CHAPTER 2

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1: Definitions

For the purposes of this Chapter:

advertising films and recordings means recorded visual media or audio materials that exhibit for prospective customers 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 and recordings are not for broadcast to the general public;

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 use except as commercial samples;

consular transactions means requirements that goods of a Party intended for export to the territory of another Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party, or in the territory of a non-Party, for the purpose of obtaining a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers' export declaration, or any other customs documentation in connection with the importation of the good;

consumed means

(a) actually consumed; or

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

customs duty includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed 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 1994;

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

(c) anti-dumping or countervailing duty; and

(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;

distributor means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of the Party of goods of another Party;

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 admitted for sports purposes means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory the goods are admitted;

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 or bodies as a prior condition for importation into the territory of the importing Party;

Import Licensing Agreement means the *Agreement on Import Licensing Procedures*, set out in Annex 1A to the WTO Agreement;

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 or an import license be substituted for imported goods or services;

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

(d) a person benefitting from a waiver of customs duties or a grant of an import license produce goods or provide services, in the territory of the Party granting the waiver or the import license, 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;

but does not include a requirement that an imported good be:

(f) subsequently exported;

(g) used as a material in the production of another good that is subsequently exported;

(h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or

(i) substituted by an identical or similar good that is subsequently exported;

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;

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 Article 5.17 (Origin Procedures – Uniform Regulations); and

used vehicle means an automobile, a truck, a bus, or a special purpose motor vehicle, not including a motorcycle, that:

(a) has been sold, leased, or loaned;

(b) has been driven for more than

(i) 1,000 kilometers if the vehicle has a gross weight of less than five metric tons, or

(ii) 5,000 kilometers if the vehicle has a gross weight of five metric tons or more; or

(c) was manufactured prior to the current year and at least 90 days have elapsed since the date of manufacture.

Article 2.2: Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

Article 2.3: National Treatment

1. Each Party shall accord national treatment to the goods of another Party in accordance with Article III of the GATT 1994, including its interpretative notes, and to this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favorable than the most favorable treatment that regional level of government accords 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 2-A: Exceptions to Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions).

Article 2.4: Treatment of Customs Duties

1. Unless otherwise provided in this Agreement, no 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 apply customs duties on originating goods in accordance with its Schedule to Annex 2-B (Tariff Commitments).

3. On the request of any Party, the Parties shall consult to consider accelerating or broadening the scope of the elimination of customs duties set out in their Schedules to Annex 2-B (Tariff Commitments). An agreement between two or more Parties to accelerate or broaden the scope of the elimination of a customs duty on an originating good shall supersede any duty rate determined pursuant to those Parties' Schedules to Annex 2-B (Tariff Commitments) for that good once approved by each Party in accordance with its applicable legal procedures.

4. A Party may at any time unilaterally accelerate the elimination of customs duties set out in its Schedule to Annex 2-B (Tariff Commitments) on originating goods.

Article 2.5: 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;

(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, or tariff rate quotas or tariff preference levels; or

(c) 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.[1] 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 inventory management methods such as first-in, first-out or last-in, first-out. For greater certainty, nothing in this subparagraph shall be construed to permit a Party to waive, refund, or reduce a customs duty contrary to paragraph 2(c);

(c) a good imported into the territory of a Party that is deemed to be exported 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 exported;

(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

[1] Processes such as testing, cleaning, repacking, inspecting, sorting, or marking a good, or preserving a good in its same condition, shall not be considered to change the good's condition.

(f) a good set out in paragraph 7.

7. (a) For exports from the territory of the United States to the territory of Canada or Mexico, goods provided for in U.S. tariff items 1701.13.20 or 1701.14.20 that are imported into the territory of the United States under any re-export program or any like program and used as a material in the production of, or substituted by an identical or similar good used as a material in the production of:

(i) a good provided for in in Canadian tariff item 1701.99.00 or Mexican tariff items 1701.99.01 and 1701.99.99 (refined sugar), or

(ii) sugar containing products that are prepared foodstuffs or beverages classified in headings 1704 and 1806 or in chapters 19, 20, 21, or 22, are not subject to this Article.

