



CROSS SECTORS APPLICATION AND IMPLEMENTATION OF TPPA

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**CROSS-CUTTING
CHAPTER, EFFECTS
ON HEALTH SYSTEM**

Impacts of TPPA towards 8 sectors

- **Thai traditional medicines, herbs and genetic resource**
- **Medicines, vaccines and biological products**
- **Medical devices**
- **Food**
- **Cosmetics**
- **Tobacco**
- **Alcoholic beverages**
- **Health service**



**HIGH STANDARD ?
INVESTMENT, TECHNICAL
BARRIER TO TRADE, IP,
LABOR,**

Cross –Cutting Chapters, effects on health system

- **Investment**
- **Technical Barriers to Trade, licensing the marketing approval of medicines, medical devices, food, cosmetic, wines and distilled spirit**
- **Government procurement**
- **State-owned enterprises and designated monopolies**
- **Labor**
- **Environment**
- **Regulatory Coherence**
- **Transparency and Anti Corruption**
- **Remanufacturing goods _ Standardization, Labelling, Liberalization**



LIBERALIZATION AND GENERAL EXEMPTION



LEGAL GROUND AND FACTUAL ELEMENTS



SOVEREIGNTY AND SOVEREIGN RIGHTS



WHAT ARE THE PRODUCTS UNDER CONTROL



**WHY SUCH PRODUCTS
ARE NEEDED TO BE
CONTROLLED**



**FREEDOM OF SELLING
AND FREEDOM OF
CONSUMPTION**



**NOT EVERY FREEDOM
HAS TO BE PROTECTED
IF IT CAUSED DAMAGE**



**THERE ARE SEVERAL
SCIENTIFIC PROOFS/EVIDENCES
SHOW THAT CIGARETTE AND
ALCOHOLIC DRINK ARE MAJOR
CAUSE OF HEALTH DAMAGE**



**THE PRODUCTS
THEMSELVES ARE
SUBJECT TO ART XX
GATT/WTO**



**NOT EVERY PRODUCT
CAN BE SOLD FREELY
IF IT FALLS WITHIN
THE LEGAL
RESTRICTIONS**



**IF NARCOTIC DRUGS ARE
REGARDED AS
GOODS/PRODUCT, DO WE
NEED TO LIBERALIZE
THEM**



**CAN FREEDOM TO SELL
AND CONSUME OF DRUG
ARE RECOGNIZED AND
PROTECTED**



**HOW ABOUT FREEDOM OF
THE PUBLIC DOMAIN
EFFECTED BY THE DAMAGES
CAUSED BY THE
CONSUMPTION OF DRUG**



**BACK TO THE
OBJECTIVES OF
LIBERALIZATION OF
GOODS AND SERVICES**



BENEFIT TO THE CONSUMERS



**WHAT KIND OF BENEFIT
THE CONSUMERS SHOULD
DESERVE**



**WHAT ARE THE
BENEFIT OF THE
BUSINESS OPERATOR**



**SECTION XX HAS THE OBJECTIVES
TO PREVENT DAMAGES CAUSED BY
THE IMPORTATION OF GOODS THAT
HARM THE HEALTH CONDITION OF
HUMAN BEING**



