



# **National Tariff Policy of Sri Lanka**

**Ministry of Finance, Economic Stabilization and National Policies  
Colombo 01**

**May 30, 2024**

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# NATIONAL TARIFF POLICY OF SRI LANKA

## 1.0 NAME OF THE POLICY: -

National Tariff Policy of Sri Lanka

## 2.0 DATE OF EFFECTIVE: -

January 2025

## 3.0 INTRODUCTION: -

### 3.1 Background

Sri Lanka is the first mover to adopt an export led open economy policy framework in 1978 including trade and financial liberalization to develop the economy towards its prosperity in the South Asian region. Despite Sri Lanka has benefited from its open economic policy in various ways including limited diversification of its export basket of goods, formation of new generation manufacturing industries, employment creation, partly modernization of the economic structure of the country, etc., Sri Lanka has failed to sustain such export led growth trajectory due to the economic policy changes in line with the social and political ideologies of the government in power. The frequent changes to the economic policy framework in line with the social and political ideologies of the government in power has resulted in a volatile policy environment, which is not conducive for mobilization of resources to ensure a sustainable growth momentum. The economic policy making, which is being revolved on the democratic political cycle and the political ideology of the government in power, has finally turned the open economic policy regime of 1978 including the tariff policy into predominantly an inward oriented economic regime, particularly from the beginning of new century. This has been defined as an economic policy reversal in Sri Lanka.

World Bank study (2022) revealed that Sri Lanka has failed to get benefit of US\$ 10 Bn from its potential merchandise export capacity annually. The World Bank study estimated that this untapped merchandise export potential, if tapped, it could create an additional 142,500 jobs, generate US\$ 8.5 Bn net inflows of foreign exchange, and bring an additional US\$ 280 Mn into the tax revenue. It is further stated that the existing tariff regime in Sri Lanka is an “Anti-Export Bias Duty Regime” which is not capable enough to incentivize enterprises to exports as they are incentivized by the existing duty regime to earn an attractive profit margin in the domestic market despite it is a small island market at the cost of consumer welfare and loss sustainable economic prosperity of the present and future generations.

Export performance of Sri Lanka is weak in comparison to its regional competitor economies, and its private investment is concentrating increasingly on inward oriented

economic activities. As a share of Gross Domestic Product (GDP), export value of Sri Lanka declined to 18% in 2021 from 39% in 2000 (Figure 1), which is a lower level of export performance among the middle-income countries. In the year 2000, Sri Lanka accounted for a sum of US\$ 8 out of every US\$10,000 worth of world total exports of goods. This share of exports had fallen to mere US\$ 5 in 2021 due to various factors including economic policy reversal, where, Vietnam had increased its world export market share from US\$23 to US\$123 over the same period. (Figure 2).

Figure 1. Sri Lanka's Exports of Goods and Services as Percentage of GDP

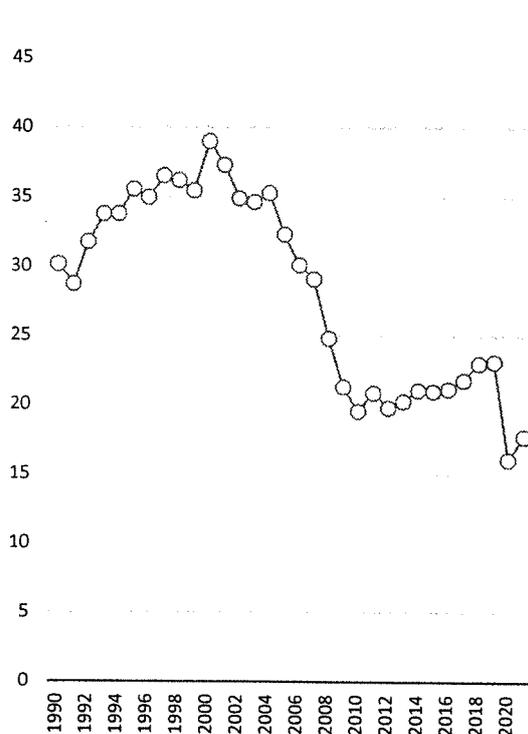
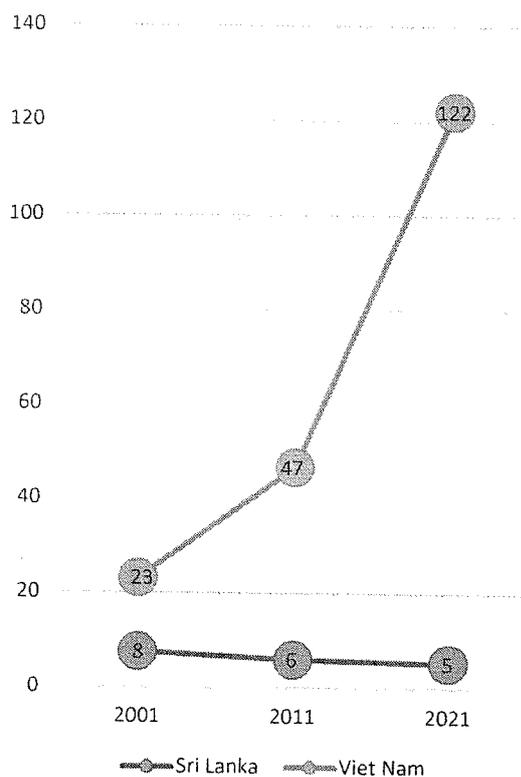


Figure 2. Global Market Shares (Exports Per \$10,000 of World's Exports)



