CHAPTER 2

TRADE IN GOODS

Section A: Definitions

Article 2.1: Definitions

For purposes of this Chapter:

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 purposes 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;

duty-free means free of customs duty; and

import licensing procedure 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.

Section B: Scope

Article 2.2: Scope

Unless otherwise provided in this Agreement, this Chapter shall apply to trade in goods between the Parties.

Section C: National Treatment on Internal Taxation and Regulation

Article 2.3: National Treatment on Internal Taxation and Regulation

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

Section D: Reduction or Elimination of Customs Duties

Article 2.4: Reduction or Elimination of Customs Duties

1. Unless otherwise provided in this Agreement, each Party shall progressively reduce or eliminate its customs duties on originating goods of the other Party in accordance with its Schedule in Annex 2-A.

2. Unless otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on goods originating from the other Party.

3. For greater certainty, in accordance with the WTO Agreement, originating goods of the other Party shall be eligible, at the time of importation, for the most-favoured-nation applied rate of customs duty for those goods in a Party, where that rate is lower than the rate of customs duty provided for in that Party's Schedule in Annex 2-A. Subject to each Party's laws and regulations, each Party shall provide that an importer may apply for a refund of any excess duty paid for a good if the importer did not make a claim for the lower rate at the time of importation.

4. Further to Article 4.5 (Transparency), each Party shall make publicly available any amendments to its most-favoured-nation applied rate of customs duty and the latest customs duty to be applied in accordance with paragraph 1 as soon as practicable but no later than the date of the application.

Article 2.5: Acceleration of Tariff Commitments

1. Nothing in this Agreement shall preclude both Parties from amending this Agreement in accordance with Article 19.3 (Amendments) to accelerate or improve upon tariff commitments set out in their Schedules of Tariff Commitments in Annex 2-A.

2. A Party may, at any time, unilaterally improve or accelerate its tariff commitments set out in its Schedule in Annex 2-A. Any such improvement or acceleration of its tariff commitments shall be extended to the other Party. Such Party shall inform the other Party as early as practicable before the new preferential rate of customs duty takes effect.

3. For greater certainty, following a Party's unilateral improvement or acceleration of its tariff commitments referred to in paragraph 2, that Party may raise its preferential customs duty to a level not exceeding the preferential rate

of customs duty set out in its Schedule in Annex 2-A for the relevant year. Such Party shall inform the other Party of the date from which the new preferential rate of customs duty takes effect, as early as practicable before such date.

Article 2.6: Classification of Goods

The classification of goods in trade between the Parties shall be in conformity with the Harmonized System.

Article 2.7: Customs Valuation

For purposes of determining the customs value of goods traded between the Parties, the provisions of Article VII of GATT 1994, and the provisions of Part I and Annex I of the Customs Valuation Agreement shall apply, *mutatis mutandis*.

Section E: Special Regimes

Article 2.8: Temporary Admission of Goods

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

2. Each Party shall, on request of the person concerned and for reasons its customs authority considers valid, extend the time limit for duty-free temporary admission provided for in paragraph 1 beyond the period initially fixed.

3. Neither Party shall condition the duty-free temporary admission of goods provided for in paragraph 1, other than to require that the goods:

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

(b) not be sold or leased while in its territory;

(c) be accompanied by a security or guarantee in an amount no greater than the customs duties, taxes, fees and charges that

would otherwise be owed on entry or final importation, releasable on exportation of the good;

(d) be capable of identification when imported and exported;

(e) be exported on the departure of the person referred to in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, unless extended;

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

(g) be otherwise admissible into the Party's territory under its laws and regulations.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good in addition to any other charges or penalties provided for under its laws and regulations.

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

Article 2.9: Temporary Admission for Containers and Pallets

Each Party, as provided for in its laws and regulations, or the provisions of the related international conventions to which the Party is a party shall grant duty-free temporary admission for containers and pallets regardless of their origin, in use or to be used in the shipment of goods in international traffic:

(a) for purposes of this paragraph, "container" means an article of transport equipment (lift-van, movable tank or other similar structure):

(i) fully or partially enclosed to constitute a compartment intended for containing goods;

(ii) of a permanent character and accordingly strong enough to be suitable for repeated use;

(iii) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

(iv) designed for ready handling, particularly when being transferred from one mode of transport to another;

(v) designed to be easy to fill and to empty; and

(vi) having an internal volume of one cubic meter or more.

