

FIRST AGREEMENT ON TRADE NEGOTIATIONS AMONG DEVELOPING MEMBER COUNTRIES OF THE ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

(BANGKOK AGREEMENT)

RECOGNIZING the urgent need to take action to implement a trade expansion programme among the developing member countries of ESCAP pursuant to the decisions contained in the Kabul Declaration of the Council of Ministers on Asian Economic Co-operation and within the framework of the Asian Trade Expansion Programme which was adopted by the Intergovernmental Committee on a Trade Expansion Programme created under the Kabul Declaration.

GUIDED by the principles contained in the New Delhi Declaration adopted at the thirty-first session of the Economic and Social Commission for Asia and the Pacific;

REALIZING that the expansion of trade could act as a powerful stimulus to the development of their national economies, by expanding investment and production opportunities through benefits to be gained from specialization and economies of scales thus providing greater opportunities of employment and securing higher living standards for their populations

MINDFUL of the importance of expanding access on favourable terms for their goods to each others markets and of developing trade arrangements which promote the rational and outward-oriented expansion of production and trade;

NOTING that the international community has fully recognized the importance of encouraging the establishment of preferences among developing countries at the international regional and subregional levels, particularly through the resolutions of the General Assembly of the United Nations establishing the International Development Strategy for the Second United Nations Development Decade and the Declaration on the Establishment of a New International Economic Order and the Programme of Action for the Establishment of a New International Economic Order; the Concerted Declaration on Trade Expansion, Economic Co-operation and Regional Integration among Developing Countries adopted at UNCTAD 11; as well as Part IV of the General Agreement on Tariffs and Trade and decisions made in pursuance thereof;

NOTING FURTHER that developed and developing countries have already taken some major decisions intended to promote such type of preferential arrangements among developing countries as well as between developed and developing countries in terms favourable to the latter.

CONVINCED that the establishment of preferences among the developing countries of ESCAP, complementary to other efforts under- taken in other international forums, could make an important contribution to the development of trade among developing countries.

The Governments of Bangladesh, India, Laos, the Philippines, the Republic of Korea, Sri Lanka and Thailand ON WHOSE BEHALF this AGREEMENT has been signed, HAVE AGREED as follows:

Chapter I GENERAL PROVISIONS

Article 1

The Governments on whose behalf the present Agreement is signed, hereinafter referred to as the "Participating States", agree to establish a trade expansion programme among their respective countries on a multilateral basis, which shall be governed by the provisions of this Agreement and by the rules, regulations and decisions agreed within its framework

Article 2

The objectives of this Agreement are to promote economic development through a continuous process of trade expansion among the developing member countries of ESCAP and to further international economic co-operation through the adoption of mutually beneficial trade liberalization measures consistent with their respective present and future development and trade needs, and taking into account the trading interests of third countries, particularly those of other developing countries

Chapter II PROGRAMME OF TRADE LIBERALIZATION

Article 3

Upon the entry into force of this Agreement, each Participating State shall apply such tariff and non-tariff concessions in favour of the goods originating in all other Participating States as are set out in its respective National List of Concessions. These National Lists of Concessions are attached as annex I, which is an integral part of this Agreement

Article 4

Each Participating State shall take appropriate measures, consistent with its development needs and objectives, for the gradual relaxation of quantitative and other non-tariff restrictions to trade which may affect the importation of products covered by its National List of Concessions

Article 5

Notwithstanding the provisions of article 3 of this Agreement, any Participating State may grant to another Participating State, which is considered by the United Nations to be a least developed country, special concessions which shall apply only in favour of that Participating State and shall not be extended to other Participating States. These special concessions shall be included in the National List of Concessions of the preference-giving Participating State.

Article 6

For the purposes of articles 3 and 5, goods shall be accepted as eligible for preferential treatment if they have been consigned to the territory of the importing Participating State from the territory of another Participating State and if they satisfy the conditions of origin set out in annex 11, which is an integral part of this Agreement.