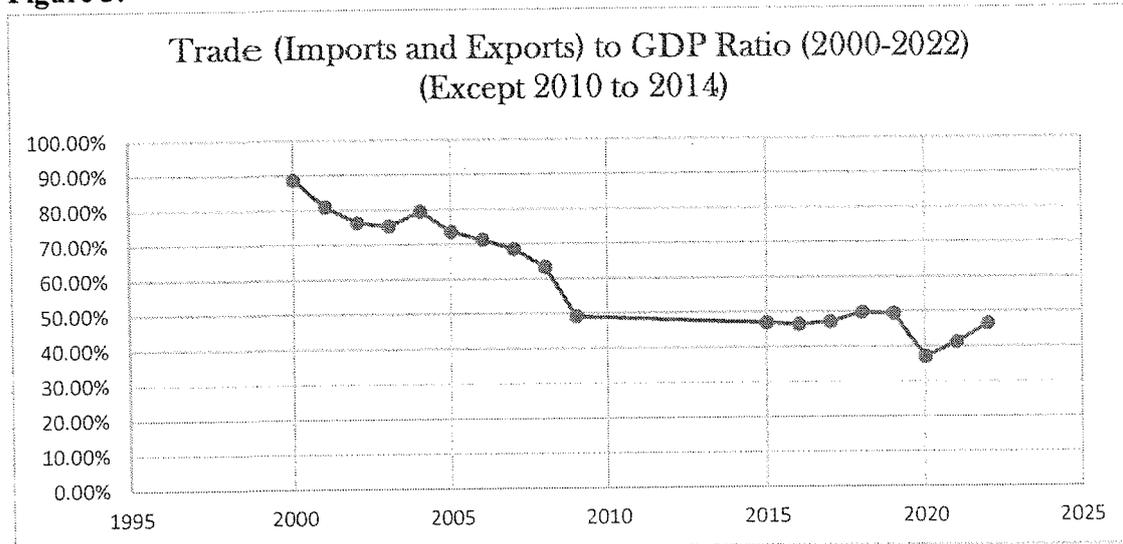
Source: World Development Indicators

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Sri Lanka has also made unsatisfactory state of progress in diversifying its export basket of goods and still remaining as an exporter of less complex industrial goods. Hence, Sri Lanka, as a developing country, is getting grouped within the bottom half of countries in terms of the diversity of exported products, and the bottom third of countries in terms of the diversity of its export markets, with both measures showing deterioration over the past decade.

Sri Lanka is considered predominantly to be an import dependent economy for the purposes of domestic consumption, domestic industries and re-export. However, the trade to GDP ratio of Sri Lanka has recorded a declining trend from year 2000. During the period of 2000 to 2022, the trade to GDP ratio of Sri Lanka has fallen from 80.90% of the GDP in 2001 to 46.52% in 2022 as indicated in Figure 3.

**Figure 3:**



Source: [www.macrotrends.net](http://www.macrotrends.net)

### 3.2 Policy Context

Given the inconsistent and unpredictable policy regime, factor endowment and its import dependent exports, underutilization or less value addition of available resources due to lack of technological advancement, capital inadequacy for investment, and complex tax / tariff regime, etc, Sri Lanka is still remaining with an export basket of goods, which is limited in number of goods and limited in quantity of each exportable goods.

The import tariff regime is a complex and opaque regime due to multiplicity of duties, uneconomical rates, irrational and arbitrary duty exemption, unethical practice at the Customs clearance of goods including under-invoicing, under-valuation, and misclassification, and overvalued / undervalued declaration, etc.

It is repeatedly argued that the tariff regime of Sri Lanka is detrimental to its growth-related activities including development of entrepreneurship. In other words, the existing tariff regime is causing upfront cost to investment and increase cost of raw materials and intermediate goods, which is particularly unaffordable barrier to many start-ups and young entrepreneurs in Sri Lanka. The size of entrepreneurs in the working population of a country is an indicator of potentiality of economic growth and economic prosperity of that country. The size of the entrepreneurs in Sri Lanka is less than 05% of its working population, where it occupies more than 10% of their working population in many developing competitor economies in the region.

The opportunity cost of higher rate of effective tariff protection is the missing exports because firms prefer to sell domestically with safer and attractive commercial benefits rather than exporting (“Anti-Export Bias”) in compliance to the requirements of export

markets, and investors prefer to allocate their resources including debt capital towards more protected sectors. The higher rate of tariff protection is also a reason for increasing the cost of production through the cost of raw materials, intermediate and capital goods, which eliminates the competitiveness of the export oriented domestic enterprises. Sri Lanka is standing among the top 20 percent of countries with highest import duties on intermediate goods and raw materials, which increases the cost of production of the domestic firms and affect negatively their ability to exports.

### **3.3 The Need and Rationale of the Policy**

Tariff structure of Sri Lanka is a composition of duties, levies, taxes and fees, imposed under provisions of various legislations without proper synchronization. Hence the tariff regime of Sri Lanka is not yet guided by an objective oriented policy framework, which is also a most complex, opaque and unpredictable tariff regime among the competitor economies in the region

Despite it was pointed out that the existing tariff regime was adopted to augment the state revenue during the decades old civil war period, it has also disincentivized exports and negatively affected possible sustainable growth prospects of the economy. In other words, the tariff regime of Sri Lanka, which has outgrown beyond its neutrality, has incentivized many domestic enterprises to target local market as there are being protected from competition of imported goods with higher profit potentials while posing burden on consumers and export-oriented enterprises. Hence the tariff regime and its arbitrary practices are acting as an implicit tax on exports, and discouraging mobilization of domestic or foreign investment in exporting enterprises or sectors. In addition, when import duties are applied on imported raw materials, intermediate goods and capital goods, duty drawback schemes for exporters do not work efficiently and resulting in increasing leakage, cost of production and damaging economy wide productivity.

Proliferation of para-tariffs (*Any duty, levy, tax or fee other than Customs import duty*) with ad-hoc or frequent changes, i.e., imposition or removal of tariffs and revision of tariff rates, which is imposed on importation or exportation of goods but not on domestic goods, has made the tariff regime of Sri Lanka a uniquely complex, opaque and unpredictable tariff regime in the region. Intensified application of multiple para-tariffs particularly on importation of goods is also identified as a point of reversal of export supportive policy initiatives of Sri Lanka, known as “policy reversal” particularly during the period of last two decades. The tariff regime, inclusive of para-tariffs, has further exacerbated sheltering of the inefficiencies as well as acted as distorter of long-term investment plan of enterprises. However, there is still a rational to point out that the CESS levy is required to be imposed continuously on selected HS Codes related to infant and strategic industries to ensure a level playing field between domestic and imported goods based on a set of predetermined objective-oriented criteria with time boundness.