(b) For trade between Canada and the United States the following are not subject to this Article:

(i) imported citrus products;

(ii) an imported good used as a material in the production of, or substituted by an identical or similar good used as a material in the production of, a good provided for in U.S. items 5811.00.20 (quilted cotton piece goods), 5811.00.30 (quilted man-made piece goods) or 6307.90.99 (furniture moving pads), or Canadian items 5811.00.10 (quilted cotton piece goods), 5811.00.20 (quilted man-made piece goods) or 6307.90.30 (furniture moving pads), that are subject to the most-favored-nation rate of duty when exported to the territory of the other Party; and

(iii) an imported good used as a material in the production in the production of apparel that is subject to the most-favored-nation rate of duty when exported to the territory of the other Party.

8. For purposes of this Article:

identical or similar goods means "identical or similar goods" as defined in Article 5.1 (Origin Procedures — Definitions);

material means "material" as defined in Article 4.1 (Rules of Origin - Definitions);

used means "used" as defined in Article 4.1 (Rules of Origin – Definitions).

9. 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 2.6: Waiver of Customs Duties

No Party shall adopt or maintain any waiver of customs duties where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

Article 2.7: Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for:

   (a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, that is necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the law of the importing Party;

   (b) goods intended for display or demonstration, including their component parts, ancillary apparatus and accessories;

   (c) commercial samples and advertising films and recordings; and

   (d) goods admitted for sports purposes

admitted 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. No Party shall condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that the good:

   (a) be imported by a national of another Party who seeks temporary entry;

   (b) be used solely by or under the personal supervision of a national of another Party in the exercise of the business activity, trade, profession, or sport of that person;

   (c) not be sold, leased, or, for goods referred to in paragraph 1(c), not be put to any use other than exhibition or demonstration, while in its territory;

   (d) be accompanied by a security in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or importation, 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 the person referenced in subparagraph (a), or within any other period reasonably related to the purpose of the temporary admission as the Party may establish, unless extended;

(g) be admitted in no greater quantity than is reasonable for its intended use; and

(h) be otherwise admissible into the Party's territory under its law.

3. Subject to its domestic law, each Party shall extend the time limit for temporary admission beyond the period initially fixed at the request of the person concerned.

4. Each Party shall adopt and maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, those procedures shall provide that when such a good accompanies a national of another Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national.

5. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than the port through which it was admitted.

6. Each Party shall provide, in accordance with its law, that the person responsible for a good admitted under this Article shall not be liable for failure to export the good upon presentation of proof satisfactory to the Party into which the good was admitted that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.

7. If any condition that a Party imposes under paragraph 2 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on entry or importation of the good in addition to any other charges or penalties provided for under its law.

8. Subject to Chapters 14 (Investment) and Chapter 15 (Cross Border Trade in Services):

(a) each Party shall allow a vehicle, or shipping container or other substantial holder, 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 that vehicle, or shipping container or other substantial holder;

(b) no Party shall require any security 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 shipping container or other substantial holder;

(c) no Party shall condition the release of any obligation, including any security, that it imposes in respect of the entry of a vehicle, or shipping container or other substantial holder, into its territory on the exit of that vehicle, or shipping container or other substantial holder, through any particular port of departure; and

(d) no Party shall require that the vehicle or carrier bringing a shipping container or other substantial holder from the territory of another Party into its territory be the same vehicle or carrier that takes that shipping container or other substantial holder to the territory of another Party.

9. For the purposes of paragraph 8, **vehicle** means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment, if used in international traffic.

10. (a) Each Party shall adopt or maintain procedures allowing for the arrival and release from customs custody, such as through procedures that provide for temporary admission as set forth in this Article, of a shipping container or other substantial holder being used or to be used in the shipment of goods in international traffic, whether arriving full or empty and of any size, volume, or dimension, with relief from custom duties and allowing it to remain within its territory for at least 90 consecutive days.

(b) Each Party shall, in accordance with its law, regulations, and procedures, extend the timeframe for temporary admission of a shipping container or other substantial holder beyond the period initially fixed at the request of the person concerned.

(c) A Party may require that a shipping container or other substantial holder be registered with the customs authority the first time it arrives in its territory, as a condition for this treatment.