Container shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. The term container shall not include vehicles, accessories or spare parts of vehicles, or packaging or pallets. Demountable bodies shall be regarded as containers.

(b) for purposes of this paragraph, "pallet" means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling by fork lift trucks or pallet trucks; and it may or may not have a superstructure.

Article 2.10: Duty-Free Entry of Samples of No Commercial Value

Each Party shall grant duty-free entry to samples of no commercial value, imported from the territory of the other Party subject to its laws and regulations, regardless of their origin.

Section F: Non-Tariff Measures

Article 2.11: Application of Non-Tariff Measures

1. A Party shall not adopt or maintain any non-tariff measure on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with its rights and obligations under the WTO Agreement or this Agreement.

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 the Parties.

Article 2.12: General Elimination of Quantitative Restriction

1. Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction other than duties, taxes or other charges, whether made effective through quotas, import and export licenses or other measures, on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes. To this end, Article XI of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Where a Party adopts an export prohibition or restriction in accordance with subparagraph 2(a) of Article XI of GATT 1994, the Party shall, upon request:

(a) inform the other Party of such prohibition or restriction and its reasons together with its nature and expected duration or publish such prohibition or restriction; and

(b) provide the other Party with an adequate opportunity for prior discussion.

Article 2.13: Measures to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may adopt or maintain restrictive import measures in accordance with GATT 1994 and the Understanding on the Balance-of-Payments Provisions.

2. Any restriction adopted or maintained by a Party under paragraph 1 or any change thereto, shall be notified promptly to the other Party.

Article 2.14: Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Promptly after entry into force of this Agreement, each Party shall notify the other Party of any existing import licensing procedures. The notification shall include the information specified in paragraph 2 of Article 5

of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if:

(a) it has notified that procedure to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement together with the information specified in paragraph 2 of Article 5 of that agreement; and

(b) in the most recent annual submission due before the date of entry into force of this Agreement for that Party to the WTO Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described in paragraph 3 of Article 7 of the Import Licensing Agreement, it has provided, with respect to that procedure, the information requested in that questionnaire.

3. A Party shall notify the other Party of any new import licensing procedure and any modification it makes to its existing import licensing procedures, to the extent possible 30 days before the new procedure or modification takes effect. In no case shall a Party provide the notification later than 60 days after the date of its publication. A notification provided under this paragraph shall include the information specified in Article 5 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if it notifies a new import licensing procedure or a modification to an existing import licensing procedure to the WTO Committee on Import Licensing in accordance with paragraphs 1 through 3 of Article 5 of the Import Licensing Agreement.

4. Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government internet site. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

5. The notification required under paragraphs 2 and 3 is without prejudice to whether the import licensing procedure is consistent with this Agreement.

6. A notification made under paragraph 3 shall state if, under any procedure that is a subject of the notification:

(a) the terms of an import licence for any product limit the permissible end users of the product; or

(b) the Party imposes any of the following conditions on eligibility for obtaining a licence to import any product:

(i) membership in an industry association;

(ii) approval by an industry association of the request for an import licence;

(iii) a history of importing the product or similar products;

(iv) minimum importer or end user production capacity;

(v) minimum importer or end user registered capital; or

(vi) a contractual or other relationship between the importer and the distributor in the Party's territory.

7. A Party shall, to the extent possible, answer within 60 days all reasonable enquiries from the other Party regarding the criteria employed by its respective licensing authorities in granting or denying import licences. The importing Party shall publish sufficient information for the other Party and traders to know the basis for granting or allocating import licences.

8. No application for an import licence shall be refused for minor documentation errors that do not alter the basic data contained therein. Minor documentation errors may include formatting errors, such as the width of a margin or the font used, and spelling errors which are obviously made without fraudulent intent or gross negligence.