Tariff exemption or concession, being granted under the existing tariff regime to facilitate enterprises to reduce their cost of production or upfront cost of investment to improve their competitiveness in the absence of a target-oriented tariff policy, has also been questioned for its misusability and counterproductive at the cost of state revenue. Therefore, the existing practice of grants of tariff exemption or concession should also be rationalized including removal of enterprise based specific exemptions. Rationalization of exemption and concession would bring additional tax revenue as well as create a level playing field for domestic enterprises. As per the estimates of the World Bank (2023), Sri Lanka collected less than half of its potential tariff revenue in 2022 (LKR 48 billion out of LKR 124 billion). The bulk of exemptions were granted for non-export or not foreign exchange earning purposes, which has contributed to dry-up liquidity in the domestic foreign exchange market imports. Duty drawbacks are substitute of tax exemptions, which are transparent, export-enhancing, aligned with international good practices, which may be considered as an alternative to the opaque tariff exemption or concession. As per the existing practice, the tariff exemptions, due to its opaqueness and ad-hoc basis, have higher potentiality to contribute for biasedness and rent-seeking.

In this context, it is inevitable that the existing tariff regime should be overhauled comprehensively to eliminate any possible or existing anti-export bias and reduce tariff policy uncertainty and improve transparency and predictability of the tariff regime. Hence, it is required to formulate an objective oriented national tariff policy targeting to improve competitiveness of domestic enterprises to integrate into the global production network while ensuring a conducive investment climate with a stable, transparent and predictable tariff regime to expand the existing industries and promote new entrepreneurs aiming at diversification of merchandize exports of Sri Lanka, where appropriate safeguard measures shall be accorded to the domestic agriculture including fisheries.

The National Tariff Policy should be able to unleash untapped export potential of merchandise and address macroeconomic imbalances by (i) reducing anti-export bias of the existing tariff regime by rationalizing import duties and reducing their cascading effects, (ii) removing complexity and uncertainty of the existing tariff regime, (iii) ensuring transparency and predictability of tariff regime, (iv) identifying potentially affected sectors / industries and providing time-bound support to stabilize and grow while reskilling the displaced workers (v) reduction or removal of duties and taxes on importation of raw materials, intermediate and capital goods; (vi) gradually phasing out import duty exemption or concession to ensure the level playing field and improve competitiveness of domestic enterprises and reduce tax expenditure.

Hence, formulation of a rationalized and objective oriented national tariff policy with transparency and predictability targeting to incentivize existing domestic market-oriented enterprises to expand and export their products, improve cost competitiveness of exports, facilitate to modernize or adopting cost-efficient production technologies, promote entrepreneurships including start-ups, ensure affordability of consumers is a prerequisite for a long-term sustainable inclusive growth trajectory of Sri Lanka.

### 3.4 Concepts and Nomenclature

Tariff is a duty, tax, levy, charge or fee, imposed legitimately by a government on importation or exportation of goods between countries. Tariff, duty and Customs duty are being used interchangeably. Tariff, as a regulation, is predominantly used trade policy instrument to tax and regulate inbound and outbound goods aiming at achieving various policy objectives of the government. Since Tariff is a most commonly applied barrier to trade, the World Trade Organization is facilitating an enabler environment for member countries to negotiate mutual tariff reductions.

Tariff is being used by many developing economies as an instrument to raise state revenue. However, tariff is being purely intended to use as a trade policy instrument to address the trade distortions including unfair competition, protection of domestic industries and agriculture and as a leverage in trade negotiations and disputes.

The Article XI of the GATT 1994 provides that “*No prohibitions or restrictions other than duties, taxes or other charges... shall be instituted or maintained by any Member.*” Therefore, no quantity restrictions on importation or exportation of goods are permitted while avenues are available for any member state to apply tariffs including special purpose duties on importation or exportation of goods for the purposes of state revenue as well as protection of domestic industries.

The revenue function of tariff varies with the state of economic development and application of systematic domestic tax regime of a country, where tariff is still making a substantial contribution to the state revenue in many developing countries including Sri Lanka.

Tariff is a policy instrument to protect domestic industries by providing a reasonable level playing field enabling them to compete with imported goods [*while keeping the imported goods and in certain cases consumers / users at a disadvantage*]. Thereby, it is inevitable to strike a maximum possible trade-off between consumer affordability and competitiveness of domestic industries in a time bound approach to minimize loss of social and economic welfare of people as a whole. Tariff Rate Quota (TRQ) has also been used to create a level playing field between market access of imported goods and locally produced goods by protecting domestic industries, where, the TRQ includes application of lower or zero tariff (Primary Tariff Rate) on importation of predetermined quantity and higher rate (Secondary Tariff Rate) on importation of the said goods in any quantity above the TRQ quantity.

The punitive function of tariff, as a remedy for trade distortions, allows an importing country to impose “Anti-Dumping Duty (Tariff)”, as per the domestic legal provisions, on importation of goods from a country upon proven cases of “Dumping of Goods” in terms of WTO Agreement on Anti-Dumping Practices and impose “Countervailing Duty (Tariff)”, as per the provisions of domestic legal provisions, on importation of goods from a country when such exporting country is providing its manufacturers with “Subsidy on Export” of such goods in

terms of WTO Agreement on Subsidies and Countervailing Measures with a view to protect domestic industries from injuries, caused by importation of underpriced or subsidized goods.

Tariffs are specific to each product and vary between products, where products are generally classified by a Coding System, known as “Harmonized System of Commodity Classification and Coding (HS Code System)”. Tariffs are also specific to trade relations between the country of exports and country of imports, where existence of a trade agreement between such countries would eliminate or reduce tariffs on importation and exportation of goods. This tariff regime is generally known as “Preferential Tariff Regime”.

During the post-World War II, a rule based global trade system for the use of tariffs and non-tariff measures has been established to reduce trade barriers and prevent trade wars among countries. As per the World Trade Organization (WTO), the core rules of the system to administer tariffs are as follows:

- (a) **Nondiscrimination:** - As per the “Most Favored Nation (MFN) Rule” a country must extend any trade concession, such as a reduced tariff rate, granted to one country to all other WTO members, except preferential tariff rates under the Free Trade Agreements, Special Treatment for developing countries and WTO allowed measures to address the unfair trading practices.
- (b) **Binding Commitments:** - WTO member countries including Sri Lanka have agreed to set maximum ceiling on tariff rates, known as “WTO Bound Rate of Tariff” on importation of goods, where Sri Lanka committed to set bind rate of tariff on selected goods. As per the commitment under the WTO Agreement, no country is generally allowed to exceed its tariff rate beyond respective bound rate of tariff. If a country is decided to exceed its bound rate, it would lead to a negotiated compensatory measure to affected member state(s).
- (c) **Transparency:** - WTO members are required to publish their tariff rates and trade regulations for information and compliance.
- (d) **Safety Valves:** - WTO members are allowed to raise tariff rates to deal with unfair trade practices and to allow domestic industries to adjust sudden surge in imports in some circumstances.