11. Each Party shall include in the treatment of any shipping container or other substantial holder that has an internal volume of one cubic meter or more, the accessories or equipment accompanying it as defined by the importing Party.

12. For the purposes of paragraphs 8, 10, and 11, a shipping container or other substantial holder includes any container or holder, whether collapsible or not, that is constructed of a sturdy material capable of repeated use, if used in the shipment of goods in international traffic.

Article 2.8: Goods Re-Entered after Repair or Alteration

1. No 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 another Party for repair or alteration, regardless of whether that repair or alteration could have been performed in the territory of the Party from which the good was exported for repair or alteration or has increased the value of the good.

2. Paragraph 1 does not apply to a good imported under a duty deferral program that is exported for repair or alteration and is not re-imported under a duty deferral program.

3. Notwithstanding Article 2.5 (Drawback and Duty Deferral Programs), no Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of another Party for repair or alteration.

4. 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.

Article 2.9: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

No Party shall apply a customs duty to commercial samples of negligible value or to printed advertising materials imported from the territory of another 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 another 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 2.10: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, no Party shall 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 1994, including its interpretative notes, and to this end Article XI of the GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

2. The Parties understand that GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

(a) export or import price requirements, except as permitted in enforcement of antidumping and countervailing duty orders or price undertakings;

(b) import licensing conditioned on the fulfilment of a performance requirement; or

(c) voluntary export restraints inconsistent with Article VI of the GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.

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 that Party from:

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

(b) requiring, as a condition for exporting the 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 the request of a Party, shall consult with a view to avoiding undue interference with or distortion of pricing, marketing, or distribution arrangements in another Party.

5. No Party shall as a condition for engaging in importation generally, or for the importation of a particular good, require a person of another Party to establish or maintain a contractual or other relationship with a distributor in its territory.

6. For greater certainty, paragraph 5 does not prevent a Party from requiring that a person referred to in that paragraph designate a point of contact for the purpose of facilitating communications between its regulatory authorities and that person.

7. Paragraphs 1 through 6 shall not apply to the measures set out in Annex 2-A: Exceptions to Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions).

8. For greater certainty, paragraph 1 applies to the importation of any good implementing or incorporating cryptography, if the good is not designed or modified specifically for government use and is sold or otherwise made available to the public.

9. For greater certainty, no Party may adopt or maintain a prohibition or restriction on the importation of originating used vehicles from the territory of another Party after January 1, 2019. This Article shall not prevent a Party from applying motor vehicle safety or emissions measures, or vehicle registration requirements, of general application to originating used vehicles in a manner consistent with this Agreement.

Article 2.11: Remanufactured Goods

1. For greater certainty, paragraph 1 of Article 2.10 (Import and Export Restrictions) applies to prohibitions and restrictions on remanufactured goods.

2. Subject to its obligations under this Agreement and the WTO Agreement, a Party may require that remanufactured goods:

(a) be identified as such, including through labelling, for distribution or sale in its territory, and

(b) meet all applicable technical requirements that apply to equivalent goods in new condition.

3. If a Party adopts or maintains prohibitions or restrictions on used goods, it shall not apply those measures to remanufactured goods.

Article 2.12: Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of the GATT 1994 and its interpretative notes, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of the GATT 1994, and antidumping and countervailing duties) 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. No Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of another Party.[2]

3. No Party shall adopt or maintain a customs user fee on originating goods.[3]

Article 2.13: Export Duties, Taxes, or Other Charges

No Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of another Party, unless the duty, tax, or charge is also applied to the good when destined for domestic consumption.

Article 2.14: Most-Favored-Nation Rates of Duty on Certain Goods

1. Each Party shall accord most-favored-nation duty-free treatment to a good provided for under the tariff provisions set out in Table 2.1, Table 2.2, and Table 2.3.

[2] For Mexico, this paragraph shall not apply to the procedures for the duty-free entry of personal and household effects of natural persons relocating to Mexico.

[3] The merchandise processing fee (MPF) shall be the only customs user fee of the United States to which this paragraph shall apply. The *derechos de trámite aduanero* shall be the only customs user fee of Mexico to which this paragraph shall apply.