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

Article 2.15: Fees and Formalities Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with Article VIII.1 of GATT 1994 that all fees and charges of whatever character (other than import or export duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III.2 of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

2. Each Party shall promptly publish details of the fees and charges that it imposes in connection with importation or exportation and shall make such information available on the internet.

3. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party. Neither Party shall require that any customs documentation supplied in connection with the importation of any good of the other Party be endorsed, certified or otherwise sighted or approved by the importing Party's overseas representatives, or persons or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

Article 2.16: Technical Consultation on Non-Tariff Measures

1. A Party may request technical consultations with the other Party on a measure it considers to be adversely affecting its trade. The request shall be in writing and shall clearly identify the measure and the concerns as to how the measure adversely affects trade between the Party requesting technical consultations and the requested Party.

2. Where the measures are covered by another Chapter, its Chapter-specific consultation mechanism shall be used, unless otherwise agreed between the requesting and the requested Party.

3. Except as provided in paragraph 2, the requested Party shall respond and enter into technical consultations within 60 days after the date of receipt of the written request referred to in paragraph 1, unless otherwise determined by the Parties, with a view to reaching a mutually satisfactory solution within 180 days of the request. Technical consultations may be conducted via any means mutually agreed by the Parties.

4. If the requesting Party considers that the matter is urgent, it may request that technical consultations take place within a shorter time frame than that provided for under paragraph 3.

5. The technical consultations under this Article shall be without prejudice to the rights and obligations pertaining to dispute settlement proceedings under Chapter 17 (Dispute Settlement) and the WTO Agreement.

Section G: Institutional Provisions

Article 2.17: Sub-Committee on Goods

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

2. The Sub-Committee on Goods shall meet on request of a Party or the Joint Committee to consider matters arising under this Chapter, Chapters 3 (Rules of Origin), 4 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), 6 (Technical Barriers to Trade) and 7 (Trade Remedies) on a mutually agreed time, venue and means.

3. The functions of the Sub-Committee on Goods shall include, *inter alia*:

(a) reviewing and monitoring the implementation of this Chapter, Chapters 3 (Rules of Origin), 4 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), 6 (Technical Barriers to Trade) and 7 (Trade Remedies);

(b) submitting a report to the Parties on the implementation and operation of this Chapter, Chapters 3 (Rules of Origin), 4 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), 6 (Technical Barriers to Trade) and 7 (Trade Remedies) if necessary;

(c) considering and recommending to the Parties any amendments to this Chapter, Chapters 3 (Rules of Origin), 4 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), 6 (Technical Barriers to Trade) and 7 (Trade Remedies) if necessary; and

(d) discussing any matter arising or carrying out other functions under this Chapter, Chapters 3 (Rules of Origin), 4 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), 6 (Technical Barriers to Trade) and 7 (Trade Remedies) as agreed.

Article 2.18: Transposition of Schedules of Tariff Commitments

Each Party shall ensure that the transposition of its Schedule in Annex 2-A, undertaken in order to implement Annex 2-A in the nomenclature of the revised HS following periodic amendments to the HS, is carried out without impairing the tariff commitments set out in Annex 2-A.

Annex 2-A Schedule of Tariff Commitments

1. Unless otherwise provided in a Party's Schedule in this Annex, the following staging categories apply to the reduction or elimination of customs duties by each Party pursuant to Article 2.4:

(a) customs duties on originating goods provided for in the items in staging category "A" in the Schedule shall be eliminated entirely and such goods shall be free of customs duty on the date this Agreement enters into force;

(b) customs duties on originating goods provided for in the items in staging category "B" in the Schedule shall be removed in five equal annual stages beginning on the date this Agreement enters into force, and such goods shall be free of customs duty, effective 1 January of year five;

(c) customs duties on originating goods provided for in the items in staging category "C" in the Schedule shall be removed in 10 equal annual stages beginning on the date this Agreement enters into force, and such goods shall be free of customs duty, effective 1 January of year 10;

(d) customs duties on originating goods provided for in the items in staging category "D" in the Schedule shall be removed in 15 equal annual stages beginning on the date this Agreement enters into force, and such goods shall be free of customs duty, effective 1 January of year 15;

(e) customs duties on originating goods provided for in the items in staging category "SL" shall be reduced by 50 percent of the base rate in 10 equal annual stages beginning on the date this Agreement enters into force, and such goods shall remain at 50 percent of the base rates, effective 1 January of year 10; and

(f) customs duties on originating goods provided for in the items in staging category "E" in the Schedule shall remain at the base rates.

