloading and reloading, shall be treated as goods originating in the first Party if these goods are:

a) wholly produced or obtained in that Party;

or

b) partly manufactured in that Party, subject to the following conditions:

(i) the last process of manufacture of the goods was performed in the territory of that Party; and

either

(ii) the expenditure on one or more of the items set out below is not less than 40 per cent of the factory or works cost of such goods in their finished state:

A) materials, including inner containers, that originate in one or both Parties; or

B) costs referred to in paragraph 2 incurred in one or both Parties; or

C) partly on such materials, including inner containers, and partly on costs referred to in paragraph 2 incurred in one or both Parties;

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[1] This Article shall be read in conjunction with the Explanatory Notes contained in Annex 1.

or

(iii) where the goods do not contain any other qualifying area content, the expenditure on quality control checking and testing procedures is not less than 50 per cent of the factory or works cost of the goods in their finished state.

2 The costs referred in paragraph 1(b)(ii)(B) and (C) shall be the sum of costs of materials (excluding customs, excise or other duties), in the form in which they are received at the factory or works, as well as labour and overheads. It shall not include any profit or marketing cost elements of the goods in their finished state. The process of packaging by itself shall not confer origin.

3 Where a Party considers that, in relation to particular goods partly manufactured in its territory, the application of paragraph 1(b)(ii) and (iii) is inappropriate, then that Party may request in writing consultation with the other Party to determine a suitable proportion of the factory or works cost or quality control checking and testing procedures cost different from that provided in paragraph 1(b)(ii) and (iii). The Parties shall consult promptly and may mutually determine for such goods a proportion of the factory or works cost or quality control checking and testing procedures cost different from that provided in paragraph 1(b)(ii) and (iii).

4 Both Customs administrations shall require certification from the manufacturer for the importation of a good into their respective territories for which an importer claims preferential treatment. For the importation of a good into Singapore, certification shall be required in a prescribed form.

5 Verification of importers' declarations:

a) where an importing Party has reasonable grounds to believe that any importer of a good from the exporting Party has failed to submit adequate, true and accurate particulars relating to the claim for tariff preferences under Part 3, it may either deny such preferential access, or request the exporting Party to verify the claim of tariff preference made by the importer;

b) where a request has been made to the exporting Party to verify a claim of tariff preference made by the importer, the exporting Party shall endeavour to take all necessary measures to confirm any such particulars declared in the clearance of those goods by the importer;

c) if such a verification is unsatisfactory or when the exporting Party is unable to provide the verification, the importing Party may, upon informing the exporting Party and with the knowledge of the importer concerned and with the consent of the exporter or supplier or manufacturer concerned, visit the exporter or supplier or manufacturer concerned for the purpose of verifying the preference claim. If no consent is given by the exporter or supplier or manufacturer concerned, the importing Party may disallow the tariff preference that may be available under this Part;

d) if the verification provided by the exporting Party or carried out by the importing Party with the exporter or supplier or manufacturer concerned:

(i) shows inadequate evidence of entitlement, the importing Party may disallow the tariff preference that may be available under this Part;

or

(ii) substantiates the claim, the importing Party shall allow preferential entry.

6 During the biennial reviews of the operation of this Agreement provided for in Article 68, and earlier if so agreed, the Parties undertake to review these rules of origin, including the requirements necessary for goods to benefit from this Agreement, with a view to improving bilateral trade flows.

Article 6

Non-Tariff Measures

1 Except as otherwise provided for 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 export or sale for export of any good destined for the territory of the other Party.

2 The Parties agree that procedures, fees and formalities imposed in connection with import and export shall be imposed in a manner consistent with their WTO obligations.

Article 7

Subsidies[2]

1 The Parties agree to prohibit export subsidies[3] on all goods including agricultural products.

2 If either Party grants or maintains any subsidy which operates to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the other Party of the extent and nature of the subsidisation, of the estimated effect of the subsidisation on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidisation necessary. In any case in which it is determined that serious prejudice to the interests of the other Party is caused or threatened by any subsidisation, the Party granting the subsidy shall, upon request, discuss with the other Party the possibility of limiting the subsidisation. This paragraph shall be applied in conjunction with the relevant applicable provisions of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the WTO Agreement on Subsidies and Countervailing Measures (WTO SCM Agreement).

3 The Parties reaffirm their commitment to abide by the provisions of the WTO SCM Agreement in respect of actionable subsidies[4].

4 Each Party shall seek to avoid causing adverse effects to the interests of the other Party in terms of Article 5 of the WTO SCM Agreement.

Article 8

Safeguard Measures

Neither Party shall take safeguard measures[5] against goods originating in the other Party from the date of entry into force of this Agreement.

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[2] For the purposes of this Agreement, a subsidy is as defined in Article 1.1 of the WTO Agreement on Subsidies and Countervailing Measures.

[3] "Export subsidies" means subsidies as defined by Article 3 of the WTO Agreement on Subsidies and Countervailing Measures with the additional provision that, for the purposes of this Agreement, that definition extends also to all agricultural products.

[4] "Actionable subsidies" are subsidies referred to as such in the relevant provisions of the WTO SCM Agreement.

[5] "Safeguard measures" means those measures falling within the ambit of the WTO Agreement on Safeguards.

Article 9

Anti-Dumping

1 Both Parties are Members of the WTO Agreement on Implementation of Article VI of the GATT 1994 (WTO Anti-Dumping Agreement). For the purposes of trade between the Parties, the following changes are agreed in terms of implementation of the WTO Anti-Dumping Agreement in order to bring greater discipline to anti-dumping investigations and to minimise the opportunities to use anti-dumping in an arbitrary or protectionist manner:

a) the de minimis dumping margin of 2 per cent expressed as a percentage of the export price below which no anti-dumping duties can be imposed provided for in Article 5.8 of the WTO Anti-Dumping Agreement is raised to 5 per cent;

b) the new de minimis margin of 5 per cent established in sub-paragraph (a) is applied not only in new cases but also in refund and review cases;

c) the maximum volume of dumped imports from the exporting Party which shall normally be regarded as negligible under Article 5.8 of the WTO Anti-Dumping Agreement is increased from 3 per cent to 5 per cent of imports of the like product in the importing Party. Existing cumulation provisions under Article 5.8 continue to apply;

d) the time frame to be used for determining the volume of dumped imports under the preceding sub-paragraphs shall be representative of the imports of both dumped and non-dumped goods for a reasonable period. Such reasonable period shall normally be at least 12 months;

e) the period for review and/or termination of anti-dumping duties provided for in Article 11.3 of the WTO Anti-Dumping Agreement is reduced from five years to three years.

2 Notification procedures shall be as follows:

a) immediately following the acceptance of a properly documented application from an industry in one Party for the initiation of an anti-dumping investigation in respect of goods from the other Party, the Party that has accepted the properly documented application shall immediately inform the other Party;

b) where a Party considers that in accordance with Article 5 of the WTO Anti-Dumping Agreement there is sufficient evidence to justify the initiation of

an anti-dumping investigation, it shall give written notice to the other Party in accordance with Article 12.1 of that Agreement, and observe the requirements of Article 17.2 of that Agreement concerning consultations.