2. Notwithstanding Chapter 4 (Rules of Origin), each Party shall consider a good set out in Table 2.1, when imported into its territory from the territory of another Party, to be an originating good.

Table 2.1		
A. Automatic Data Processing Machines (ADP)		
	8471.30	
	8471.41	
	8471.49	
B. Digital Processing Units		
	8471.50	
C. Input or Output Units		
Combined Input/Output Units		
Canada	8471.60.00	
Mexico	8471.60.02	
United States	8471.60.10	
Display Units		
Canada	8528.42.00 8528.52.00 8528.62.00	
Mexico	8528.41.99 8528.51.01 8528.51.99 8528.61.01	
United States Other Input or Output Units	8528.42.00 8528.52.00 8528.62.00	
Canada	8471.60.00	
Mexico	8471.60.03 8471.60.99	
United States	8471.60.20 8471.60.70 8471.60.80 8471.60.90	
D. Storage Units		
	8471.70	
E. Other Units of Automatic Data Processing Machines		
	8471.80	
F. Parts of Computers		

	8443.99	parts of machines of subheading 8443.31 and 8443.32, excluding facsimile machines and teleprinters
	8473.30	parts of ADP machines and units thereof
	8517.70	parts of LAN equipment of subheading 8517.62
Canada	8529.90.19 8529.90.50 8529.90.90	parts of monitors and projectors of subheading 8528.42, 8528.52, and 8528.62
Mexico	8529.90.01 8529.90.06	parts of monitors or projectors of subheadings 8528.41, 8528.51, and 8528.61
United States	8529.90.22 8529.90.75 8529.90.99	parts of monitors and projectors of subheading 8528.42, 8528.52, and 8528.62
G. Computer Power Supplies		
Canada	8504.40.30 8504.40.90 8504.90.10 8504.90.20 8504.90.90	
Mexico	8504.40.12 8504.40.14 8504.90.02 8504.90.07 8504.90.08	 parts of goods classified in tariff item 8504.40.12
United States	8504.40.60 8504.40.70 8504.90.20 8504.90.41	

Table 2.2	
A. Metal Oxide Varistors	
Canada	8533.40.00
Mexico	8533.40.05
United States	8533.40.40
B. Diodes, Transistors and Similar Semiconductor Devices; Photosensitive Semiconductor Devices; Light Emitting Diodes; Mounted Piezo-electric Crystals	
	8541.10
	8541.21
	8541.29
	8541.30
	8541.50
	8541.60
	8541.90

Canada	8541.40
Mexico	8541.40.01 8541.40.02 8541.40.03
United States	8541.40.20 8541.40.60 8541.40.70 8541.40.80 8541.40.95
C. Electronic Integrated Circuits and Microassemblies	
	8542
Canada	8548.90.00
Mexico	8548.90.04
United States	8548.90.01

Table 2.3 **Local Area Network (LAN) Apparatus**	
Canada	8517.62.00
Mexico	8517.62.01
United States	8517.62.00

Article 2.15: Transparency in Import Licensing Procedures

1. Subject to paragraph 2, as soon as practicable, after this Agreement enters into force, each Party shall notify the other Parties of its existing import licensing procedures, if any. The notification shall:

(a) include the information specified in Article 5.2 of the Import Licensing Agreement and in the annual questionnaire on import licensing procedures described in Article 7.3 of the Import Licensing Agreement; and

(b) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.

2. A Party shall be deemed to be in compliance with the obligations in paragraph 1 with respect to an import licensing procedure if:

(a) it has notified that procedure to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement together with the information specified in Article 5.2 of that agreement; and

(b) in the most recent annual submission due before entry into force of this Agreement to the Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described in Article 7.3 of the Import Licensing

Agreement, it has provided, with respect to that procedure, the information requested in that questionnaire.

3. A Party shall publish on an official government Internet website any new or modified import licensing procedure, including any information that it is required to be published under Article 1.4(a) of the Import Licensing Agreement. To the extent possible, the Party shall do so at least 20 days before the new procedure or modification takes effect.