The Article II of the GATT 1994 obligates member countries to apply tariff rates that are not higher than the “Bound Rates” committed by each Member. The WTO Rules allow member countries to raise effective tariff rates on the tariff lines, which are subject to bound rates, within the scope of the respective bound rates of respective country while Member countries have the freedom to raise effective tariff rates on the tariff lines, which are not committed to bind.

Nature and application of any duties or taxes, levies, fees or charges other than the basic Customs Import Duty (CID) on importation or exportation of goods are defined as “Para-

Tariff’. The Para-Tariff refers to any fees and charges, other than tariffs, imposed solely on importation or exportation of goods, which has a tariff-like effect, not similar to those indirect taxes and charges (*Internal Taxes or trade neutral taxes*), which are levied in the same manner on imported goods and locally produced goods. However, any charges on importation or exportation of goods corresponding to specific services rendered are not considered as Para-Tariff. It is also noted that Customs or any other Surcharge, Fees or Charges are also defined and treated as Para-Tariff.

World Trade Organization defines the Customs duties as follows. “**Customs duties**” mean any duties or charges imposed in connection with importation of goods, except for:

- Charges equivalent to an internal tax imposed in conformity with Article III of the GATT 1994;
- Duties imposed in conformity with the Article XIX of GATT 1994, the Agreement on Safeguards, and Article 5 of the Agreement on Agriculture contained in Annex 1A to the WTO Agreement;
- Anti-dumping or countervailing duties imposed in conformity with the Article VI of GATT 1994, the Agreement on Implementation of the Article VI of GATT 1994, and the Agreement on Subsidies and Countervailing Measures contained in the Annex 1A to the WTO Agreement; or
- Fees or other charges imposed in conformity with the Article VIII of the GATT 1994.

In this context, the Tariffs or Customs duties of Sri Lanka refers to the Customs Import Duty (CID), Commodity Export Subsidy Scheme (CESS) Levy, Ports and Airports Development Levy (PAL), and Special Commodity Levy (SCL).

### **3.5 Legal Framework of Tariff Regime of Sri Lanka**

Article 148 of the Constitution of Sri Lanka provides that “*Parliament shall have full control over public finance. No tax, rate or any other levy shall be imposed by any local authority, or any other public authority, except by or under authority of a law passed by Parliament or of any existing law*”. Since the Customs duties (tariffs), including import and export duties and excise duties are included in the Reserved List of the Thirteen Amendment to the Constitution, the determination or imposition of tariffs on importation or exportation of goods is always coming under the purview of Parliament, where Parliament has delegated its authority to determine the tariff rates and their applicability by the Minister in charge of subject of finance or any other Minister in charge of specific subject by Act of Parliament.

The Customs Ordinance (Chapter 235) (Section 10 and 19A), Export Development Act of Sri Lanka, No.40 of 1979 (Section 14), Ports and Airports Development Levy Act, No.11 of 2008

(Section 03) and Special Commodity Levy Act, No.48 of 2007 (Section 02 and 05) are, in the present context, governing the tariff regime of Sri Lanka legally.

Legal framework on tariff administration provides that the Minister in charge of the Subject should make an Order and publish in the Gazette to give effect to any tariff rate or structure including imposition, revision, elimination or waive-off together with its effective date and in certain cases including its effective period.

Every Order, made and published in the Gazette, shall be approved by Parliament on the recommendation of the Cabinet of Ministers within the given statutory period, specified in the respective tax legislation. If any Order, which is not approved by Parliament, shall cease to be in force / operations from the date of such disapproval or elapse of statutory period for submission of Order for approval of Parliament without prejudice to any actions, performed as per provisions of the said Gazette.

Tariffs including Para-Tariff, imposed on importation or exportation of goods should be charged, demanded and collected at the Customs point of importation or exportation of said goods by the Sri Lanka Customs and credited to the Consolidated Fund as provided in the respective tax legislations.

## **4.0 STRATEGIC DIRECTION OF THE POLICY**

### **4.1 Vision**

A competitive and sustainable trade and investment destination in the region

### **4.2 Mission**

Formulate and implement a production principle based simple, sustainable, transparent, and predictable tariff regime to promote economic diversification, improve the competitiveness of domestic enterprises enabling them to integrate into the regional and global markets and value chains, facilitate domestic agriculture and efficient substituting industries, and ensure the food security together with availability of goods with consumer affordability.

### **4.3 Expected Results of the Policy**

Sri Lanka be promoted as a regionally competitive trade and investment destination, which;

- (i) Contributed to promote as a preferred destination of export-oriented investment
- (ii) Contributed to the diversification of exports,
- (iii) Contributed to safeguarding of domestic agriculture, fisheries, and competitive industries
- (iv) Facilitated inclusive and sustainable economic growth,
- (v) Contributed to the protection of consumer welfare and
- (vi) Contributed to ensuring a sustainable environment

#### 4.4 Objectives of National Tariff Policy

The general objective of the National Tariff Policy of Sri Lanka is to achieve an export led sustainable economic growth by further integrating domestic enterprises into the regional and global markets and value chains through improving competitiveness of domestic enterprises / industries, diversifying exports, ensuring a level playing field, increasing domestic and foreign direct investment and creating employment opportunities.

Specific objectives of the national tariff policy are as follows.