**BE BACK TO THE
OBJECTIVES OF
LIBERALIZATION AND
SAFETY VALVE**



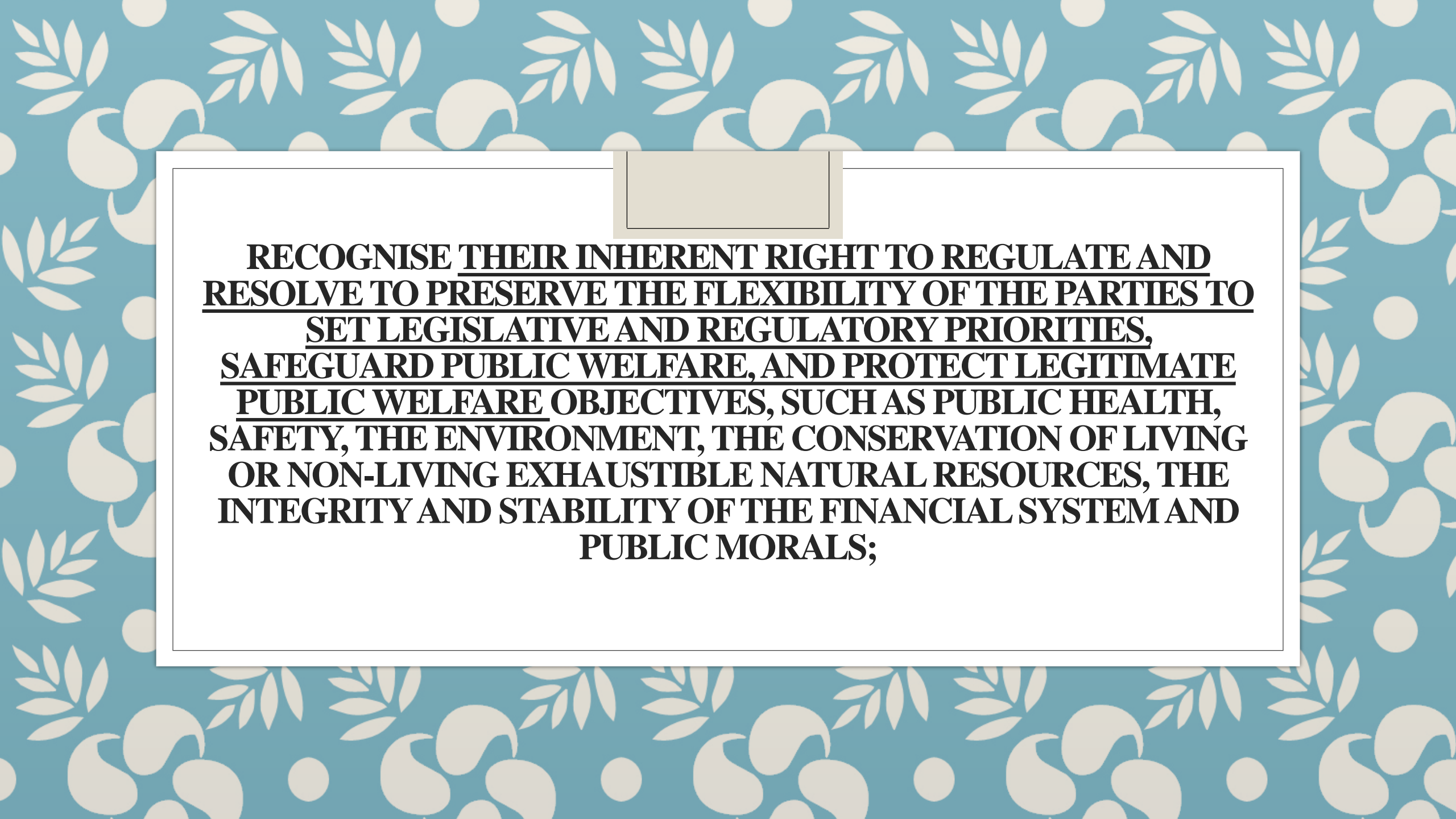
ESTABLISH A COMPREHENSIVE REGIONAL AGREEMENT THAT PROMOTES ECONOMIC INTEGRATION TO LIBERALISE TRADE AND INVESTMENT, BRING ECONOMIC GROWTH AND SOCIAL BENEFITS, CREATE NEW OPPORTUNITIES FOR WORKERS AND BUSINESSES, CONTRIBUTE TO RAISING LIVING STANDARDS, BENEFIT CONSUMERS, REDUCE POVERTY AND PROMOTE SUSTAINABLE GROWTH



