

- (d) adopting;
 - (i) the Operational Procedures referred to in Article 24; and
 - (ii) any necessary decisions; and
 - (e) carrying out other functions as may be agreed upon.
3. The Joint Committee:
- (a) shall be co-chaired by an official of the Government of Japan, at the level of deputy minister or higher, and an official of the Government of the Kingdom of Thailand, at the level of deputy permanent secretary or higher, unless the Parties agree that the Joint Committee convene at ministerial level;
 - (b) may establish Sub-Committees and delegate its responsibilities thereto; and
 - (c) may take such other action in the exercise of its functions as the Parties may agree.
4. The Joint Committee shall convene alternately in Japan and the Kingdom of Thailand (hereinafter referred to in this Agreement as "Thailand"), unless the Parties agree otherwise.

Article 14 Communications

Communications between the Parties on any matter relating to this Agreement shall be facilitated through the following contact points:

- (a) in the case of Japan, the Ministry of Foreign Affairs; and
- (b) in the case of Thailand, the Ministry of Foreign Affairs.

Chapter 2 Trade in Goods

Article 15 Definitions

For the purposes of this Chapter:

- (a) the term "bilateral safeguard measure" means a bilateral safeguard measure provided for in paragraph 1 of Article 22;
- (b) the term "customs duty" 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 the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;
 - (ii) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, as may be amended and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement, as may be amended; or
 - (iii) fee or other charge commensurate with the cost of services rendered;
- (c) the term "customs value of goods" means the value of goods for the purposes of levying ad valorem customs duties on imported goods;
- (d) the term "domestic industry" means the producers as a whole of the like or directly competitive goods operating in a Party, or those whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of those goods;
- (e) the term "originating goods" means goods which qualify as originating goods under the provisions of Chapter 3;
- (f) the term "provisional bilateral safeguard measure" means a provisional bilateral safeguard measure provided for in subparagraph 7(a) of Article 22;
- (g) the term "serious injury" means a significant overall impairment in the position of a domestic industry; and

- (h) the term "threat of serious injury" means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent.

Article 16 Classification of Goods

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

Article 17 National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994.

Article 18 Elimination of Customs Duties

1. Except as otherwise provided for in this Agreement, each Party shall eliminate or reduce its customs duties on originating goods of the other Party designated for such purposes in its Schedule in Annex 1 in accordance with the terms and conditions set out in such Schedule.
2. Upon request of either Party, the Parties shall negotiate on issues such as improving market access conditions on originating goods designated for negotiation in the Schedule in Annex 1, in accordance with the terms and conditions set out in such Schedule.

Article 19 Customs Valuation

For the purposes of determining the customs value of goods traded between the Parties, the provisions of Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Agreement as "the Agreement on Customs Valuation"), shall apply *mutatis mutandis*.

Article 20 Export Subsidy on Agricultural Goods

Subject to the Agreement on Agriculture in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Chapter as "the Agreement on Agriculture"), neither Party shall introduce or maintain any export subsidy on any agricultural good which is listed in Annex 1 to the Agreement on Agriculture.

Article 21
Non-tariff Measures

1. Except as otherwise provided for in this Agreement, each Party shall not introduce or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the other Party which are inconsistent with its obligations under the WTO Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 above and shall ensure the full compliance with its obligations under the WTO Agreement.

Article 22
Bilateral Safeguard Measures

1. If an originating good of a Party, as a result of the elimination or reduction of a customs duty in accordance with Article 18, is being imported into the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of the originating good constitute a cause of serious injury, or threat thereof, to a domestic industry of the other Party, the other Party may, as a bilateral safeguard measure, to the minimum extent necessary to prevent or remedy the serious injury to the domestic industry of the other Party and to facilitate its adjustment:

- (a) suspend the further reduction of any rate of customs duty on the originating good provided for in this Chapter; or
- (b) increase the rate of customs duty on the originating good to a level not to exceed the lesser of:
 - (i) the most-favoured-nation applied rate of customs duty in effect at the time when the bilateral safeguard measure is taken; and
 - (ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.