Article 7

Except as provided for elsewhere, in order to secure preservation of the value of the concessions set out in the attached National Lists of Concessions, the Participating States shall not abrogate or reduce the value of these concessions after the entry into force of this Agreement through the application of any charge or measure restricting commerce other than those existing prior thereto, except where a charge corresponds to (a) an internal tax imposed on a similar domestic products (b) an anti-dumping or countervailing duty, or fees commensurate with the cost of services rendered

Article 8

If, as a result of a tariff revisions a Participating State reduces or abrogates; the value of concessions granted to the other Participating States, within a reasonable period it shall take mutually acceptable compensatory action to re-establish preferential margins of equivalent value or enter into prompt consultations with the other Participating States as provided for in chapter IV in order to negotiate a mutually satisfactory modification of its National List of Concessions.

Chapter III TRADE EXPANSION

Article 9

To ensure the consolidations continued expansion and further diversification of trade, the Participating States agree to keep in view the objectives and provisions set out in the following subparagraphs and shall strive to implement them expeditiously in a manner consistent with their national policies and procedures

- a) To the fullest extent possible, Participating States shall grant to one another, in relation to imports originating in the territory of any one of them a treatment no less favourable than that which prevailed prior to the entry into force of this Agreement.
- b) With respect to taxes, rates and other internal duties and charges, products originating in the territory of a Participating State shall enjoy in the territory of every other Participating State, a treatment no less favourable than that accorded by that other Participating State to similar products of domestic origin;
- c) Participating States shall endeavour, in relation to each other, not to introduce or increase the incidence of, customs duties and non-tariff import barriers on products of current or potential export interest to the other Participating States. For purposes of determination of which products fall within the purview of this paragraph within one year from the date of entry into force of this Agreement, the Participating States shall submit, and the Standing Committee shall decide on, lists of products in this category;
- d) Whenever considered necessary, Participating States shall take appropriate measures for co-operation, particularly in customs administration, to facilitate implementation of this Agreement and to simplify and standardize procedures and formalities relating to reciprocal trades. For this purpose the Standing Committee shall take the required administrative action;
- e) With respect to drawbacks within one year from the date of entry into force of this Agreement, the Standing Committee shall consider whether drawbacks on goods imported from third countries should be permitted in relation to products used in the manufacture of finished products for which concessions have been exchanged by the Participating States;
- f) With respect to dumping and other unfair trade practices, the Participating States shall, within one year from the date of entry into force of this Agreement, establish appropriate regulations to offset or prevent such practices, as required, and to ensure that the provisions of this Agreement are harmoniously applied;
- g) As soon as possible, Participating States shall adopt a common tariff nomenclatures which would serve as a more adequate basis for conducting further negotiations at a more disaggregated level, and for the purpose of improving the collection and presentation of trade information;
- h) Through further negotiations, Participating States shall take steps to expand the coverage and value of concessions on products of export interest to one another. To this end, within one year from the date of entry into force of this Agreement, the Standing Committee shall adopt a programme of action to accelerate the process of negotiations, including additional negotiating techniques and the possible establishment of specific targets for the negotiations.

Article 10

In matters of trade, any advantage, benefit, franchise, immunity or privilege applied by a Participating State in respect of a product originating in or intended for consignment to any other Participating State or any other country shall be immediately and unconditionally extended to the like product originating in, or intended for consignment to, the territories of the other Participating States.

Article 11

The provisions of article 10 shall not apply in relation to preferences granted by Participating States;

- a) Through bilateral trade agreements, to other Participating States and to third countries.
- b) Exclusively to other developing countries prior to the entry into force of this Agreement.
- c) To other Participating States which may be classed by the Participating States as at a relatively less advanced stage of economic development, provided that such preferences are accorded without full reciprocity from the relatively less advanced country. Within one year from the date of entry into force of this Agreement, the Standing Committee shall decide which Participating States shall be considered to be in the category of countries at a relatively less advanced stage of economic development;
- d) To any other Participating State(s) and/or other ESCAP developing countries with which the Participating State engages in the formation of an economic integration groupings
- e) To any other Participating State(s) and/or other developing countries with which the Participating State enters into an industrial co-operation agreement or joint venture in other productive sectors, within the purview of article 12.