4. Each Party shall respond within 60 days to a reasonable inquiry from another Party concerning its licensing rules and its procedures for the submission of an application for an import license, including the eligibility of persons, firms, and institutions to make an application, the administrative body or bodies to be approached, and the list of products subject to the licensing requirement.

5. If a Party denies an import license application with respect to a good of another Party, it shall, on request of the applicant and within a reasonable period after receiving the request, provide the applicant with a written explanation of the reason for the denial.

6. No Party shall apply an import licensing procedure to a good of another Party unless the Party has complied with the requirements of paragraphs 1 or 2, and 3, with respect to that procedure.

Article 2.16: Transparency in Export Licensing Procedures

1. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Parties in writing of the publications in which its export licensing procedures, if any, are set out, including addresses of relevant government Internet websites on which the procedures are published. Thereafter, each Party shall publish any new export licensing procedure, or any modification of an export licensing procedure, it adopts as soon as practicable but no later than 30 days after the new procedure or modification takes effect.

2. Each Party shall ensure that it includes in the publications it has notified under paragraph 1:

(a) the texts of its export licensing procedures, including any modifications it makes to those procedures;

(b) the goods subject to each licensing procedure;

(c) for each procedure, a description of:

(i) the process for applying for a license; and

(ii) any criteria an applicant must meet to be eligible to seek a license, such as possessing an activity license, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export license;

(e) the administrative body or bodies to which an application or other relevant documentation should be submitted;

(f) a description of or a citation to a publication reproducing in full any measure or measures that the export licensing procedure implements;

(g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;

(h) if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, if practicable, the value of the quota, and the opening and closing dates of the quota; and

(i) any exemptions or exceptions available to the public that replace the requirement to obtain an export license, how to request or use these exemptions or exceptions, and the criteria for them.

3. A Party shall provide another Party, upon the other Party's request and to the extent practicable, the following information regarding a particular export licensing procedure that it adopts or maintains, except where doing so would reveal business proprietary or other confidential information of a particular person:

(a) the aggregate number of licenses the Party has granted over a recent period specified in the other Party's request; and

(b) measures, if any, that the Party has taken in conjunction with the licensing procedure to restrict domestic production or consumption or to stabilize production, supply, or prices for the relevant good.

4. Nothing in this Article shall be construed in a manner that would require a Party to grant an export license, or that would prevent a Party from implementing its obligations or commitments under United Nations Security Council Resolutions, as well as multilateral non-proliferation regimes, including: the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies*; the Nuclear Suppliers Group; the Australia Group; the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction*, done at Geneva, September 3, 1992, and signed at Paris, January 13, 1993; the *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, done at Washington, London, and Moscow, April 10, 1972; the *Treaty on the Non-Proliferation of Nuclear*

Weapons done at Washington, London, and Moscow, July 1, 1968; and the Missile Technology Control Regime.

5. For the purposes of this Article, **export licensing procedure** means a requirement that a Party adopts or maintains under which an exporter must, as a condition for exporting a good from the Party's territory, submit an application or other documentation to an administrative body or bodies, but does not include customs documentation required in the normal course of trade or any requirement that must be fulfilled prior to introduction of the good into commerce within the Party's territory.

Article 2.17: 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 a Party or the Commission to consider any matter arising under this Chapter.

3. The Committee shall meet at a venue and time as the Parties decide or by electronic means. In-person meetings will be held alternately in the territory of each Party.

4. The Committee's functions shall include:

(a) monitoring the implementation and administration of this Chapter;

(b) promoting trade in goods between the Parties;

(c) providing a forum for the Parties to consult and endeavor to resolve issues relating to this Chapter, including, as appropriate, in coordination or jointly with other Committees, working groups, or other subsidiary bodies established under this Agreement;

(d) promptly seeking to address tariff and non-tariff barriers to trade in goods between the Parties and, if appropriate, referring the matter to the Commission for its consideration;

(e) coordinating the exchange of information on trade in goods between the Parties;

(f) discussing and endeavoring to resolve any difference that may arise between the Parties on matters related to the Harmonized System, including ensuring that each Party's obligations under this Agreement are not altered by its implementation of future amendments to the Harmonized System into its national nomenclature;

(g) referring to another committee established under this Agreement those issues that may be relevant to that committee, as appropriate; and

(h) undertaking additional work that the Commission may assign or another committee may refer to it.