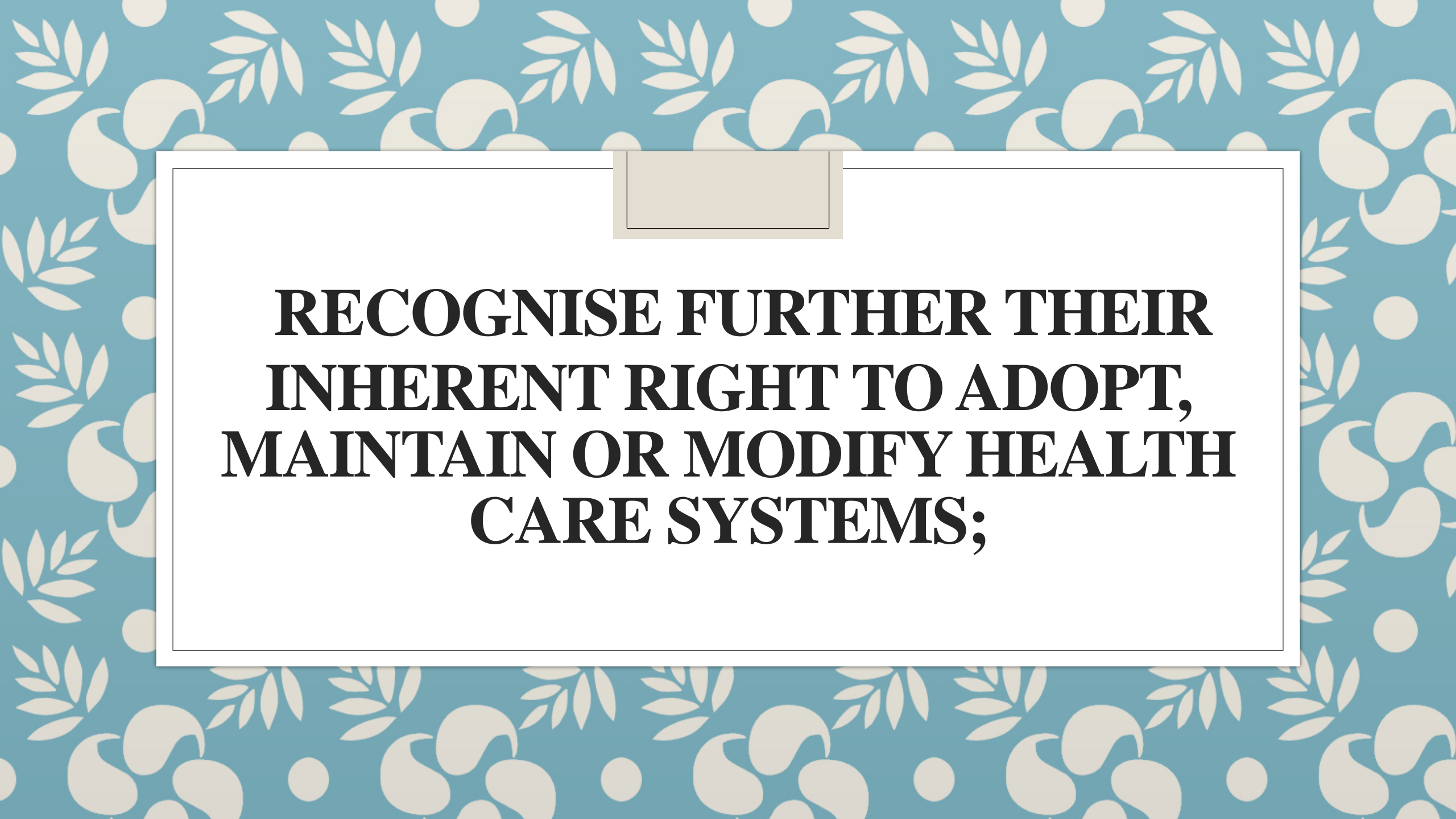
**NO ONE CAN LIFT
UP/BAR SECTION XX
OF GATT/WTO**



**THEN WHAT ARE
THE PROBLEMS?**



RECOGNISE THEIR INHERENT RIGHT TO REGULATE AND RESOLVE TO PRESERVE THE FLEXIBILITY OF THE PARTIES TO SET LEGISLATIVE AND REGULATORY PRIORITIES, SAFEGUARD PUBLIC WELFARE, AND PROTECT LEGITIMATE PUBLIC WELFARE OBJECTIVES, SUCH AS PUBLIC HEALTH, SAFETY, THE ENVIRONMENT, THE CONSERVATION OF LIVING OR NON-LIVING EXHAUSTIBLE NATURAL RESOURCES, THE INTEGRITY AND STABILITY OF THE FINANCIAL SYSTEM AND PUBLIC MORALS;



