

Article 18
Regional and Local Government and Non-Governmental Bodies

1. Each Member State shall take such reasonable measures as may be available to it to ensure observance of provisions of this Agreement by the regional and local government and authorities within its territories.
2. In fulfilling its obligations and commitments under this Agreement, each Member State shall endeavour to ensure their observance by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities within its territory.

CHAPTER 2
TARIFF LIBERALISATION

Article 19
Reduction or Elimination of Import Duties

1. Except as otherwise provided in this Agreement, Member States shall eliminate import duties on all products traded between the Member States by 2010 for ASEAN-6¹ and by 2015, with flexibility to 2018, for CLMV².
2. Each Member State shall reduce and/or eliminate import duties on originating goods of the other Member States in accordance with the following modalities:
 - (a) Import duties on the products listed in Schedule A of each Member State's tariff liberalisation schedule shall be eliminated by 2010 for ASEAN-6 and 2015 for CLMV, in accordance with the schedule set out therein. Schedule A of each Member State shall ensure the following conditions are met:
 - (i) For ASEAN-6, by 1 January 2009:
 - Import duties of at least eighty percent (80%)

¹ "ASEAN-6" refers to Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand.

² "CLMV" refers to Cambodia, Lao PDR, Myanmar and Viet Nam.

tariff lines are eliminated;

- Import duties on all Information and Communications Technology (ICT) products, as defined in the e-ASEAN Framework Agreement, are eliminated;
 - Import duties on all Priority Integration Sectors (PIS) products are at zero percent (0%), except those listed in the accompanying negative lists to the Protocols of the ASEAN Framework Agreement for the Integration of Priority Sectors and any amendments thereto; and
 - Import duties on all products are equal to or less than five percent (5%);
- (ii) For Lao PDR, Myanmar and Viet Nam, import duties on all products are equal to or less than five percent (5%) by 1 January 2009;
- (iii) For Cambodia, import duties of at least eighty percent (80%) tariff lines are equal to or less than five percent (5%) by 1 January 2009; and
- (iv) Import duties on some products of CLMV, not exceeding seven percent (7%) of tariff lines, shall be eliminated by 2018. The list of the products and schedule of import duties reduction of these products shall be identified by CLMV no later than 1 January 2014;
- (b) Import duties on ICT products listed in Schedule **B** of each CLMV Member State shall be eliminated in three (3) tranches by 2008, 2009 and 2010 in accordance with the schedule set out therein;
- (c) Import duties on PIS products listed in Schedule **C** of each CLMV Member State shall be eliminated by 2012 in accordance with the schedule set out therein;
- (d) Import duties on unprocessed agricultural products listed in Schedule **D** of each Member State on its own accord shall be reduced or eliminated to zero to five percent (0-5%) by 2010 for ASEAN-6; 2013 for Viet Nam; 2015 for

Lao PDR and Myanmar; and 2017 for Cambodia, in accordance with the schedule set out therein. Notwithstanding this, import duties on sugar products of Viet Nam shall be reduced to zero to five percent (0-5%) by 2010;

- (e) Unprocessed agricultural products placed in Schedule **E** of each Member State on its own accord shall have their respective applied MFN import duties reduced in accordance with the schedule set out therein;
- (f) The products listed in Schedule **F** of Thailand and Viet Nam, respectively, shall have their out-quota tariff rates reduced in accordance with the tariff reduction schedules corresponding to their respective product classification;
- (g) Import duties on petroleum products listed in Schedule **G** of Cambodia and Viet Nam, respectively, shall be reduced in accordance with the schedule as mutually agreed by all Member States and set out therein;
- (h) The products placed in Schedule **H** of each Member State shall not be subject to import duties reduction or elimination for the reasons as provided in Article 8;
- (i) Reduction and elimination of import duties shall be implemented on 1 January of each year; and
- (j) The base rates from which import duties are to be reduced or eliminated shall be the Common Effective Preferential Tariffs (CEPT) rates at the time of entry into force of this Agreement.

3. Except as otherwise provided in this Agreement, no Member State shall nullify or impair any tariff concessions applied in accordance with the tariff schedules in Annex 2 referred to in paragraph 5 of this Article.

4. Except as otherwise provided in this Agreement, no Member State may increase an existing duty specified in the schedules made pursuant to the provisions of paragraph 2 of this Article on imports of an originating good.

5. Except as provided in paragraph 2(a)(iv) of this Article, the detailed tariff schedules to implement the modalities of reduction and/or elimination of import duties set out in paragraph 2 of this Article shall be finalised before the entry into force of this Agreement for ASEAN-6

and six (6) months after the entry into force of this Agreement for CLMV, and form an integral part of this Agreement as Annex 2.

Article 20

Elimination of Tariff Rate Quotas

1. Unless otherwise provided in this Agreement, each Member State undertakes not to introduce Tariff Rate Quotas (TRQs) on the importation of any goods originating in other Member States or on the exportation of any goods destined for the territory of the other Member States.
2. Viet Nam and Thailand shall eliminate the existing TRQs as follows:
 - (a) Thailand shall eliminate in three (3) tranches by 1 January 2008, 2009 and 2010;
 - (b) Viet Nam shall eliminate in three (3) tranches by 1 January 2013, 2014 and 2015, with flexibility up to 2018.