Notwithstanding the above exceptions, each Participating State shall take the necessary steps to reconcile, to the extent possible, the provisions of agreements entered into with third countries with the provisions of this Agreement.

Article 12

The Participating States agree to consider extending special tariff and non-tariff preferences in favour of products included in industrial co-operation agreements and joint ventures in other productive sectors reached among some or all of them, and/or with the participation of other developing countries that are members of the ESCAP Trade Negotiations Group, which will apply exclusively in favour of the countries participating in the said agreements or ventures. Provisions for such agreements or ventures shall be embodied in protocols, which shall enter into force for the

Participating States concerned after the Standing Committee has declared their compatibility with this Agreement.

Chapter IV

EMERGENCY MEASURES AND CONSULTATIONS

Article 13

If, as a result of the implementation of this Agreement, imports of a particular product included in the National List of Concessions of a Participating State originating in the territory of another Participating State or other Participating States, are increasing in such a manner as to cause, or threaten to cause, serious injury to specific sectors in the importing Participating State, the importing Participating State may suspend, provisionally and without discrimination concessions included in its National List of Concessions in respect of that particular products and shall simultaneously notify the Standing Committee and enter into consultations with the other Participating State(s) concerned, with a view to reaching agreement to remedy the situation, keeping the Standing Committee duly informed of progress in these consultations

If agreement among the Participating States concerned cannot be reached within 90 days, the Standing Committee shall then seek to obtain a mutually acceptable solution through (a) confirmation of the suspension, or (b) modification of the concessions or its replacement by a concession of equivalent value. If the Standing Committee cannot reach a satisfactory solution within 90 days from that date, the Participating State(s) affected by the suspension shall then be free to temporarily suspend the application to the trade of the Participating State which has taken such action of substantially equivalent concessions, subject to notification to and further negotiation for a mutually acceptable solution by the Standing Committee, which shall adopt its final decision by at least a two-thirds majority vote within 90 days following the date of receipt of the latter notification

Article 14

Notwithstanding the provisions of article 7 of this Agreement and without prejudice to existing international obligations, a Participating State which finds it necessary to introduce quantitative or other restrictions on imports for the purpose of safeguarding its balance of payments may do so while endeavouring to safeguard the value of concessions embodied in its National List of Concessions. If, however, such restrictions are applied by a Participating State in respect of products included in its National List of Concessions, such restrictions shall apply provisionally and without discrimination, and notice thereof must immediately be given to the Standing Committee with a view to negotiating a mutually satisfactory solution, in accordance with the procedures set out in articles 15 and 16 of this Agreement. Notwithstanding these consultations procedures, Participating States applying balance-of-payments restrictions with respect to products included in their National Lists of Concessions shall progressively relax such restrictions as their balance-of-payments situation improves and shall eliminate such restrictions when conditions no longer justify their maintenance.

Article 15

If, as a result of the implementation of this Agreement, significant and persistent disadvantages are created in respect of the trade between one Participating State and the others as a whole, those Participating States shall, at the request of the affected Participating State, accord sympathetic consideration to the representation or request of the latter, and the Standing Committee shall afford adequate opportunity for consultations with a view to taking the necessary steps to remedy such disadvantages through the adoption of suitable measures, including additional concessions, designed to further expand multilateral trades

Article 16

If a Participating State should consider that another Participating State is not duly complying with any given provision under this Agreement, and that such non-compliance adversely affects its own trade relations with that Participating State, the former may make formal representation to the latter, which shall give due consideration to the representation made to it. If no satisfactory adjustment is effected between the Participating States concerned within 120 days following the date on which such representation was made, the matter may be referred to the Standing Committee, which may, by majority vote, make to any Participating State such recommendation as it considers appropriate. If the Participating State concerned does not comply with the recommendation of the Standing Committee, the latter may, by majority decisions authorize any Participating State to suspend in relation to the non-complying State, the application of such obligations under this Agreement as the Standing Committee considers appropriate.