**RECOGNISE FURTHER THEIR
INHERENT RIGHT TO ADOPT,
MAINTAIN OR MODIFY HEALTH
CARE SYSTEMS;**



**CHAPTER 8 TECHNICAL BARRIER TO
TRADE**

CHAPTER 9 INVESTMENT

CHAPTER 17 STATE OWNED ENTERPRISE

CHAPTER 29 EXCEPTION



AFFIRM THAT STATE-OWNED ENTERPRISES CAN PLAY A LEGITIMATE ROLE IN THE DIVERSE ECONOMIES OF THE PARTIES, WHILE RECOGNISING THAT THE PROVISION OF UNFAIR ADVANTAGES TO STATE-OWNED ENTERPRISES UNDERMINES FAIR AND OPEN TRADE AND INVESTMENT, AND RESOLVE TO ESTABLISH RULES FOR STATE-OWNED ENTERPRISES THAT PROMOTE A LEVEL PLAYING FIELD WITH PRIVATELY OWNED BUSINESSES, TRANSPARENCY AND SOUND BUSINESS PRACTICES;



THE COMPETITION LAW OF THAILAND HAS EXEMPTED THE STATE OWNED ENTERPRISES FROM THE APPLICATION OF COMPETITION LAW ALLOWING THEM TO FREELY DO BUSINESS, EXCLUDING THEM FROM THE MONITORING OF COMPETITION LAW. THEREFORE, STATE OWNED ENTERPRISES NEED NOT TO BE CONTROL OF THE ABUSE OF MARKET DOMINANCE AND THE PERFORMANCE OF MONOPOLISTIC OR OLIGOPOLISTIC MARKET

Cross sections application and implementation

Article 1.2: Relation to Other Agreements

- 1. Recognizing the Parties' intention for this Agreement **to coexist with their existing international agreements**, each Party affirms:
- 2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and at least one other Party are party, on request, the relevant Parties to the other agreement shall consult with a view to reaching a mutually satisfactory solution. This paragraph is without prejudice to a Party's rights and obligations under **Chapter 28** (Dispute Settlement)

Definition

- **covered investment** means, with respect to a Party, an investment in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement for those Parties or established, acquired, or expanded thereafter
- **enterprise** means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization;
- **recovered material** means a material in the form of one or more individual parts that results from:
- **(a) the disassembly of a used good into individual parts; and**

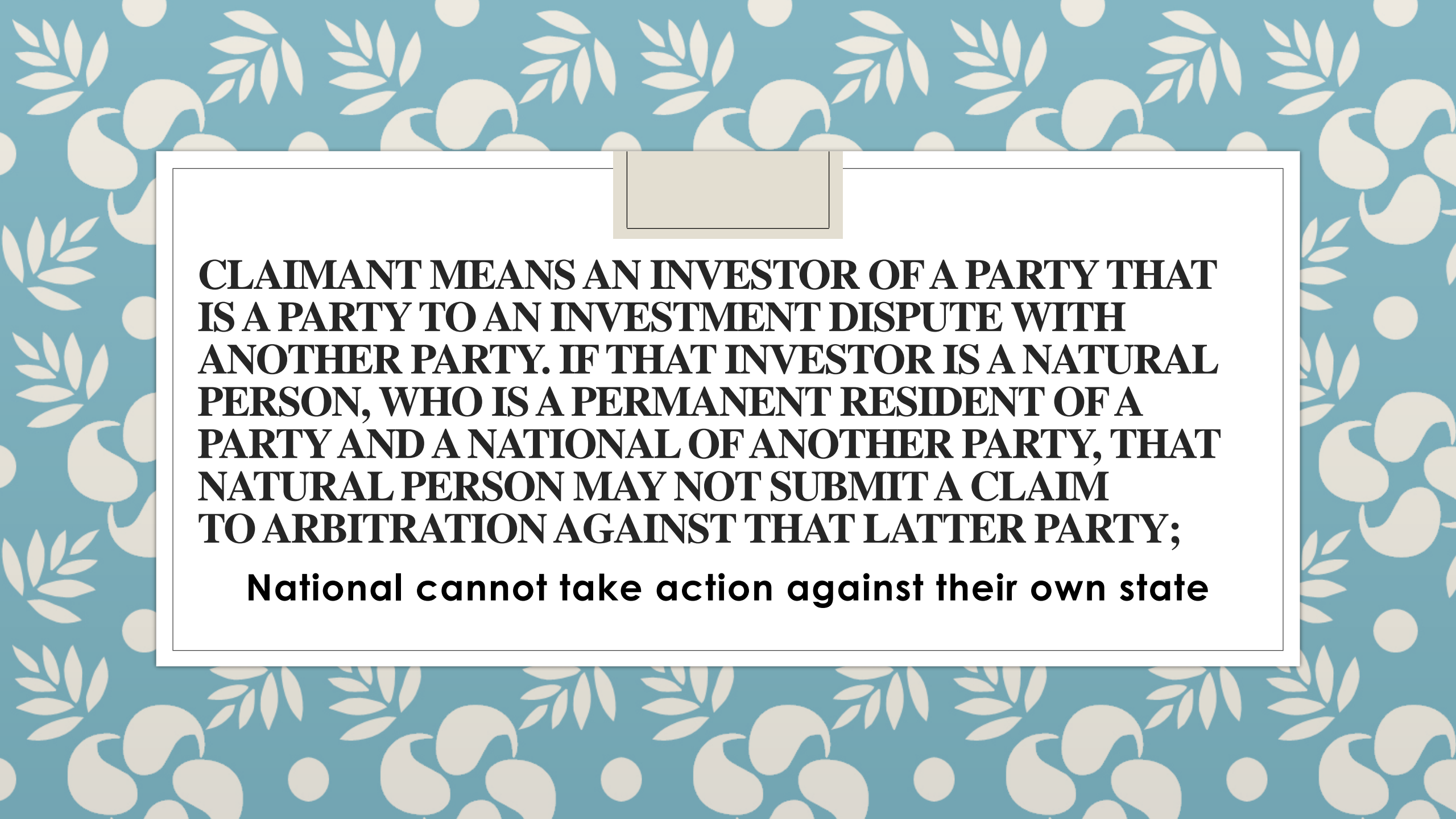
- **(b) the cleaning, inspecting, testing or other processing of those parts as necessary for improvement to sound working condition;**
- **remanufactured good** means a good classified in HS Chapters 84 through 90 or under heading 94.02 except goods classified under HS headings 84.18, 85.09, 85.10, and 85.16, 87.03 or subheadings 8414.51, 8450.11, 8450.12, 8508.11, and 8517.11, that is entirely or partially composed of recovered materials and:
 - **(a) has a similar life expectancy and performs the same as or similar to such a good when new; and**
 - **(b) has a factory warranty similar to that applicable to such a good when new;**