Annex 2-A:
Exceptions to Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions)

1. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to the continuation, renewal, or amendment made to any law, statute, decree, or administrative regulations giving rise to a measure set out in this Annex to the extent that the continuation, renewal, or amendment does not decrease the conformity of the measure listed with Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions).

2. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to the import and export of rough diamonds (HS codes 7102.10, 7102.21, and 7102.31), pursuant to the Kimberley Process Certification Scheme and any subsequent amendments to that scheme.

Measures of Canada

1. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to:

(a) the export of logs of all species;

(b) the export of unprocessed fish pursuant to the following provincial laws and their related regulations:

(i) *New Brunswick Seafood Processing Act, SNB 2006, c S-5.3*, and *Fisheries and Aquaculture Development Act, SNB 2009, c F-15.001;*

(ii) *Newfoundland and Labrador Fish Inspection Act, RSNL 1990, c F-12;*

(iii) *Nova Scotia Fisheries and Coastal Resources Act, Chapter 25 of the Acts of 1996;*

(iv) *Prince Edward Island Fisheries Act, R.S.P.E.I. 1988, Cap. F-13.01, and Fish Inspection Act, R.S.P.E.I. 1988, Cap. F-1;* and

(v) *Quebec Marine Products Processing Act, CQLR c T-11.01*

For greater certainty, notwithstanding Paragraph 1 of this Annex, Article 2.3 and 2.10 shall not apply to any requirements for the export of unprocessed fish authorized under the above laws and their related regulations that are not being applied upon the entry into force of this Agreement, or that are in force upon the entry into force of this Agreement but suspended after that date, and subsequently applied;

(c) the importation of goods of the prohibited provisions of tariff items 9897.00.00, 9898.00.00 and 9899.00.00 referred to in the Schedule of the *Customs Tariff*, except as otherwise provided;

(d) the use of ships in the coasting trade of Canada; and

(e) Canadian excise duties on the absolute volume of ethyl alcohol, as listed under tariff item 2207.10.90 in Canada's Schedule of Concessions annexed to GATT 1994 (Schedule V), used in manufacturing under the provisions of the *Excise Act, 2001*, Statutes of Canada 2002, c. 22, as amended.

2. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to quantitative import restrictions on originating goods from the United States classified in tariff headings 89.01, 89.04 and 89.05, and tariff items 8902.00.10 and 8903.99.90 (of an overall length exceeding 9.2 m only) for as long as the measures taken under the *Merchant Marine Act of 1920* and *Passenger Vessel Services Act* and 46 U.S.C. §§ 12102, 12113, and 12116, apply with quantitative effect to comparable originating goods from Canada sold or offered for sale into the U.S. market.

Measures of Mexico

1. Paragraphs 1 through 4 of Article 2.10 (Import and Export Restrictions) shall not apply to:

(a) export measures pursuant to Article 48 of the Hydrocarbons Law (Ley de Hidrocarburos) published in Mexico's Official Gazette (*Diario Oficial de la Federación*) on August 11, 2014, for the tariff items under the "Agreement that amends and establishes the classification and codification of Hydrocarbons and Petroleum Products subject to import and export permits by the Ministry of Energy" (*Acuerdo que modifica al diverso por el que se establece la clasificación y codificación de Hidrocarburos y Petrolíferos cuya importación y exportación está sujeta a Permiso Previo por parte de la Secretaría de Energía*) published in the Mexico's Official Gazette (*Diario Oficial de la Federación*) on December 29, 2014, subject to Mexico's rights and obligations under the WTO Agreement, including with regard to transparency and non-discriminatory treatment; and

(b) prohibitions or restrictions on the importation into Mexico of used tyres, used apparel, non-originating used vehicles, and used chassis equipped with vehicle motors set forth in paragraphs 1(I) and 5 of Annex 2.2.1 of the Resolution through which the Ministry of the Economy establishes Rules and General Criteria on International Trade (*Acuerdo por el que la Secretaría de Economía emite reglas y criterios de carácter general en materia de Comercio Exterior*) published in Mexico's Official Gazette (*Diario Oficial de la Federación*) on December 31, 2012.