- (i) To rationalize tariff regime on the basis of “*Production Principle*” to minimize vertical inconsistency of tariff on raw materials, intermediate goods, capital goods and consumption goods by 2025;
- (ii) To establish a simplified four (04) band (0%, 10%, 20% and 30%) tariff regime on the basis of “*Customs Import Duty Only*” by 2025;
- (iii) To ensure access to duty free or least duty cost raw materials and reduce simple average tariff rate to less than 10% on intermediate goods and capital goods on par with the regional competitors to improve competitiveness of domestic industries by end of 2026; while securing competitively manufactured domestic raw materials, intermediate goods and capital goods;
- (iv) To activate a transparent, consistent and predictable tariff regime to encourage growth oriented domestic and foreign direct investment;
- (v) To grant a time bound and transparent tariff protection, subject to the WTO Bound Rate Commitment as appropriate, to Strategic Industries or Infant (Nascent) Industries or new product manufacturing industries enabling such industries to achieve scale of economies or regional / global competitiveness;
- (vi) To eliminate anti-export biasness of tariff regime enabling domestic industries to enter into the regional / global production value chains;
- (vii) To improve consumer rights, affordability and welfare;
- (viii) To safeguard domestic agriculture including fisheries and inbuilt seasonality of agriculture products into the tariff regime as a trade-off system between the consumer welfare and financially sustainable farmers;
- (ix) To implement targeted and time bound special duties to address any challenge of external shocks and internal vulnerabilities (Anti-dumping, Countervailing and Safeguards) of domestic industries, and agriculture including fisheries; and
- (x) To facilitate a transparent, criteria based, time bound and purpose-oriented tariff deferment or exemption (Incentive / Concession) scheme (Bonded facility and Tariff exemption).

## 5.0 PRINCIPLES OF THE POLICY

Importance of the tariff regime extends beyond the importation and exportation of goods to the economy and people. Hence it is inevitable to establish and adopt appropriate principles as pillars of prudent national tariff policy to promote inclusive growth, development and welfare of the people.

### **Principle 1: - Strategic measure of competitiveness**

Tariff regime is required to be recognized and applied as a measure to promote competitiveness of domestic industries / enterprises and social and economic welfare of the people, rather than as a source of state revenue.

### **Principle 2: - Simplified tariff regime to govern and compliance**

Tariff structure should be simplified ensuring transparency, predictability and governability and be compliant with the committed bound rates under the WTO. A simplified tariff regime shall be ensured by

- (i) Customs import duty will be imposed predominantly on non-trade neutral basis.
- (ii) New Para-Tariff shall not be introduced except for continuation of the CESS Levy in the interest of economic exigencies on selected HS Codes related to agriculture, fisheries, and infant and strategic industries.
- (iii) Avoidance of space of tariff rate arbitrage or misclassification of goods.
- (iv) Best endeavor to Introduction of a four band (0%, 10%, 20% and 30%) tariff regime.
- (v) The four-band tariff regime will be reassessed within next three (03) to five (05) year period to transform into a three-band tariff regime with a maximum tariff rate of 15 per centum, except on the non-essential consumption goods, to further strengthen the competitiveness, where the existing duty-free percentage of 46% of the HS Codes would also be increased between 55% to 60% of the total HS Codes in eight (08) digit basis to ensure availability of raw materials, intermediate goods and capital goods, which are not manufactured domestically, on zero duty basis.

### **Principle 3: Cascading tariff structure**

Tariff regime should build-in a “Vertical Consistency” through the cascading tariff structure (*Increase of tariff rate in line with the state of value addition of goods*), where tariff rate on input should be lower than tariff rate on output (*intermediate goods and finished goods except capital goods*), and reduce steepness of tariff rates (*Difference of*

*tariff rates between similar / identical products should be minimal as maximum as possible).* As per the global best practice within the realm of competitiveness, the exportation of goods shall always be free of all duties and taxes, where the Principle of Cascading effect is irrelevant in its application.

**Principle 4:** - Strategic tariff protection.

Domestic agriculture and industries, that are in their infancy stage or have the potential to increase their scale of economies, will be provided with time-bound tariff protection without compromising consumer / user affordability.

Tariff protection should be limited to ensure a level playing field between the domestic and imported goods as well as scale of domestic value addition of a manufacturing process basis and should eliminate protection of any form of economic inefficiencies compromising consumer welfare.

Tariff protection on domestic agriculture including fisheries shall be decided based on the harvest season, capacity to supply domestic requirement, consumer affordability, and essentiality of the agriculture produce. For the purpose of greater certainty and transparency, the seasonality of agriculture including fisheries should be inbuilt into the tariff regime.

Any prolonged tariff protection, beyond ensuring a level playing field, to any import substitution industries should also be transformed into a time bound tariff protection enabling such import substitution industries to elevate themselves as competitive export-oriented industries with a view to expanding export basket and diversifying exportable goods and to protect consumer rights and welfare.

**Principle 5:** - Elimination of anti-export bias in the tariff regime

Tariff regime shall not be allowed to build-up as an anti-export bias as it would divert resources from the production of exports to the inefficient import substituting industries and dilute regional and global competitiveness of domestic industries. As a first step, the existing anti-export biasness of the tariff regime should be eliminated gradually.

**Principle 6:** - Consistency, transparency and predictability of the tariff regime

The tariff regime shall not be formulated on an ad-hoc basis. It should be managed ensuring its consistency, transparency and predictability. Hence, the tariff regime including para-tariffs should not be revised arbitrarily. Any change to the tariff regime should be made in consultation with the stakeholders with minimum disturbance to consumers and industries.

Tariff rates should not be changed arbitrarily to address cost of living concerns when the market is an oligopolistic market structure as the benefits of tariff rate adjustment may not be transferred to consumers.

Imposition, removal or revision of tariff rates should not be made effective within 45 days from date of the Order published in the Gazette with a view to avoiding consequences of “Overnight Taxation” that leads to windfall profit making at the cost of state revenue and consumer welfare and denial of legitimate expectation.

**Principle 7: - Investment promotion**

The promotion of domestic and foreign investment, including creation of new entrepreneurship, should be an objective of the national tariff policy. The national tariff policy is expected to be used to a competitive climate to promote investment targeting entry into the global production networks as a priority rather than promotion of import substitution industries.

Upfront cost of tariff on investment (capital) goods shall be avoided or kept at minimal to facilitate investment promotion by imposition of zero rate or lower rate of tariff on importation of capital goods.

**Principle 8: - Non-use of tariff exemption to resolve tariff anomaly**

Exemptions and concessions of tariff shall not be applied as a policy measure to resolve tariff rate anomaly or industry facilitation but may be used as a transitional policy measure subject to a maximum period of 12 months from the date of approval of such exemption or concession of tariff. A tariff policy review shall be completed during that 12 months period to arrive at a final solution to resolve the identified tariff anomaly. However, it shall not be considered as a policy space to make a user / any enterprise-based tariff policy making.