Article 17

The Participating States shall accord to any other interested developing country full and prompt opportunity for consultations with respect to any matter or difficulty which may arise as a result of the implementation of this Agreement.

Chapter V **THE STANDING COMMITTEE AND ADMINISTRATION OF THE** **AGREEMENT**

Article 18

A Standing Committee of the Participating States members of the ESCAP Trade Negotiations Group (hereinafter referred to as the "Committee"), consisting of the representatives of the countries participating in this Agreement, is hereby established. The Committee shall meet at least twice a year and shall be responsible for reviewing the application of this Agreement, carrying out consultations, making recommendations and taking decisions as required, and, in general, undertaking whatever measures may

be required to ensure the adequate implementation of the objectives and provisions of this Agreement.

Article 19

The Committee shall, by a two-thirds majority votes adopt such rules of procedure as may be required for the performance of its functions Except as otherwise provided for in this Agreement, decisions by the Committee shall be taken by a majority of votes cast by members present and voting, provided that at least two thirds of the Participating States are present. The Committee shall communicate with third countries and international organizations in matters relating to the interpretation and operation of this Agreement, and may request the technical advice and the co-operation of national and international organizations.

Chapter VI REVIEW AND MODIFICATIONS

Article 20

At each session, the Committee shall review progress made in the implementation of this Agreement, taking into account the objectives set out in article 2. At least once a year, the Committee shall make a critical review of reciprocal trade with a view to making the necessary corrections and improvements in the National Lists of Concessions to ensure that the benefits deriving from the application of this Agreement accrue to all Participating States in a mutually satisfactory manner, consistent with each country contribution to the Programme of Trade Liberalization set out in chapter II. At the end of the third year from the date of entry into force of this Agreement, the Committee shall undertake a major review in order to determine means of advancing the aims of promoting trade expansion and complementary economies among the developing member countries of ESCAP.

Article 21

Except where provision for modification is made elsewhere in this Agreement all articles of this Agreement may be modified through amendments to the Agreement. Amendments to the provisions of chapters II and III and of article 21 shall become effective upon acceptance by all Participating States. All other amendments shall become effective upon acceptance by two thirds of the Participating States.

Article 22

Except for the special circumstances listed under chapter IV, the concessions contained in the National Lists of Concessions shall have a minimum duration of application of three years from the date of their entry into force. If at the end of that period they are modified or withdrawn, the Participating States concerned shall enter into consultations

with a view to re-establishing a general level of concessions which shall be at least as favourable to their mutual trade as that existing prior to the modification or withdrawal.

Article 23

In the case of concessions withdrawn or modified in accordance with provisions set out under chapter IV; the Participating State concerned shall attempt to replace such concessions by other concessions of at least equivalent value.

Article 24

The Committee shall continuously promote negotiations for additions to the National Lists of Concessions and for increasing the number of Participating States and shall sponsor such negotiations at the time of the annual trade reviews provided for under article 20, at the meetings of the ESCAP Trade Negotiations Group, or at any other time it may deem desirable.

Chapter VII ACCESSION AND WITHDRAWAL

Article 25

After its entry into force, this Agreement shall be open for accession by any developing country member of the ESCAP Trade Negotiations Group. Upon notification being received by the Committee, through the Executive Secretary of ESCAP, from any such country regarding its intention to accede to this agreement, the Committee shall take the necessary steps to facilitate accession of the applicant country to this Agreement on terms consistent with the latter's present and future development and trade needs as well as with the principle of mutual benefit. After due negotiations, the applicant country may accede to the Agreement if at least two thirds of the Participating States recommend its accession. If any of the Participating States objects to such accession, however, the provisions of the Agreement shall not apply as between that country and the acceding country.