Measures of the United States

Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to:

(a) controls on the export of logs of all species; and

(b) (i) measures under existing provisions of the *Merchant Marine Act of 1920* and *Passenger Vessel Services Act* and 46 U.S.C. §§ 12102, 12113, and 12116, to the extent that such measures were mandatory legislation at the time of the accession of the United States to the General Agreement on Tariffs and Trade 1947 (GATT 1947) and have not been amended so as to decrease their conformity with Part II of the GATT 1947;

(ii) the continuation or prompt renewal of a non-conforming provision of any statute referred to in clause (i); and

(iii) the amendment to a non-conforming provision of any statute referred to in clause (i) to the extent that the amendment does not decrease the conformity of the provision with Articles 2.3 (National Treatment) and 2.10 (Import and Export Restrictions).

Annex 2-B: Tariff Commitments

1. The rate of customs duty for an originating good under this Agreement is indicated in each Party's Schedule to this Annex.

2. Except as otherwise provided in a Party's Schedule to this Annex, and pursuant to Article 2.4, the rate of customs duty on originating goods shall be designated with "0," and these goods shall be duty-free on the date of entry into force of this Agreement.

3. For originating goods provided for in the items marked with an asterisk (*) in a Party's Schedule to this Annex, the tariff treatment set forth in Appendix A to that Party's Schedule shall apply.

Annex 2-C

1. This article shall not apply to originating goods that qualify for duty free preferential tariff treatment under in Chapter 4 of the NAFTA 2018, imported from Mexico that are (i) passenger vehicles classified under subheadings 8703.21 through 8703.90, (ii) light trucks classified under subheading 8704.21 or 8704.31, and (iii) auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines).

2. The customs duty applied by the United States on passenger vehicles imported from Mexico under subheadings 8703.21 through 8703.90 that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018, shall not exceed the lesser of 2.5 percent or the United States' MFN applied rate in effect at the time of the importation of the good.

3. The customs duty applied by the United States on light trucks imported from Mexico under subheadings 8704.21 and 8704.31 that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018, shall not exceed the lesser of 25 percent or the United States' MFN applied rate in effect at the time of the importation of the good.

4. The customs duty applied by the United States on auto parts imported from Mexico listed in Appendix 1 to Annex 4-B (List of Tariff Lines) that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018, shall not exceed the lesser of the United States' MFN applied rate in effect on August 1, 2018 or the MFN applied rate in effect at the time of the importation of the good.

5. In the event that the United States implements any measure that increases its MFN applied rate in effect on August 1, 2018 on passenger vehicles under subheadings 8703.21 through 8703.90, and on auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines), and in order to protect Mexico's ability to export passenger vehicles and auto parts throughout North America at volumes that take into account Mexico's existing manufacturing capacity, the following shall apply:

(i) The customs duty applied by the United States on passenger vehicles under subheadings 8703.21 through 8703.90 imported from Mexico that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018 shall not exceed 2.5%, provided that the good qualifies under the rules set out in Appendix 1 to Annex 4-B (annex setting out NAFTA 1994 relevant provisions and rules of chapter 4 of the NAFTA 1994, including article 403, applicable provisions of Annex 401, Annex 403.1, and Annex 403.2). The United States may limit this treatment to 1,600,000 vehicles in any calendar year.

(ii) The customs duty applied by the United States on auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines) imported from Mexico that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018 shall not exceed the United States' MFN applied rate in effect on August 1, 2018, provided that the good qualifies under the rules set out in Appendix 1 to Annex 4-B (annex

setting out NAFTA 1994 relevant provisions and rules of chapter 4 of the NAFTA 1994, including article 403, applicable provisions of Annex 401, Annex 403.1, and Annex 403.2) The United States may limit this treatment to auto parts valued at 108 billion U.S. dollars in any calendar year.

(iii) Mexico shall monitor and allocate or otherwise administer quantities of passenger vehicles and auto parts eligible for this treatment under subparagraph (i) and (ii).