Section B: National Treatment and Market Access for Goods

- **Article 2.3: National Treatment**
- 1. Each Party shall accord national treatment to the goods of the other Parties
- in accordance with Article III of GATT 1994, including its interpretative notes,
- and to this end, Article III of GATT 1994 and its interpretative notes are
- incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.4: Elimination of Customs Duties

- 1. Unless otherwise provided in this Agreement, **no Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.**
- 2. Unless otherwise provided in this Agreement, each Party shall
- **progressively eliminate its customs duties on originating goods** in accordance with
- its Schedule to Annex 2-D (Tariff Commitments).



CLAIMANT MEANS AN INVESTOR OF A PARTY THAT IS A PARTY TO AN INVESTMENT DISPUTE WITH ANOTHER PARTY. IF THAT INVESTOR IS A NATURAL PERSON, WHO IS A PERMANENT RESIDENT OF A PARTY AND A NATIONAL OF ANOTHER PARTY, THAT NATURAL PERSON MAY NOT SUBMIT A CLAIM TO ARBITRATION AGAINST THAT LATTER PARTY;

National cannot take action against their own state

FOR THE AVOIDANCE OF DOUBT, THIS SUBPARAGRAPH DOES NOT COVER CORRECTIONAL SERVICES, HEALTH CARE SERVICES, EDUCATION SERVICES, CHILDCARE SERVICES, WELFARE SERVICES OR OTHER SIMILAR SOCIAL SERVICES.

FOR GREATER CERTAINTY, THE FOLLOWING ARE NOT ENCOMPASSED WITHIN THIS DEFINITION:

(I) ACTIONS TAKEN BY A PARTY TO ENFORCE LAWS OF GENERAL APPLICATION, SUCH AS COMPETITION, ENVIRONMENTAL, HEALTH OR OTHER REGULATORY LAWS;

(II) NON-DISCRIMINATORY LICENSING REGIMES; AND

(III) A PARTY'S DECISION TO GRANT TO A COVERED INVESTMENT OR AN INVESTOR OF ANOTHER PARTY A PARTICULAR INVESTMENT INCENTIVE OR OTHER BENEFIT, THAT IS NOT PROVIDED BY A FOREIGN INVESTMENT AUTHORITY IN AN INVESTMENT AUTHORIZATION

