

CHAPTER 2 TRADE IN GOODS

Article 2.1: Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods between the Parties.

Article 2.2: National Treatment

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

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment that the 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.

Article 2.3: Customs Value

The Parties shall determine the customs value of goods in accordance with the provisions of Article VII of GATT 1994 and the Customs Valuation Agreement.

Article 2.4: Reduction or Elimination of Customs Duties

1. The provisions of this Chapter concerning the reduction or elimination of customs duties on imports shall apply to goods originating in the territory of the Parties.

2. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate its customs duties on imported goods originating in the other Party in accordance with its Schedule of Tariff Commitments in Annex 2A (Schedule of

Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka).

3. Reduction or elimination shall occur upon entry into force of the Agreement and thereafter on 1 January of each calendar year, as provided for in each Party's Schedule.

4. The base rate of customs duties on imports to which the successive reductions or eliminations are to be applied under paragraph 2 shall be that specified in the Schedules of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) and Annex 2B (Schedule of Tariff Commitments – Sri Lanka).

5. At the time of importation, where the most-favoured-nation ("MFN") applied rate is lower than the rate of customs duty provided for in the Schedules of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) and Annex 2B (Schedule of Tariff Commitments – Sri Lanka), originating goods of the Parties shall be eligible for the MFN applied rate of customs duty for those goods. If an importer did not make a claim for the lower rate of customs duty at the time of importation, such importer may apply for a refund of the difference as per the provisions of domestic laws and regulations.

Article 2.5: Standstill Clause

1. Except as provided in the Schedules of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) and Annex 2B (Schedule of Tariff Commitments – Sri Lanka) or in any other provisions of this Agreement, each Party shall not increase an existing customs duty or introduce a new customs duty on the importation of a good originating in the other Party. This shall not preclude either Party from raising a customs duty to the level established in its Schedule of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka) following a unilateral reduction of customs duties on originating goods of the other Party set out in its Schedule.

2. Paragraph 1 shall not apply to the goods of a Party, which are in the Exclusion List of that Party's Schedule of Tariff Commitments in Annex 2A (Schedule of

Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka), unless otherwise provided in the same Schedule.

Article 2.6: Accelerated Tariff Elimination

1. Three years after the date of entry into force of this Agreement or on the request of either Party, the Parties shall consult to consider accelerating the elimination of customs duties on originating goods as set out in their Schedules of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) and Annex 2B (Schedule of Tariff Commitments – Sri Lanka).
2. If the Parties agree to accelerate the reduction or elimination of customs duties on originating goods, which shall supersede any rates of customs duties specified in their respective Schedules of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) and Annex 2B (Schedule of Tariff Commitments – Sri Lanka) for such goods, such agreement shall be treated as an amendment to the Schedules of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) and Annex 2B (Schedule of Tariff Commitments – Sri Lanka), and shall enter into force in accordance with Article 14.9 (Amendments).
3. A Party may at any time accelerate unilaterally the elimination of customs duties on originating goods of the other Party set out in its Schedule. A Party considering doing so shall inform the other Party as early as practicable.

Article 2.7: Classification of Goods

The classification of goods in trade between the Parties shall be set out in each Party's respective tariff nomenclature in conformity with the Harmonized System, as may be amended.

Article 2.8: HS Transposition of Schedules of Tariff Commitments

1. Each Party shall ensure that the HS transposition of its Schedule of Tariff Commitments in Annex 2A (Schedule of Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka), undertaken

following the periodic amendments to the Harmonized System, is carried out without impairing existing tariff concessions granted under this Agreement.

2. Each Party shall provide its Schedule of Tariff Commitments as per the nomenclature of the revised HS and a two-way correlation table setting out national tariff line level in a timely manner after completion of the HS transposition.

3. In case the Parties agree that there is any HS transposition error in the Schedules of Tariff Commitments, such error shall be rectified by the relevant Party.

4. Each Party shall make publicly available its transposed Schedule of Tariff Commitments in the nomenclature of the revised HS in a timely manner.

Article 2.9: Administrative Fees and Formalities

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

2. Each Party shall ensure that the fees and charges are imposed in accordance with paragraphs 1 and 2 of Article 6 of the Trade Facilitation Agreement. The obligation set out in this paragraph shall be implemented pursuant to the transitional arrangements that each Party has provided for under the Trade Facilitation Agreement. Notwithstanding the above, each Party shall fully implement the obligation in this paragraph no later than 30 June 2024 or within the extended period as notified by that Party and approved by the WTO.

3. Each Party shall promptly publish in an officially designated medium details of the fees and charges that it imposes on or in connection with importation or exportation of goods and shall make such information available on the internet.

Article 2.10: Non-Tariff Measures

1. Each Party shall not introduce or maintain any non-tariff measures on the importation of any goods of the other Party or on the exportation or sale for export of any goods destined for the other Party, except in accordance with its WTO rights and obligations, including those set out in Article XI of GATT 1994, and other provisions of this Agreement. To this end, Article XI of GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 and shall ensure that any such measures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade between Parties.