(iv) The customs duty applied by the United States on passenger vehicles of subheadings 8703.21 through 8703.90 or auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines) that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018 imported from Mexico in excess to the quantities set out in subparagraphs (i) and (ii) shall be the United States' MFN applied rate in effect at the time of importation of the good.

(v) For greater certainty, goods described under subparagraphs (i) and (ii) shall be subject to Origin Procedures under Chapter 5 of the NAFTA 2018.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

TARIFF SCHEDULE OF CANADA

GENERAL NOTES

1. The provisions of this Schedule are generally expressed in terms of Canada's Customs Tariff, 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 Canada's Customs Tariff. To the extent that provisions of this Schedule are identical to the corresponding provisions of Canada's Customs Tariff, the provisions of this Schedule shall have the same meaning as the corresponding provisions of Canada's Customs Tariff.

2. This Schedule reflects Canada's applied tariff nomenclature as at July 1, 2017, which is implemented in accordance with the Harmonized System (2017 edition), and includes all tariff items of Chapter 1 through 97 of the HS that provide for a Most-Favoured-Nation (MFN) rate of customs duty.

3. For the purpose of this Agreement, Canada's Schedule is authentic in the English and French languages.

4. The following staging categories apply to the elimination or reduction of customs duties by Canada pursuant to Article 2.4:

(a) customs duties on originating goods provided for in the items in staging category B6 shall be eliminated in six annual stages, and such goods shall be duty-free effective January 1 of year six;

(b) customs duties on originating goods provided for in the items in staging category B11 shall be eliminated in eleven annual stages, and such goods shall be duty-free effective January 1 of year 11;

(c) customs duties on originating goods provided for in the items in staging category X are exempt from tariff elimination;

(d) customs duties on originating goods provided for in the items in staging category * shall be governed by the terms of the TRQ applicable to that tariff item, as outlined in Appendix A to this Schedule.

5. The base rate for determining the interim staged rate of customs duty for an item shall be the Canada's MFN rate of customs duty applied on July 1, 2017.

6. The rates of customs duty provided for in any tariff item in staging category B6 or B11 shall be initially reduced on the date of entry into force of this Agreement, with each subsequent tariff reduction taking effect on January 1 of each subsequent year.

TARIFF SCHEDULE OF MEXICO

GENERAL NOTES

The provisions of this Schedule are generally expressed in terms of Mexico's Tariff Schedule of the General Import and Export Duties Law (Tarifa de la Ley de los Impuestos Generales de Importación y de Exportación (LIGIE)) 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 LIGIE. To the extent that provisions of this Schedule are identical to the corresponding provisions of the LIGIE, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the LIGIE.

TARIFF SCHEDULE OF THE UNITED STATES

GENERAL NOTES

1. The provisions of this Schedule are generally expressed in terms of the Harmonized Tariff Schedule of the United States (HTSUS), 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 HTSUS. To the extent that provisions of this Schedule are identical to the corresponding provisions of the HTSUS, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the HTSUS.

2. The base rates of duty set out in Appendix A to this Schedule reflect the United States' Most-Favored-Nation (MFN) rates of duty in effect on July 1, 2017.

3. In Appendix A to this Schedule, the following staging categories apply to the elimination or reduction of customs duties by the United States pursuant to Article 2.4:

   (a) customs duties on originating goods provided for in the items in staging category B6 shall be eliminated in six annual stages, and such goods shall be duty-free effective January 1 of year six; and

   (b) customs duties on originating goods provided for in the items in staging category B11 shall be eliminated in eleven annual stages, and such goods shall be duty-free effective January 1 of year eleven; and

   (c) customs duties on originating goods provided for in the items in staging category TRQ shall be governed by the terms of the TRQ for that specific tariff line, as outlined in Appendix B to this Schedule.

4. Interim staged rates for tariff items in Appendix A to this Schedule shall be rounded down to the nearest tenth of a percentage point or, if the rate of duty is expressed in monetary units, to the nearest tenth of one U.S. cent.

5. For purposes of Appendix A to this Schedule, **year one** means the year this Agreement enters into force as provided in Article 34.5 (Final Provisions – Entry into Force).

6. For purposes of Appendix A to this Schedule, beginning in year two, each annual stage of tariff reduction shall take effect on January 1 of the relevant year.