**Principle 9: - Neutrality of tariff policy**

Tariff rate should not be a policy measure to resolve anti-dumping or countervailing of foreign export subsidies. Hence tariff or para-tariff should not be introduced as a measure to address anti-dumping or countervailing or industry or consumer safeguard practice. For this purpose, special duty regime namely Anti-Dumping Duty or Countervailing Duty or Special Safeguard Duty shall be applied.

Tariff rate quota should not be implemented as a general practice except as a negotiated measure of a Free Trade Agreement or Preferential Trade Agreement or as per a policy decision of the Cabinet of Ministers for any specific purposes including the food security.

**Principle 10:** - Tariff is not an emergency policy measure

Cabinet of Ministers or its Sub Committee or the Minister in charge of the subject of Finance or any Official Committee should not recommend or decide or direct to impose or revise tariff rate with immediate effect amounting to an “Overnight Taxation” to avoid its negative consequences. Any emergency or transitional tariff requirement shall be considered under the Anti-Dumping and Countervailing Duties Act No. 02 of 2018 or any other regulatory provisions on transitional safeguard measures in force. For the purpose of addressing cost of living concerns or short supply of essential food commodities, a duty rebate system or targeted cash transfer scheme shall be implemented by the Ministry in charge of subject of Finance.

**Principle 11:** - Tariff related decisions shall be made on the basis of economic impact analysis by the Ministry of Finance

Cabinet of Ministers shall endeavor to refrain from taking any decision related to tariff imposition or removal or revision of tariff rate without the economic impact analysis of the Ministry of Finance.

**Principle 12:** Tariff Liberalization Programme of Trade Agreements on the basis of costs and benefits analysis.

Tariff Liberalization Programme of a trade agreement shall be developed based on an impact study on its implications to the state revenue and domestic economic agents, where scheduling may be done based on the provision of adjustment time and adjustment assistance.

## **6.0 POLICY STATEMENTS**

National Tariff Policy has a total of 17 Policy Statements, which are categorized into six (06) thrust areas of the National Tariff Policy as listed below. The sustainable development goals have been considered as a cross cutting theme.

### **Thrust Area I: Trade and Investment Friendly Tariff Regime**

- (i) Ensure a simplified, transparent and predictable tariff regime
- (ii) Ensure free or lessor cost tariff on raw materials and intermediate and (Investment Goods) capital goods
- (iii) Promote diversification of exports

### **Trust Area II: Safeguard and Promote Domestic Agriculture Including Fisheries**

- (iv) Inbuilt seasonality into the tariff to safeguard interest of farmers
- (v) Ensure price parity between imported and domestic agriculture products

### **Thrust Area III: Safeguard and Transform Domestic Industries**

- (vi) Create level playing field between domestically produced goods and imported goods
- (vii) Impose tariff rate on par with local value-addition rate
- (viii) Provide time-bound differentiated tariffs to safeguard infant industries
- (ix) Impose time bound differentiated tariff to promote the scale of economies of strategic industries

### **Thrust Area IV: Contribute to the Fiscal Revenue**

- (x) Maintain equal average duty rate at HS Code six-digit basis
- (xi) Remove unproductive duty exemptions
- (xii) Implement time bound tariff exemptions

### **Thrust Area V: Ensure Consumer Welfare**

- (xiii) Ensure availability of imported consumption goods, not sufficiently produced locally
- (xiv) Ensure affordability of consumption goods during the off-harvest seasons
- (xv) Ensure no space of tariff arbitrage and abnormal profiting on consumption goods

### **Thrust Area VI: Conserve Environment**

- (xvi) Apply tariff rate on the basis of polluter pay principle on environmentally hazardous goods
- (xvii) Apply prohibitive tariff rate on importation of waste and environmentally sensitive non degradable goods
- (xviii) Promote environmentally friendly sustainable production and trade.

## **7.0 SCOPE AND APPLICABILITY OF THE POLICY**

Scope of this national tariff policy is to cover all aspects related to the imposition or removal of tariff and revision of tariff rates or provision of tariff rates or tariff concessions on importation or exportation of goods.

Thereby, the national tariff policy shall;

- (i) Govern all types of tariffs including para-tariffs, fees and charges and any other types of taxes or duties, imposed by the government on importation or exportation of goods, which are not trade neutral in nature and effect;
- (ii) Govern all rules and regulations related to imposition, removal, rate revision and concession of tariff including para-tariffs, fees or charges, imposed by the government at the point of importation or exportation of goods;
- (iii) Not govern any tariff or duty concessions, granted under any criteria based special scheme, if such scheme(s) are operated under a set of predetermined and published criteria;

- (iv) Not govern any fees and charges, imposed and collected on importation or exportation of goods, where such fees and charges shall be limited in amount to the approximate cost of services rendered; and
- (v) This national tariff policy shall be revised, if required, on completion of every five years or as per decision of the Cabinet of Ministers in line with the policy framework of Government in consultation with the stakeholders to assure consistency and predictability of tariff regime.

The national tariff policy will also be published as Regulations under Section 101 of the Customs Ordinance to provide a regulatory basis for its implementation and ensure compliance of the stakeholders.

## **9.0 IMPLEMENTATION OF THE NATIONAL TARIFF POLICY**

The national tariff policy shall be operationalized based on a Procedure for Operationalization with a view to ensure transparency, consistency, compliance, predictability and fairness of the tariff policy, avoidance of tariff arbitrage, honor legitimate expectation, and safeguard domestic industries and consumers. The procedure for operationalization of the national tariff policy consists of the following.

- (i) A National Tariff Policy Committee (NTPC), headed by a Deputy Secretary to the Treasury with membership of an Additional Secretary, Ministry in charge of subjects of Industries, Plantation Industries, Trade, and Agriculture, Director General, Department of Trade and Investment Policy, and Department of Fiscal Policy. The official committee shall invite any officials of Department of Commerce, Department of Imports and Exports Control, Department of Customs, Department of Census and Statistics, Consumer Affairs Authority, Office for International Trade, or any other institution as appropriate.

Director General, Department of Trade and Investment Policy or his nominee shall be the convener of the Official Committee on National Tariff Policy. The Official Committee on National Tariff Policy may meet quarterly unless otherwise there shall be an urgency or directive of the Minister of Finance or Cabinet of Ministers.