2. (a) A Party may take a bilateral safeguard measure only after an investigation has been carried out by the competent authorities of that Party in accordance with Article 3 and paragraph 2 of Article 4 of the Agreement on Safeguards in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Chapter as "the Agreement on Safeguards"), and to this end, Article 3 and paragraph 2 of Article 4 of the Agreement on Safeguards are incorporated into and made a part of this Agreement, *mutatis mutandis*.
- (b) The investigation referred to in subparagraph (a) above shall, except in special circumstances, be completed within 1 year, and in no case more than 18 months, following its date of initiation.
3. The following conditions and limitations shall apply to a bilateral safeguard measure:
 - (a) A Party shall immediately deliver a written notice to the other Party upon:
 - (i) initiating an investigation referred to in subparagraph 2(a) above relating to serious injury or threat thereof and the reasons for it;
 - (ii) making a finding of serious injury or threat thereof caused by increased imports of an originating good of the other Party; and
 - (iii) taking a decision to apply or extend a bilateral safeguard measure.
 - (b) Subject to the provisions of Article 8, the Party making the written notice referred to in subparagraph (a) above shall provide the other Party with all relevant information, which shall include:
 - (i) in the written notice referred to in subparagraph (a)(i) above, the reasons for the initiation of the investigation, a precise description of the originating good of the other Party subject to the investigation and its tariff classification under the Harmonized System and the date of initiation of the investigation; and

- (ii) in the written notice referred to in subparagraphs (a)(ii) and (iii) above, evidence of serious injury or threat thereof caused by the increased imports of an originating good of the other Party, a precise description of the originating good of the other Party subject to the proposed bilateral safeguard measure and its tariff classification under the Harmonized System, a precise description of the proposed bilateral safeguard measure, the proposed date of its introduction and its expected duration.
- (c) A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party with a view to reviewing the information arising from the investigation referred to in subparagraph 2(a) above and exchanging views on the bilateral safeguard measure.
- (d) No bilateral safeguard measure shall be maintained except to the extent and for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment, provided that such period of time shall not exceed 3 years. A bilateral safeguard measure may be extended by up to 2 years, provided that the conditions of this Article are met. The total period of a bilateral safeguard measure, including any extensions thereof, shall not exceed 5 years. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is over 1 year, the Party applying the bilateral safeguard measure shall progressively liberalise the bilateral safeguard measure at regular intervals during the period of application.
- (e) No bilateral safeguard measure shall be applied again to the import of a particular originating good of the other Party which has been subject to such a bilateral safeguard measure, for a period of time equal to the duration of the previous bilateral safeguard measure or 1 year, whichever is longer.

- (f) Upon the termination of a bilateral safeguard measure on an originating good of the other Party, the rate of customs duty for such originating good of the other Party shall be the rate which would have been in effect as if the bilateral safeguard measure had never been applied.
- 4.
- (a) A Party applying or extending a bilateral safeguard measure shall provide to the other Party an adequate opportunity to consult on adequate means of trade compensation in the form of concessions which are substantially equivalent to the bilateral safeguard measure without delay and no later than 30 days after such application or extension.
 - (b) If the Parties are unable to agree on the compensation within 30 days after the commencement of the consultations pursuant to subparagraph (a) above, the Party against whose originating good the bilateral safeguard measure is taken shall be free to suspend the application of concessions under this Agreement, which are substantially equivalent to the bilateral safeguard measure. That Party may suspend the application of concessions only for the minimum period necessary to achieve the substantially equivalent effects and only while the bilateral safeguard measure is applied.
 - (c) The Party exercising the right of suspension provided for in subparagraph (b) above shall deliver a written notice to the other Party at least 30 days before suspending the application of concession.
 - (d) The right of suspension provided for in subparagraph (b) above shall not be exercised for the first 2 years that a bilateral safeguard measure is in effect, provided that the bilateral safeguard measure has been taken as a result of an absolute increase in imports and that such a bilateral safeguard measure conforms to the provisions of this Article.
5. Each Party shall ensure the consistent, impartial and reasonable administration of its laws and regulations relating to the bilateral safeguard measure.

6. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures relating to bilateral safeguard measure.