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS Section A: Initial Provisions

Article 1.1: Establishment of a Free Trade Area

- The Parties, consistent with **Article XXIV of GATT 1994 and Article V of GATS**, hereby establish a free trade area in accordance with the provisions of this Agreement.
- **Article 1.2: Relation to Other Agreements**
- 1. Recognizing the Parties' intention for this **Agreement to coexist with their existing international agreements**, each Party affirms:

ASEAN, AEC, multilayered legal framework

- **Part IV , Enabling cause**
- Preferential treatments will be granted only to developing countries, and members
- TPPA adopts the coexist of the other treaties
- 2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and at least one other Party are party, on request, the relevant Parties to the other agreement shall consult with a view to reaching a mutually satisfactory solution. **This paragraph is without prejudice to a Party's rights and obligations under Chapter 28 (Dispute Settlement).**

Interactive implementation

Definition of investment

- (e) turnkey, construction, management, production, **concession**, revenue-sharing and other similar contracts;

Conflict of in't obligations and domestic laws and regulations

- Under TPPA all concession are investment and under the protection, for example it can be protected from nationalization. But the domestic laws has defined the right and obligation of concession to be subject to some specific restriction

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- For the purposes of application of this Agreement, the Parties agree that the fact that an agreement provides more favorable treatment of goods, services, investments or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.

Other treaties

- This reflects that the preferential treatments of TPPA over the other treaties if the treatment under TPPA is more favorable than the ones under the other treaties.
- This also applicable to all obligations/Sections under the other treaties

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **central level of government** has for each Party the meaning set out in Annex 1-A (Party-Specific Definitions);
- (k) for the United States, **the federal level of government;**

Member countries' definition of central level government

- Variety of definition of central level government
- For example, If we signed the bilateral FTA with the US under which the obligations of FTA would be bound the US only at the level of Federal law and subject to state laws. This reflects that all obligations on the US side will be fallen within the state law

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **government procurement** means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;

ACIA, AEC, multilayered legal framework

- ACIA , AEC Do not liberalize public procurement
- Optional choice of business operator
- TPPA adopt coexist obligation, bargaining power

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **remanufactured good** means a good classified in HS Chapters 84 through 90 or under heading 94.02 except goods classified under HS headings 84.18, 85.09, 85.10, and 85.16, 87.03 or subheadings 8414.51, 8450.11, 8450.12, 8508.11, and 8517.11, that is entirely or partially composed of recovered materials and:
 - (a) has a similar life expectancy and performs the same as or similar to such a good when new; and
 - (b) has a factory warranty similar to that applicable to such a good when new;

Health Issue, AEC directives, multilayered legal framework

- Medical devices
- AEC directive vs TPPA obligation
- Standardization
- Currently, Thailand does not have law on standardization for imported goods

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **recovered material** means a material in the form of one or more individual parts that results from:
 - (a) the disassembly of a used good into individual parts; and
 - (b) the cleaning, inspecting, testing or other processing of those parts as necessary for improvement to sound working condition;

Health Sector, Manufacturing, AEC directives, multilayered legal framework

- Input materials
- Medical device
- AEC directive vs TPPA obligation

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

Domestic laws and regulations

- **customs duty** includes any duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed in connection with such importation, but does not include any:
 - (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
 - (b) fee or other charge in connection with the importation commensurate with the cost of services rendered; or
 - (c) **antidumping or countervailing duty**;

- Border carbon adjustment
- Antidumping or countervailing duty

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **enterprise** means any entity constituted or organized under applicable law, whether or not for profit, and whether privately **or governmentally owned or controlled**, including any corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization;
- **state enterprise** means an enterprise that is owned, or controlled through ownership interests, by a Party

Competition law and policy

- Thailand **excludes state enterprise from the application of competition law**
- Sovereign wealth fund/state enterprise of any country can claim **national treatment** to be exempted from competition law of Thailand
- State enterprise can perform **monopolistic or oligopolistic market**

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **goods of a Party** means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and **includes originating goods of a Party**;
- **originating** means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of Origin and Origin Procedures) or Chapter 4 (Textile and Apparel Goods);
- **preferential tariff treatment** means the customs duty rate applicable to **an originating good**, pursuant to each Party's Tariff Schedule set out in Annex 2-D (Tariff Commitments);

AEC , ACIA rule of origin

- ASEAN rule of origin includes the **cumulative rule of origin** from ASEAN member countries
- (b) in relation to existing international agreements **to which that Party and at least one other Party are party**, its existing rights and obligations with respect to that other Party or Parties, as the case may be.