The National Tariff Policy Committee shall perform based on the Terms of Reference, approved by the Minister in charge of the subject of Finance;

- (ii) Proposal for imposition or removal of tariff or revision of tariff rate should be made in writing to the Director General, Department of Trade and Investment Policy with the recommendation of the Secretary to the Ministry in charge of the Subject with required information and data as specified in the Tariff Policy Proposal Submission Format

(No.DTIP/NTP/TPSF/01). Director General, Department of Trade and Investment Policy shall submit the proposal, received in the specified format from the Secretary, Ministry in charge of the Subject or with the recommendation of the Secretary, Ministry in charge of the Subject, within two (02) weeks with observations, if any, for consideration and final determination of the National Tariff Policy Committee at its quarterly meeting or as per direction of the National Tariff Policy Committee;

- (iii) The Secretary, Ministry in charge of the Subject, who receives a proposal or requests for tariff change, shall appraise such requests from the requester, including an enterprise, industry, or society and make a recommendation on the request within a maximum of thirty days from the date of receipt of proposal in the specified format in the (ii) above;
- (iv) The National Tariff Policy Committee shall examine the request within the scope of the objectives, principles, and procedure for operationalization of the national tariff policy together with required economic, financial, social, legal, and environmental analysis and make its recommendation for imposition or removal of tariff or revision of tariff rate as appropriate;
- (v) Recommendation of the National Tariff Policy Committee shall be submitted to the Secretary to the Ministry in charge of subject of Finance. The Secretary to the Ministry in charge of subject of Finance with the concurrence of the Minister in charge of subject of Finance shall process to seek approval of the Cabinet of Ministers by a Memorandum. No recommendation of the National Tariff Policy Committee shall be implemented without prior approval of the Cabinet of Ministers;
- (vi) Memorandum to seek approval of the Cabinet of Ministers shall provide basis of the proposal including benefits to the requester with justification, its positive and negative consequences to the domestic industry, agriculture, consumers, environment, state revenue as appropriate and compliance to the National Tariff Policy. The Memorandum shall also disclose the proposed date of issuance of the Order, effective date of the Order subject to the Procedure Nos. (viii), and (x) below, and validity period of the Order to ensure transparency and predictability;
- (vii) Minister in charge of the subject of Finance shall make an Order, as per the applicable legal provisions, to be published in the Gazette as approved by the Cabinet of Ministers subject to the Procedure Nos.(viii), (ix) and (x) below;
- (viii) An order or Regulation for the imposition or removal or revision of a tariff rate on importation or exportation of goods shall only be effective forty five (45) days from the date of publication of the Order in the Gazette in print or electronic version;

- (ix) Order / Regulation for revision of tariff rate or imposition or removal of tariff, published in the Gazette shall also be submitted for approval of Parliament within a maximum of sixty (60) days from date of publication of every Order or Regulation in the Gazette;
- (x) Revision of tariff rate or imposition of tariff or removal of tariff should be considered for implementation effective from January 01 of each year without compromising consistency, transparency and predictability of the tariff policy;
- (xi) Any time-bound order or directive or decision of the Cabinet of Ministers to the Minister in charge of the subject of Finance or Secretary, Ministry in charge of the subject of Finance will also be submitted with the observations and recommendation of the Secretary, Ministry in charge of the subject of Finance to the Minister in charge of the subject of Finance. The decision of the Minister in charge of the subject of Finance shall be final and conclusive to give effect to such time bound order or decision or directive subject to the Procedure No.(vii) above;
- (xii) Notwithstanding anything to the Procedure No. (vii), any transitional safeguard duty or safeguard measure in the form of special duty under the respective special safeguard legislations can be implemented giving effect at any time as per the decision of the authorities and within the applicable legal provisions;
- (xiii) Any objection or proposal for review of the published tariff change from any domestic industry or regulatory agency may be considered by the National Tariff Policy Committee, if such appeal for review is submitted to the Secretary, Ministry in charge of subject of Finance within 30 days from the date of publication of such Order in the Gazette, for determination and follow up accordingly;
- (xiv) Cabinet of Ministers or Minister or Secretary to the Ministry in charge of any subjects or the National Tariff Policy Committee shall not take any decision in violation to the objectives or principles of the National Tariff Policy;
- (xv) No Para-Tariff shall newly be imposed on any HS Codes as imposition of Para-Tariff shall be in contrary to the Principle No.2 of the National Tariff Policy;
- (xvi) National Tariff Policy shall be operationalized effective from January 2025 by issuance of an Order under the Revenue Protection Order under the Revenue Protection Act, No. 01 of 1962 with a four-band tariff regime;
- (xvii) The Department of Trade and Investment Policy in consultation with the Ministries in charge of the related subjects will develop the Revenue Protection Order in line with the national tariff policy for implementation effective from January 2025;
- (xviii) An independent impact assessment of the national tariff policy on exports, fiscal revenue, competitiveness, transformation and integration of domestic industries into the

regional and global value chain, promotion of local value addition industries, tariff cost of investment, tariff cost on raw materials, capital goods, impact on the domestic industries, agriculture, fisheries and consumers shall be carried out on completion of one year of operationalization of the national tariff policy. The national tariff policy will be revised and updated as per the findings of the independent impact assessment, if any, with the approval of the Cabinet of Ministers;

- (xix) Ad-Valorem rate is the key rate structure of the tariff regime. However, unit rate of tariff or mixed rate can also be applied as a last resort, subject to the WTO Bound Rate Commitment as appropriate;
- (xx) Ad-Valorem rate of a mixed rate of tariff shall be considered for implementation of Tariff Liberalization Programme of any Free Trade Agreement, as appropriate; and
- (xxi) For the purpose of transparency, availability of information and facilitation Department of Trade and Investment Policy shall develop a Tariff Information Management System together with a mobile (App) presence.

## 10. REQUISITE

Result oriented and stakeholders' friendly operationalization of the national tariff policy is depending on its conducive policy settings, which can be identified as key policy supportive requisites.

- (a) Sectoral entities (Ministry or Department or Agency) shall constitute a internal stakeholders' Committee to examine and make proposal for recommendation of the Secretary (Chief Accounting Officer) as required by the Procedure for Operationalization of National Tariff Policy No.9(iii) above.
- (b) Sectoral entities (Ministry or Department or Agency) shall take responsibility to make recommendation or proposal for imposition or removal of tariff or revision of tariff rate within and in compliance with the National Tariff Policy in detail consultation with the sector stakeholders
- (c) Responsible agencies shall update quality standards on par or above of the Standards of International Standard Organizations or better
- (d) Responsible Regulatory agencies shall ensure existence of quality and standard infrastructure for real-time conformity / compliance assurance certification
- (e) Sri Lanka Customs shall ensure application of updated Customs Value of the goods to eliminate under-invoicing and avoidance of space for undue benefits to any Party.

