

## CHAPTER 2

### TRADE IN GOODS

#### SECTION A

#### GENERAL PROVISIONS AND MARKET ACCESS FOR GOODS

##### Article 2.1: Definitions

For the purposes of this Chapter:

- (a) **consular transactions** means any 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 for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;
- (b) **customs duties** means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, but does not include any:
  - (i) charge equivalent to an internal tax imposed consistently with paragraph 2 of Article III of GATT 1994;
  - (ii) anti-dumping or countervailing duty applied consistently with Article VI of GATT 1994, the AD Agreement, and the SCM Agreement; or
  - (iii) fees or other charges commensurate with the cost of services rendered;
- (c) **customs value of goods** means the value of goods for the purposes of levying *ad valorem* customs duties on imported goods;
- (d) **duty-free** means free of customs duty;
- (e) **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 of the importing Party as a prior condition for importation into the territory of the importing Party; and

- (f) **originating good** means a good that qualifies as an originating good in accordance with Chapter 3 (Rules of Origin).

## **Article 2.2: Scope**

Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods among the Parties.

## **Article 2.3: National Treatment on Internal Taxation and Regulation**

Each Party shall accord national treatment to the goods of the other Parties in accordance with Article III of GATT 1994. To this end, Article III of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.

## **Article 2.4: Reduction or Elimination of Customs Duties**

1. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods of other Parties in accordance with its Schedule in Annex I (Schedules of Tariff Commitments).
2. For greater certainty, in accordance with the WTO Agreement, originating goods of other Parties 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 I (Schedules of Tariff Commitments). Subject to its 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.
3. Further to subparagraph 1(b) of 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 not later than the date of the application.

### **Article 2.5: Acceleration of Tariff Commitments<sup>1</sup>**

1. Nothing in this Agreement shall preclude the Parties from amending this Agreement in accordance with Article 20.4 (Amendments), to accelerate or improve the tariff commitments set out in their Schedules in Annex I (Schedules of Tariff Commitments).
2. Two or more Parties<sup>2</sup> may, based on mutual consent, consult on the acceleration or improvement of tariff commitments set out in their Schedules in Annex I (Schedules of Tariff Commitments). An agreement to accelerate or improve the tariff commitments between these Parties shall be implemented through a modification to their Schedules in Annex I (Schedules of Tariff Commitments) in accordance with Article 20.4 (Amendments). Any such acceleration or improvement of tariff commitments shall be extended to all Parties.
3. A Party may, at any time, unilaterally accelerate or improve its tariff commitments set out in its Schedule in Annex I (Schedules of Tariff Commitments). Any such acceleration or improvement of its tariff commitment shall be extended to all Parties. Such Party shall inform the other Parties as early as practicable before the new preferential rate of customs duty takes effect.
4. For greater certainty, following a Party's unilateral acceleration or improvement of its tariff commitments referred to in paragraph 3, 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 I (Schedules of Tariff Commitments) for the relevant year. Such Party shall inform the other Parties of the date from which the new preferential rate of customs duty takes effect, as early as practicable before such date.

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<sup>1</sup> For greater certainty, this Article shall apply only to tariff commitments under this Agreement.

<sup>2</sup> For the purposes of this paragraph, "two or more Parties" means some of, but not all of, the Parties.

## Article 2.6 Tariff Differentials

1. All originating goods subject to tariff differentials<sup>3</sup> shall be eligible for preferential tariff treatment applicable to the originating goods of an exporting Party pursuant to the importing Party's tariff commitments set out in its Schedule in Annex I (Schedules of Tariff Commitments) at the time of importation, provided that the exporting Party is the RCEP country of origin.
2. The RCEP country of origin for an originating good shall be the Party where the good acquired its originating status in accordance with Article 3.2 (Originating Goods). With regard to subparagraph (b) of Article 3.2 (Originating Goods), the RCEP country of origin for an originating good shall be the exporting Party, provided that the production process, other than the minimal operations set out in paragraph 5, for that originating good occurred in that exporting Party.
3. Notwithstanding paragraph 2, for an originating good identified by an importing Party in its Appendix to its Schedule in Annex I (Schedules of Tariff Commitments), the RCEP country of origin shall be the exporting Party, provided that the good meets the additional requirement specified in that Appendix.
4. In the event that the exporting Party of an originating good is not established to be the RCEP country of origin in accordance with paragraphs 2 and 3, the RCEP country of origin for that originating good shall be the Party that contributed the highest value of originating materials used in the production of that good in the exporting Party. In that case, that originating good shall be eligible for preferential tariff treatment applicable to that originating good of the RCEP country of origin.
5. For the purposes of paragraph 2, a “minimal operation” is any operation set out below:
  - (a) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;
  - (b) packaging or presenting goods for transportation or sale;

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<sup>3</sup> The Parties understand that “tariff differentials” refers to different tariff treatment that an importing Party applies for the same originating good.