2. The base rate of customs duty set out in a Party's Schedule in this Annex reflects the lowest of each Party's MFN applied rate of customs duty in effect on 1 January 2024, its preferential rate of customs duty under the *Korea-ASEAN FTA* in effect on 1 January 2024, and its preferential rate of customs duty under the *Regional Comprehensive Economic Partnership Agreement* (hereinafter referred to as the "RCEP") in effect on 1 January 2024.

3. The base rate of customs duty and staging category for determining the interim rate of customs duty at each stage of reduction for an item are indicated for the item in each Party's Schedule. At each stage of reduction of customs duty for an item, if the interim rate of customs duty under the RCEP is lower, that interim rate shall be applied.

4. Interim staged rates shall be rounded down, at least to the nearest 10th of a percentage point or, if the rate of customs duty is expressed in monetary units, at least to the nearest Korean won for Korea and the nearest Malaysian Ringgit for Malaysia.

5. Each Party's items shall not be less liberalised than its preferential rate of customs duty under the RCEP as of 1 January 2041 for Korea and 1 January 2044 for Malaysia.

6. For purposes of this Annex and a Party's Schedule contained therein, **year one** means the year this Agreement enters into force as provided in Article 19.6 (Entry into Force).

7. For purposes of this Annex and a Party's Schedule contained therein, beginning in year two, each annual stage of tariff reduction shall take effect on 1 January of the relevant year.

Tariff Schedule of Korea

General Notes

This Annex is made based on the Harmonized System of Korea (HSK), in effect on 1 January 2024. The interpretation of the provisions 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.

Tariff Schedule of Malaysia

General Notes

1. This Annex is made based on the Malaysian *Customs Duties Order* (MCDO), in effect on 1 January 2024. The interpretation of the provisions of this Schedule shall be governed by the General Notes, Section Notes and Chapter Notes of the MCDO. To the extent that provisions of this Schedule are identical to the corresponding provisions of the MCDO, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the MCDO.

2. In addition to the staging categories listed in paragraph 1 of Annex 2-A, this Schedule contains staging categories HSL A and HSL B:

(a) customs duties on originating goods provided for in the items in staging category "HSL A" shall be reduced to 10 percent in 18 equal annual stages beginning on the date this Agreement enters into force; and

(b) customs duties on originating goods provided for in the items in staging category "HSL B" shall be reduced to 10 percent in 25 equal annual stages beginning on the date this Agreement enters into force.

3. (a) As from the date of entry into force of this Agreement, customs duties on originating goods in iron and steel shall not be applied, provided that:

(i) the originating goods are imported and used directly by the manufacturers, including steel service centers, and goods which satisfy the requirements of a user of such originating goods in respect of specification, grade and quantity are not produced in Malaysia;

Note: For purposes of this Note, the term "manufacturer" means an entity which is defined as a manufacturer under the *Industrial Co-ordination Act* 1975 [*Act 156*] of Malaysia, as may be amended.

(ii) the originating goods are imported for users designated as Licensed Manufacturing Warehouses or in Free Zones; or

(iii) the originating goods meet any other conditions

introduced by Malaysia.

(b) The exemption above shall be granted in accordance with the applicable procedures under the Malaysian law. The originating goods shall receive treatment no less favourable than that accorded to imports of like goods in iron and steel from any non-party, with respect to customs duty exemptions.

(c) On request of either Party, the Parties shall consult on any matters related to this note. Either Party may invite representatives from users, producers and other related entities to the consultations.