- (f) Ministry in charge of subject of Trade shall ensure promulgation of Regulations and Rules for imposition of Special Safeguard Measures
- (g) Ministry in charge of subject of the Finance shall explore possibility of having provisions in the Inland Revenue Act enabling the Commissioner General of Inland Revenue to impose and collect taxes on windfall profits / benefits, accruable to an enterprise.
- (h) No any other tax or duty or fee or charge, other than the fees or charges, charged as the cost of service rendered by an agency, shall be imposed, or revised by any agencies (Ministries, Departments or other Government organizations) on importation or exportation of goods at the point of Customs clearance without the concurrence of the Ministry in charge of the subject of Finance.

## **11.0 MONITORING AND EVALUATION**

Implementation of the national tariff policy is the responsibility of the Ministry in charge of the subject of Finance in collaboration with the Ministry in charge of the subject of Industries, Agriculture, Plantation Industries, Fisheries, Trade, and Commerce and other related agencies. Enforcement of the tariff regime, developed in line with the national tariff policy, is the responsibility of the Sri Lanka Customs.

Issuance of the first Revenue Protection Order in line with the national tariff policy shall be key task on the implementation of the national tariff policy, where a time line for issuance of the first revenue protection order has been provided in the national tariff policy. Thereby the Ministry of Finance will develop an implementation plan in consultation with the key stakeholders together with an objective oriented monitoring and evaluation framework upon publication of the national tariff policy as Regulations.

Monitoring and evaluation of the national tariff policy to ensure its compliance and results will be important responsibility of the Ministry of Finance. An impact assessment of the national tariff policy will be done at the end of one year of the implementation of the national tariff policy as set out in the Procedure No. (vxiii).

Compliance of the tariff regime or tariff change to the national tariff policy will be done by the Ministry of Finance and submit an annual summary report to the Cabinet of Ministers for information and direction, if any, where the annual summary report will provide any changes to tariff (imposition, or removal) or tariff rates including exceptions and concessions with the rationale for such changes as provided by the subject entities and revenue gain or forgone due to such changes.

## 12.0 DEFINITIONS

- (a) **Prohibitive Tariff** – A tariff rate set at such a high that no trade in the goods concerned can take place. [Prohibitive Tariff =  $\text{Tariff} + (1 + \text{Tariff}) / \text{Import Demand Elasticity}$ ]
- (b) **WTO Bound Rate** – Highest allowable rate of Tariff, a member country has committed to comply under the WTO Agreement.
- (c) **Effective Rate of Tariff** – Rate or cumulative rate of tariff, charged and collected by country at the point of Customs clearance of a goods.
- (d) **Tariff Classification** – Tariff Classification refers to the imposition of tariff rate on a goods in line with the Harmonized Commodity Description and Coding System (HS Convention)” of the World Customs Organization, commonly known as “HS Codes” or Tariff Lines”
- (e) **Strategic Industry** – Any domestic industry, which has the potentiality to improve its scale of economy during a given period and be able to integrate into the regional and global markets and value chains or any domestic industry, which is producing an import substitution goods efficiently (*Efficient Domestic Substitution Industry*) subject to the Cost of Production (CoP) is less than the Cost – Insurance – Freight (CIF) of such goods.
- (f) **Infant (Nascent) Industry** – A domestic industry, which is in its initial stage of development (emergence) and has not acquired the ability to sustain international competition.
- (g) **Domestic Value Addition** – Cost of domestically manufactured component as a percentage of ex-factory value of a goods.
- (h) **Strategic Tariff Protection** – A time bound tariff protection to an enterprise or industry which has the capacity to increase the scale of economies and become globally competitive to manufacture and supply domestic consumption or exports.
- (i) **Trade Neutral Tax** – A tax / monetary charge, imposed both on domestic and imported goods / products non-discriminatively, generally defined as “Internal Tax”.
- (j) **Ad-Valorem Rate of Duty** – A tariff or levy or tax, charged and levied as a predetermined percentage of the Customs value of imported or exported goods.
- (k) **Specific Rate of Duty** – A rate of tariff or duty or tax, charged and levied as a specific value per unit of imported or exported quantity of goods.

- (l) **Mixed Rate of Duty** – Ad-Valorem Rate of Duty or Specific Rate of Duty, imposed and collected on imported or exported goods whichever is higher basis.
- (m) **Duty Concession** – Exemption or concession, granted from the regulatory rate of tariff or duty or tax rate, charged and levied on imported or exported goods within the provisions of Customs Ordinance.
- (n) **Regulatory Duty** – A tariff or duty or tax, imposed and collected on importation or exportation of goods by the Government, which are not trade neutral in nature and effect.
- (o) **Seasonal Tariff** – A tariff or duty or tax imposed and collected on importation of agriculture produce at varied rates between the season and off-season of production of agriculture produce; a highest rate being imposed and collected during the season and a lower rate being imposed and collected during the off-season of the production of agriculture produce. All seasonal tariff rates shall be published together.
- (p) **Safeguard Duty** – Safeguard is a temporary higher Customs tariff or duty (*It can also be a Tariff Rate Quota or Quantitative Restrictions*), imposed by the Government only on imported goods, when industrial product is imported in exceeding of trigger level of import of the product from another country or countries as per provisions of the Article XIX (Emergency Action on Imports of Particular Product) of GATT 1994 as validated by the WTO Agreement on Safeguards.
- (q) **Anti-Dumping Duty** – Anti-Dumping Duty is a special duty, imposed by the Government only on imported goods, imported from another country or countries as per provisions of the Anti-Dumping and Countervailing Duties Act, No.02 of 2018.
- (r) **Countervailing Duty** – Countervailing Duty is a special duty, imposed by the Government only on imported goods, imported from another country or countries as per provisions of the Anti-Dumping and Countervailing Duties Act, No. 02 of 2018.
- (s) **Special Transitional Safeguard Duty** – A special temporary additional Customs duty, imposed by the Government on imported agriculture product, when such agriculture product is imported in exceeding of trigger level of import of the product as per the provisions of the WTO Agreement on Agriculture.

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