- (c) simple<sup>4</sup> processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;
  - (d) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;
  - (e) mere dilution with water or another substance that does not materially alter the characteristics of the good;
  - (f) disassembly of products into parts;
  - (g) slaughtering<sup>5</sup> of animals;
  - (h) simple painting and polishing operations;
  - (i) simple peeling, stoning, or shelling;
  - (j) simple mixing of goods, whether or not of different kinds; or
  - (k) any combination of two or more operations referred to in subparagraphs (a) through (j).
6. Notwithstanding paragraphs 1 and 4, the importing Party shall allow an importer to make a claim for preferential tariff treatment at either:
- (a) the highest rate of customs duty that the importing Party applies to the same originating good from any of the Parties contributing originating materials used in the production of such good, provided that the importer is able to prove such a claim. For greater certainty, originating materials refer only to those originating materials taken into account in the claim for originating status of the final good; or
  - (b) the highest rate of customs duty that the importing Party applies to the same originating good from any of the Parties.

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<sup>4</sup> For the purposes of this paragraph, “simple” describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity.

<sup>5</sup> For the purposes of this paragraph, “slaughtering” means the mere killing of animals.

7. Notwithstanding Article 20.8 (General Review), the Parties shall commence a review of this Article within two years of the date of entry into force of this Agreement and, thereafter, every three years or as agreed among the Parties to reduce or eliminate the requirements of this Article and the number of tariff lines and conditions provided in a Party's Appendix to its Schedule in Annex I (Schedules of Tariff Commitments).
8. Notwithstanding paragraph 7, with respect to its Appendix to its Schedule in Annex I (Schedules of Tariff Commitments), a Party reserves the right to make amendments to its Appendix, including the additional requirement in this Appendix, in case of accession by another State or separate customs territory to this Agreement. Such amendments shall be subject to the agreement of all Parties and shall enter into force in accordance with Article 20.4 (Amendments) and Article 20.9 (Accession).

### **Article 2.7: Classification of Goods**

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

### **Article 2.8: Customs Valuation**

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

### **Article 2.9: Goods in Transit**

Each Party shall continue to facilitate customs clearance of goods in transit from or to another Party in accordance with paragraph 3 of Article V of GATT 1994 and the relevant provisions of the Trade Facilitation Agreement.

### **Article 2.10: 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:

- (a) are brought into its customs territory for a specific purpose;
  - (b) are intended for re-exportation within a specific period; and
  - (c) 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. No Party shall condition the duty-free temporary admission of a good provided for in paragraph 1, other than to require that the good:
    - (a) be used solely by or under the personal supervision of a national or resident of another 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 in its laws and regulations.

5. Each Party shall permit a good temporarily admitted under this Article to be re-exported through a customs port<sup>6</sup> other than that through which it was admitted.

#### **Article 2.11: Temporary Admission for Containers and Pallets**

1. Each Party, as provided for in its laws and regulations, or the provisions of the related international agreements to which it is 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 the purposes of this Article, “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 metre 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. “Container” shall not include vehicles, accessories or spare parts of vehicles, or packaging or

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<sup>6</sup> For Lao PDR, “customs port” means an international customs port.

pallets. “Demountable bodies” shall be regarded as containers.

- (b) For the 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; it may or may not have a superstructure.
- 2. Subject to Chapter 8 (Trade in Services) and Chapter 10 (Investment), in respect of containers granted temporary admission pursuant to paragraph 1:<sup>7</sup>
  - (a) each Party shall allow a container used in international traffic 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 such container;<sup>8</sup>
  - (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 container;
  - (c) no Party shall condition the release of any security that it imposes in respect of the entry of a container into its territory on the container’s exit through any particular port of departure; and
  - (d) no Party shall require that the carrier bringing a container from the territory of another Party into its territory be the same carrier that takes the container to the territory of another Party.

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<sup>7</sup> For greater certainty, nothing in this paragraph shall affect the right of a Party to adopt or maintain measures in accordance with Article 17.12 (General Exceptions) or Article 17.13 (Security Exceptions).

<sup>8</sup> For greater certainty, nothing in this subparagraph shall be construed to prevent a Party from adopting or maintaining highway and railway safety or security measures of general application, or from preventing a container from entering or exiting its territory in a location where the Party does not maintain a customs port. A Party may provide the other Parties with a list of ports available for exit of containers in accordance with its laws and regulations.

## **Article 2.12: 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 another Party, subject to its laws and regulations, regardless of their origin.

## **Article 2.13: Agricultural Export Subsidies**

1. The Parties reaffirm their commitments made in the *Ministerial Decision of 19 December 2015 on Export Competition* (WT/MIN(15)/45, WT/L/980), adopted in Nairobi on 19 December 2015, including elimination of scheduled export subsidy entitlements for agricultural goods.
2. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together to prevent their reintroduction in any form.

## **Article 2.14: Transposition of Schedules of Tariff Commitments**

Each Party shall ensure that the transposition of its Schedule in Annex I (Schedules of Tariff Commitments), undertaken in order to implement Annex I (Schedules of Tariff Commitments) 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 I (Schedules of Tariff Commitments).