3. The Parties understand that the rights and obligations under GATT 1994, as incorporated into and made part of this Agreement, *mutatis mutandis*, pursuant to paragraph 1, prohibit a Party from adopting or maintaining:

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

(b) voluntary export restraints, inconsistent with Article VI of GATT 1994, as implemented under Article 18 of the SCM Agreement and paragraph 1 of Article 8 of the Anti-Dumping Agreement.

4. The Parties recognise the treatments under the WTO of a net food-importing developing country for the purpose of food security under this Agreement.¹

Article 2.11: Import Licensing Procedures

1. The Parties affirm their existing rights and obligations under the Import Licensing Agreement.

¹ A net food-importing country is any developing country Member of the WTO which was a net importer of basic foodstuffs in any three years of the most recent five-year period for which data are available and which notifies the Committee on Agriculture of the WTO of its decision to be listed as a Net Food-Importing Developing Country for the purposes of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

2. The Parties shall introduce and administer any import licensing procedures in accordance with:

- (a) paragraphs 1 through 9 of Article 1 of the Import Licensing Agreement;
- (b) Article 2 of the Import Licensing Agreement; and
- (c) Article 3 of the Import Licensing Agreement.

To this end, the provisions referred to in subparagraphs (a) through (c) are incorporated into and made part of this Agreement, *mutatis mutandis*.

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

4. Each Party shall respond within 30 days after the date of receipt of an enquiry from the other Party regarding:

- (a) any licensing procedures which the Party has adopted or maintained;
or
- (b) the criteria for granting or allocating import licenses.

For greater clarity, the enquiry and response shall be made through the contact points designated pursuant to subparagraph 3(f) of Article 2.15 (Committee on Trade in Goods).

Article 2.12: State Trading Enterprises

1. The Parties affirm their existing rights and obligations under Article XVII of GATT 1994, its Notes and Supplementary Provisions, which are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. The Parties shall be exempted from the obligations stated in subparagraph 4(c) of Article XVII of GATT 1994 with regard to food imported or purchased for non-commercial humanitarian purposes.

Article 2.13: Modification and Withdrawal of Concessions

1. A Party may, by mutual agreement with the other Party, modify or withdraw a concession contained in its Annex 2A (Schedule of Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka). Such mutual agreement shall include provisions for compensatory adjustment with respect to other goods. The Party modifying or withdrawing any concession provided in Annex 2A (Schedule of Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka) shall maintain a level of reciprocal and mutually advantageous concessions not less favorable to trade than that provided for in this Agreement prior to such agreement.
2. The modification or withdrawal of concessions shall be treated as an amendment to Annex 2A (Schedule of Tariff Commitments – Thailand) or Annex 2B (Schedule of Tariff Commitments – Sri Lanka) and shall enter into force in accordance with Article 14.9 (Amendments).

Article 2.14: Restrictions to Safeguard the Balance of Payments

1. The Parties shall endeavor to avoid the imposition of restrictive measures for balance of payments purposes.
2. Any measures taken for balance-of-payments purposes shall be in accordance with Article XII of GATT 1994, Section B of Article XVIII of GATT 1994, and the Understanding on the Balance-of-Payments Provisions, which are incorporated into and made part of this Agreement, *mutatis mutandis*.
3. Nothing in this Chapter shall be regarded as altering the rights enjoyed and obligations undertaken by a Party under the Articles of Agreement of the International Monetary Fund, as may be amended.
4. Any Party maintaining or having adopted measures to safeguard the balance of payments, or any changes thereto, shall promptly notify the other Party.

Article 2.15: Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of the Parties.
2. The Committee shall meet at least once a year or on the request of either Party to consider any matter arising under this Chapter.
3. The functions of the Committee shall be to:
 - (a) review and monitor² the implementation and operation of this Chapter;
 - (b) establish any sub-committee or working group, as and when necessary;
 - (c) receive reports from, and review the work of all sub-committees and working groups related to trade in goods established pursuant to subparagraph (b);
 - (d) identify and recommend measures to promote and facilitate improved market access;
 - (e) address barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, refer such matters to the Commission for its consideration;
 - (f) designate one or more contact points of each Party to coordinate the implementation of this Chapter. Each Party shall notify the other Party of the contact details of such contact points and promptly notify the other Party of any changes thereto;
 - (g) report the findings and the outcome of discussions to the Commission; and
 - (h) carry out other functions as may be delegated by the Commission in accordance with Article 14.2 (Duties of the Commission) of Chapter 14 (Institutional and Final Provisions).

² For greater clarity, the monitoring of the implementation and operation of this Chapter includes the exchange of annual import data between the Parties on the basis of preferential market access and MFN market access of the respective Parties.