7. (a) In critical circumstances, where delay would cause damage which it would be difficult to repair, a Party may take a provisional bilateral safeguard measure, which shall take the form of the measure set out in subparagraph 1(a) or (b) above, pursuant to a preliminary determination that there is clear evidence that increased imports of an originating good of the other Party as a result of the elimination or reduction of a customs duty in accordance with Article 18 have caused or are threatening to cause serious injury to a domestic industry.
- (b) A Party shall deliver a written notice to the other Party prior to applying a provisional bilateral safeguard measure. Consultations between the Parties on the application of the provisional bilateral safeguard measure shall be initiated immediately after the provisional bilateral safeguard measure is taken.
- (c) The duration of the provisional bilateral safeguard measure shall not exceed 200 days. During that period, the relevant requirements of paragraph 2 above shall be met. The duration of the provisional bilateral safeguard measure shall be counted as a part of the period referred to in subparagraph 3(d) above.
- (d) Subparagraph 3(f) and paragraphs 5 and 6 above shall apply *mutatis mutandis* to the provisional bilateral safeguard measure. Any additional customs duties collected as a result of the provisional bilateral safeguard measure shall be promptly refunded if the subsequent investigation referred to in subparagraph 2(a) above does not determine that increased imports of the originating good of the other Party have caused or threatened to cause serious injury to a domestic industry.

8. Written notice referred to in subparagraphs 3(a), 4(c) and 7(b) above shall be done in the English language.

9. Each Party retains its rights and obligations under Article XIX of GATT 1994, the Agreement on Safeguards and Article 5 of the Agreement on Agriculture.

10. The Parties shall review the provisions of this Article, if necessary, after 15 years of the date of entry into force of this Agreement.

Article 23 Restrictions to Safeguard the Balance of Payments

1. Nothing in this Chapter shall be construed to prevent a Party from taking any measure for balance-of-payments purposes. A Party taking such measure shall do so in accordance with the conditions established under Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.

2. Nothing in this Chapter shall preclude the use by a Party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund, as may be amended.

Article 24 Operational Procedures

Upon the date of entry into force of this Agreement, the Joint Committee shall adopt the Operational Procedures that provide detailed regulations pursuant to which the customs authorities, the competent governmental authorities defined in Article 27 and relevant authorities of the Parties shall implement their functions under this Chapter and Chapter 3.

Article 25 Sub-Committee on Trade in Goods

1. For the purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Trade in Goods (hereinafter referred to in this Article as "Sub-Committee") shall be established pursuant to Article 13.

2. The functions of the Sub-Committee shall be:

- (a) reviewing the implementation and operation of this Chapter;
- (b) reporting the findings of the Sub-Committee to the Joint Committee; and
- (c) carrying out other functions which may be delegated by the Joint Committee pursuant to Article 13.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties, and may invite representatives of relevant entities other than the Governments of the Parties with necessary expertise relevant to the issues to be discussed.

Article 26 Review

The Parties shall undertake a general review of the provisions of this Chapter, including a general review of the Schedules in Annex 1 including the originating goods that are excluded from any commitment of elimination or reduction of customs duties and commitment of negotiation, in the tenth calendar year following the calendar year in which this Agreement enters into force, or earlier only if agreed between the Parties. As a result of such review, the Parties may, only if the Parties agree, enter into negotiation on possible elimination or reduction of customs duties on originating goods on which the Parties agree, during such review, to negotiate.

Chapter 3 Rules of Origin

Article 27 Definitions

For the purposes of this Chapter:

- (a) the term “competent governmental authority” means the authority that, according to the legislation of each Party, is responsible for the issuing of the certificate of origin or for the designation of the certification entities or bodies. In the case of Japan, the Ministry of Economy, Trade and Industry or an authority succeeding this Ministry, and in the case of Thailand, the Ministry of Commerce or an authority succeeding this Ministry;
- (b) the term “customs authority” means the authority that, according to the legislation of each Party or non-Parties, is responsible for the administration and enforcement of its customs laws and regulations. In the case of Japan, the Ministry of Finance, and in the case of Thailand, the Customs Department;
- (c) the term “exporter” means a person located in an exporting Party who exports a good from the exporting Party;