Article 21

Issuance of Legal Enactments

1.
 - (a) Each Member State shall, no later than ninety (90) days for ASEAN-6 and six (6) months for CLMV after the entry into force of this Agreement, issue a legal enactment in accordance with its laws and regulations to give effect to the implementation of the tariff liberalisation schedules committed under Article 19.
 - (b) The legal enactments issued pursuant to paragraph 1(a) of this Article shall have retroactive implementation with effect from 1 January of the year of the entry into force of this Agreement.
 - (c) In the case where a single legal enactment could not be issued, the legal enactments to give effect to the implementation of tariff reduction or elimination of each year shall be issued at least three (3) months before the date of its effective implementation.
2. Member States may decide to conduct reviews of the products in Schedules **D** and **E** with a view to improving the market access for these products. If a product subject to the review is agreed to be phased out of the said Schedules, it will be placed in Schedule A of the

respective Member State(s) and be subjected to the import duty elimination of that Schedule.

Article 22

Enjoyment of Concessions

1. Products on which tariffs of the exporting Member State have reached or are at the rate of twenty percent (20%) or below, and satisfy the requirements on rules of origin as set out in Chapter 3 shall automatically enjoy the concessions offered by importing Member States as stated in accordance with the provisions of Article 19.
2. Products listed in Schedule H shall not be entitled for tariff concessions offered under this Agreement.

Article 23

Temporary Modification or Suspension of Concessions

1. In exceptional circumstances other than those covered under Article 10, Article 24 and Article 86 where a Member State faces unforeseen difficulties in implementing its tariff commitments, that Member State may temporarily modify or suspend a concession contained in its Schedules under Article 19.
2. A Member State which seeks to invoke the provision of paragraph 1 of this Article (hereinafter referred to as the “applicant Member State”), shall notify in writing of such temporary modification or suspension of concessions to the ASEAN Free Trade Area (AFTA) Council at least one hundred and eighty (180) days prior to the date when the temporary modification or suspension of concessions is to take effect.
3. Member States who are interested in engaging in consultations or negotiations with the applicant Member State, pursuant to paragraph 4 of this Article, shall notify all ASEAN Member States of this interest within ninety (90) days following the applicant Member State’s notification of the temporary modification or suspension of concessions.
4. After making the notification pursuant to paragraph 2 of this Article, the applicant Member State shall engage in consultations or negotiations with the Member States who have made notification pursuant to paragraph 3 of this Article. In negotiations with Member

States with substantial supplying interest³, the applicant Member State shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the trade of all other Member States of substantial supplying interest than that provided in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. Compensatory adjustment measures in form of tariffs shall be extended to all Member States on a non-discriminatory basis.

5. The AFTA Council shall be notified of the outcome of the consultations or negotiations pursuant to paragraphs 3 and 4 of this Article at least forty five (45) days before the applicant Member State intends to effect the temporary modification or suspension of concessions. The notification shall include the applicant Member State's justifications for needing to adopt such measures and shall provide the Member State's intended schedule pertaining to the modification or suspension of concessions and the time period for which the Member State intends to apply the measures.

6. In the event that no agreement is reached after the consultations or negotiations pursuant to paragraphs 3 and 4 of this Article, the notification to the AFTA Council shall also include the request for the AFTA Council's recommendation.

7. The AFTA Council shall issue its approval or recommendation within thirty (30) days upon receipt of the notification pursuant to paragraph 5 of this Article.

8. In the event that the circumstances giving rise to the request for the temporary modification or suspension of concessions cease to exist, the applicant Member State shall immediately restore the tariff concessions and notify the AFTA Council accordingly. Upon restoration of tariff concessions or termination of the suspension, the applicant Member State shall apply the rate which it would have applied according to the scheduled commitments as if the delay or suspension had not occurred.

9. In the event that there is no approval or recommendation by the AFTA Council pursuant to paragraph 7 of this Article, and the applicant Member State nevertheless proceeds with the temporary modification

³ A Member State shall be deemed to have "substantial supplying interest" if it has, or because of the tariff concessions, it is to be reasonably expected to have, a significant share of at least twenty percent (20%) of the total import from ASEAN of such products during the past three (3) years in average in the market of the applicant Member State.

or suspension of the concession, Member States with substantial supplying interest shall be free to take action after thirty (30) days, but not later than ninety (90) days after the applicant Member State effects its modification or suspension of concessions, to modify or suspend substantially equivalent concessions from the applicant Member State. The concerned Member States shall immediately notify the AFTA Council of such actions.

Article 24

Special Treatment on Rice and Sugar

The *Protocol to Provide Special Consideration for Rice and Sugar* signed on 23 August 2007 shall form an integral part of this Agreement.

CHAPTER 3

RULES OF ORIGIN

Article 25

Definitions

For the purposes of this Chapter:

- (a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from feedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;
- (b) **Costs, Insurance and Freight (CIF)** means the value of the goods imported, and includes the costs of freight and insurance up to the port or place of entry into the country of importation. The valuation shall be made in accordance with Article VII of GATT 1994 and *the Agreement on the Implementation of Article VII of GATT 1994* as contained in Annex 1A to the WTO Agreement;
- (c) **FOB** means the free-on-board value of the goods, inclusive of the costs of transport to the port or site of final shipment abroad. The valuation shall be made in accordance with Article VII of GATT 1994 and *the Agreement on the Implementation of Article VII of GATT 1994* as contained in Annex 1A to the WTO Agreement;