## **Article 2.15: Modification of Concessions**

In exceptional circumstances, where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, with the agreement of all other interested Parties, and with the decision of the RCEP Joint Committee, modify or withdraw a concession contained in its Schedule in Annex I (Schedules of Tariff Commitments). In order to seek to reach such agreement, the Party proposing to modify or withdraw its concession shall inform the RCEP Joint Committee and engage in negotiations with any interested Parties. In such negotiations, the Party proposing to modify or withdraw its concession shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the trade of all other interested Parties than that provided for in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. The mutually agreed outcome of the negotiations, including any compensatory

adjustments, shall be reflected in Annex I (Schedules of Tariff Commitments) in accordance with Article 20.4 (Amendments).

## **SECTION B NON-TARIFF MEASURES**

### **Article 2.16: Application of Non-Tariff Measures**

1. A Party shall not adopt or maintain any non-tariff measure on the importation of any good of another Party or on the exportation of any good destined for the territory of another 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 under paragraph 1 and shall ensure that any such measures are not prepared, adopted, or applied with the view to or with the effect of creating unnecessary obstacles to trade among the Parties.

### **Article 2.17: General Elimination of Quantitative Restrictions**

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction other than duties, taxes, or other charges, whether made effective through quotas, import or export licences, or other measures, on the importation of any good of another Party or on the exportation of any good destined for the territory of another Party, except in accordance with its rights and obligations under the relevant provisions of the WTO Agreement. To this end, Article XI of GATT 1994 is 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, that Party shall, upon request:
  - (a) inform another Party or Parties of such prohibition or restriction and its reasons together with its nature and expected duration, or publish such prohibition or restriction; and

- (b) provide another Party or Parties that may be seriously affected with a reasonable opportunity for consultation with respect to matters related to such prohibition or restriction.

### **Article 2.18: Technical Consultations on Non-Tariff Measures**

1. A Party may request technical consultations with another 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 (hereinafter referred to as “the requesting Party” in this Article) and the Party to which a request has been made (hereinafter referred to as “the requested Party” in this Article).
2. Where the measure is covered by another Chapter, any consultation mechanism provided in that Chapter shall be used, unless otherwise agreed between the requesting Party and the requested Party (hereinafter collectively referred to as “the consulting Parties” in this Article).
3. Except as provided in paragraph 2, the requested Party shall respond to the requesting Party and enter into technical consultations within 60 days of the receipt of the written request referred to in paragraph 1, unless otherwise determined by the consulting 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 consulting Parties.
4. Except as provided in paragraph 2, the request for technical consultations shall be circulated to all the other Parties. Other Parties may request to join the technical consultations on the basis of interests set out in their requests. The participation of any other Party is subject to the consent of the consulting Parties. The consulting Parties shall give full consideration to such requests.
5. If the requesting Party considers that a matter is urgent or involves perishable goods, it may request that technical consultations take place within a shorter time frame than that provided for under paragraph 3.
6. Except as provided in paragraph 2, each Party shall submit an annual notification to the Committee on Goods regarding any use

of technical consultations under this Article, whether as the requesting Party or the requested Party. This notification shall contain a summary of the progress and outcomes of the consultations.

7. For greater certainty, technical consultations under this Article shall be without prejudice to a Party's rights and obligations pertaining to dispute settlement proceedings under Chapter 19 (Dispute Settlement) and the WTO Agreement.

### **Article 2.19: Import Licensing Procedures**

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. No Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.
2. Each Party shall, promptly after the date of entry into force of this Agreement for that Party, notify the other Parties of its 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 the procedures to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement (hereinafter referred to as "WTO Committee on Import Licensing" in this Chapter), together with the information specified in paragraph 2 of Article 5 of the Import Licensing 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 those existing import licensing procedures, the information requested in that questionnaire.
3. Each Party shall notify the other Parties 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 paragraph 1, 2, or 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 website. 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 distributor in the Party's territory.
7. Each Party shall, to the extent possible, answer within 60 days all reasonable enquiries from another 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 Parties 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 another 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 2.20: Fees and Formalities Connected with Importation and Exportation**

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 or export duties, charges equivalent to an internal tax or other internal charge applied consistently with paragraph 2 of Article III of GATT 1994, and anti-dumping 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. 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. No Party shall require consular transactions, including related fees and charges, in connection with the importation of a good of another Party. No Party shall require that any customs documentation supplied in connection with the importation of any good of another Party be endorsed, certified, or otherwise sighted or approved by the importing Party's overseas representatives, or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

## **Article 2.21: Sectoral Initiatives**

1. The Parties may decide to initiate a work programme on sector-specific issues. Should the Parties decide to initiate such a work programme, it shall be established and overseen by the Committee on Goods. The Parties shall endeavour to finalise such a work programme no later than two years after the initiation of the work programme.
2. The Parties shall agree on the sectors to be included in such a work programme, taking into consideration the interests of all the Parties, including those sectors proposed by Parties during the course of the negotiation of this Agreement or other sectors as may be identified by a Party.
3. Any work programme initiated under this Article should be conducted to:
  - (a) enhance the Parties' understanding of the issue;
  - (b) facilitate input from business and other relevant stakeholders; and
  - (c) explore the possible actions by the Parties that would facilitate trade.
4. Based on the outcome of any work programme initiated under this Article, the Committee on Goods may make recommendations to the RCEP Joint Committee.