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **national** means a “natural person who has the nationality of a Party” according to Annex 1-A (Party-Specific Definitions) or a permanent resident of a Party
- **person** means a natural person or an enterprise;
- **person of a Party** means a national or an enterprise of a Party;

ASEAN, ACIA

- ASEAN enterprise includes any juristic person legally established in any ASEAN member country.
- ASEAN person include natural person or an enterprise
- ASEAN natural person includes any person having nationality of any ASEAN member or any natural person domicile in any ASEAN country
- **(k) for the United States, a “national of the United States” as defined in the *Immigration and Nationality Act*;**

Interactive implementation

CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

- **territory** has for each Party the meaning set out at Annex 1-A (Party-Specific Definitions);
- **textile or apparel good** means a good listed in Annex 4-A (Textiles and Apparel Product-Specific Rules of Origin);
- **TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, set out in Annex 1C to the WTO Agreement.
- For greater certainty, TRIPS Agreement **includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted** by WTO Members in accordance with the WTO Agreement

Domestic laws and regulations

- IP laws of TPPA members are different and subject to TRIP Plus obligations
- For example protection of sound, favor, Adour, etc.

Interactive implementation

Investment Chapter

- **investment** means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take
 - (e) turnkey, construction, management, production, **concession**,
 - revenue-sharing and other similar contracts
 - (f) **intellectual property rights**;
 - (g) **licenses**, authorizations, permits and similar rights conferred pursuant to the Party's law

Direct and indirect Expropriation

- Concession is regarded as investment and it will be protected under investment chapter from nationalization and fully be protected on compensation
- Conflict with domestic laws and regulation

Interactive implementation

Investment agreement

- (a) with respect to natural resources that a national authority controls, such as oil, natural gas, rare earth minerals, timber, gold, iron ore and other similar resources, including for their exploration, extraction, refining, transportation, distribution or sale
- For the avoidance of doubt, this subparagraph does not include an investment agreement with respect to land, water or radio spectrum

Restricted Area of investment

- If reservation was made but
- Thailand **did not make reservation under ACIA.**
- If TPPA would be signed all sectors could not be reserved as they are covered under investment agreement
- All investment will be protected under investment protection

Interactive implementation

Investment agreement

- (b) to supply services on behalf of the Party for consumption by the general public for: power generation or distribution, water treatment or distribution, telecommunications, or other similar services supplied on behalf of the Party for consumption by the general public;⁹ or
- For the avoidance of doubt, this subparagraph **does not cover** correctional services, **healthcare services, education services, childcare services, welfare services** or other similar social services
- (c) to undertake infrastructure projects, such as the construction of roads, bridges, canals, dams or pipelines or other similar projects; provided, however, that the infrastructure is not for the exclusive or predominant use and benefit of the government

Exclusion of investment agreement

- For greater certainty, the following are not encompassed within this definition:
- (i) actions taken by a Party to enforce laws of general application, such as **competition, environmental, health or other regulatory laws**;
- (ii) non-discriminatory licensing regimes; and
- (iii) a Party's decision to grant to a covered investment or an investor of another Party a particular investment incentive or other benefit, that is not provided by a foreign investment authority in an investment authorization.

Interactive implementation

Scope of application

- **Article 9.2: Scope**
- 1. This Chapter shall apply to measures adopted or maintained by a Party
- relating to:
 - (a) **investors** of another Party;
 - (b) **covered investments**; and
 - (c) with respect to Article 9.10 (Performance Requirements) and Article 9.16 (Investment and Environmental, **Health** and other Regulatory Objectives), all investments in the territory of that Party.