Article 26

Any Participating State may withdraw from this Agreement, such withdrawal to take effect six months following the day on which written notice Hereof is served to the Participating States through the Executive of ESCAP. The rights and obligations of a Participating State which has withdrawn from this Agreement shall cease to apply as of that date. After that date, the Participating States and the withdrawing country shall jointly decide whether to withdraw in whole or in part the concessions received by the latter from the former and vice versa.

Chapter VIII MISCELLANEOUS AND FINAL PROVISIONS

Article 27

Amendments to annex I in pursuance of the provisions of article 24 shall consist of:

- a) The reduction of duties and non-tariff barriers to imports on products already included in the National Lists of Concessions;
- b) The reduction of duties and non-tariff barriers to imports on products not yet included in the National Lists of Concessions;

The reduction of duties and non-static barriers to imports on products included in the National Lists of Concessions of acceding countries, not original signatories of this Agreement.

Article 28

Upon receipt by the Committee of the respective notification of intention by the Participating State concerned, any amendment to annex I shall enter into force 30 days after the date on which the Committee, by a two-thirds majority vote, has declared the compatibility of such proposed amendment with the objectives of this Agreement. The Governments of the Participating States bind themselves to undertake whatever internal administrative measure may be required to comply with this provision. The National List of Concessions of acceding States shall enter into force 30 days after the dates on which the respective instruments of ratification have been deposited.

Article 29

For the purposes of application of this Agreement, the developing countries which are members of the ESCAP Trade Negotiations Group shall mean those countries included in paragraphs 3 and 4 of the terms of reference of the Economic and Social Commission for Asia and the Pacific, including any future amendments thereto.

Article 30

Nothing in this Agreement shall prevent any Participating State from taking action and adopting measures which it considers necessary for the protection of its national security, the protection of public morality, the protection of human, animal and plant life and health, and the protection of articles of artistic, historical and archaeological value.

Article 31

This Agreement shall not apply as between any Participating States if they have not entered into direct negotiations with each other and if either of them, at the time of its signature, deposit of instrument of ratification or of accession, does not consent to such application.

Article 32

Except for the provisions made under article 31, this Agreement may not be signed with reservations nor shall reservations be admitted at the time of ratification or accession.

Article 33

This Agreement shall enter into force for the first three original signatory States which deposit instruments of ratification, 30 days after the date of deposit of the third instrument of ratification. For every other original signatory State which deposits its instrument of ratification after the deposit of the third instrument of ratification, this Agreement shall come into force 30 days after the date on which that State has deposited its respective instrument of ratification, provided that such instruments of ratification are deposited before 31 January 1976.

Article 34

Any original signatory State which has not deposited its instrument of ratification to this Agreement by 31 January 1976 shall lose the rights associated with the status of original signatory, and therefore shall not be entitled to accede through ratifications unless the Committee, by a two-thirds majority vote, decides otherwise. If less than three countries have deposited their instruments of ratification by 31 January 1976, this time-limit shall be extended to 30 days after the date on which the third instrument of ratification is deposited.

Article 35

Countries which are not original signatories to this Agreement, or which have relinquished such right in accordance with the provisions of articles 33 and 34, but which are eligible to accede to it in accordance with the provisions of chapter VII, shall be entitled to do so after due negotiations with the Participating States, as provided for in chapter VII. This Agreement shall come into force for an eligible acceding State 30 days after the date of deposit of its corresponding instrument of accession.

Article 36

For the purposes of application of this Agreement the original signatory States shall mean those countries on whose behalf their authorized representatives have signed below.

Article 37

The original of this Agreement, of which the English and French texts shall be considered to be equally authentic shall be deposited with the Executive Secretary of the

Economic and Social Commission for Asia and the Pacific or with a competent authority designated by the signatories. The depositary shall transmit duly certified copies of the Agreement to the Governments of all developing countries which are members of the ESCAP Trade Negotiations Group and shall notify signatories and other developing countries which are members of the ESCAP Trade Negotiations Group of (a) ratifications of this Agreement and (b) the date on which this Agreement enters into force.

Article 38

This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Article 39

This Agreement shall also be called the Bangkok Agreement.