Multilayered scope of application

- Restrictions
- One –off deal

Interactive implementation

Scope of application

- 2. A Party's obligations under this Chapter shall apply to measures adopted or maintained by:
- (a) the central, regional or local governments or authorities of that Party; and
- (b) any person, **including a state enterprise** or any other body, when it exercises any governmental authority delegated to it by central, regional or local governments or authorities of that Party

Conflict of International obligations

- Subject to limitations and restrictions under other international treaties
- State enterprise which is protected under investment chapter and exempted from the application and implementation of Competition law
- Therefore, State enterprise will be protected even when it perform monopoly and oligopoly

Interactive implementation

Investment chapter

- **Article 9.4: National Treatment**¹⁴
- 1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
- 2. Each Party shall accord to covered investments treatment no less favorable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments

Exception

- For greater certainty, governmental authority is delegated under the Party's law, including through a legislative grant or a government order, directive or other action transferring or **authorizing the exercise of governmental authority**.
- For greater certainty, whether treatment is accorded in "like circumstances" under Article 9.4 (National Treatment) or Article 9.5 (Most-Favoured-Nation Treatment) depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

Interactive implementation

Treatment to Investment, investor

- National treatment
- Most Favored Nation Treatment
- Minimum International Standard
- Treatment in case of Armed conflict or Civil Strife

Subject to limitation, restrictions reservation and international law

- General exemptions
- Specific exemptions
- Country specific exemptions
- State responsibility: actions imputable to state only

Interactive implementation

Investment Chapter

- **Article 9.15: Denial of Benefits**
- 1. A Party may deny the benefits of this Chapter to an investor of another Party that is an enterprise of that other Party and to investments of that investor if the enterprise:
 - (a) is **owned or controlled by a person of a non-Party** or of the denying Party; and
 - (b) has **no substantial business activities in the territory** of any Party other than the denying Party

Conflict of multilayered obligation

- FTA US Model: the us enterprise includes us investor established in third country or third country's investor established in the us will be entitled to preferential treatment

Article 9.8: Expropriation and Compensation

- This Article shall not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation or creation of intellectual property rights, **to the extent that the issuance, revocation, limitation or creation is consistent with Chapter 18 (Intellectual Property) and the TRIPS Agreement**
- **Chapter 18 (Intellectual Property) and the TRIPS Agreement**

Article 9.12: Non-Conforming Measures

- 2. Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 9.10 (Performance Requirements) and Article 9.11 (Senior Management and Boards of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out by that Party in its Schedule to Annex II

Annex

- as set out by that Party in its Schedule to Annex II
- Thailand has to make reservation

Interactive implementation

Investment Chapter

- **Article 9.16: Investment and Environmental, Health and other Regulatory Objectives**
- Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure **otherwise consistent with this Chapter** that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health or other regulatory objectives

Interactive application

- **Indirectly bar the application of measures relating to environment, health and other regulatory objective if it is consistent with this chapter.**

Interactive implementation

Arbitration, Definition

- **claimant** means an investor of a Party that is a party to an investment dispute with another Party. If that investor is a natural person, who is a permanent resident of a Party and a national of another Party, **that natural person may not submit a claim to arbitration against that latter Party;**

Jurisdiction

- National cannot sue/submit the case **before arbitration against its** own state

Interactive implementation

Article 9.21: Conditions and Limitations on Consent of Each Party

- 1. No claim shall be submitted to arbitration under this Section if **more than three years and six months** have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under Article 9.19.1 (Submission of a Claim to Arbitration) and knowledge that the claimant (for claims brought under Article 9.19.1 (a)) or the enterprise (for claims brought under Article 9.19.1 (b)) has incurred loss or damage.

Prescription

- Eliminate the prescription of cases under domestic laws

Interactive implementation

Arbitration Award

- 6. A tribunal shall not **award punitive damages.**
- 7. An award made by a tribunal shall have **no binding force except between the disputing parties and in respect of the particular case.**

Binding Force of arbitration awards

- **except between the disputing parties and in respect of the particular case.**
- Under which an award can be enforced and
- can award punitive damages?

Topical issues

Issue

- Medical devices
- Traditional knowledge and genetic resource, traditional medicine and biodiversity and benefit sharing

Resolution

- Require labelling indicating the input of recovered material and/or they are re-manufacturing goods
- Standardization of imported and domestic goods
- Contact point
- Better benefit sharing by co-patented for the whole life of innovation including the innovative stages of development
- TK&GR Protection, Patented at source

Topical issues

Issue

- Cosmetic and food
- Tobacco and alcoholic beverage
- Medicine, Vaccines and biological products

Resolution

- Standardization
- Regional standard, ASEAN Directive
- Conflicts of co-existing obligation
- Labelling, Abuse of IP protection
- General exemption Art XX GATT/WTO
- Compulsory licensing



THANK YOU