

FREE TRADE AGREEMENT BETWEEN INDIA AND SRI LANKA

FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF INDIA AND THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

PREAMBLE

The Government of the Republic of India and the Government of the Democratic Socialist Republic of Sri Lanka, (hereinafter referred to as the "Contracting Parties"),

Considering that the expansion of their domestic markets, through economic integration, is a vital prerequisite for accelerating their processes of economic development.

Bearing in mind the desire to promote mutually beneficial bilateral trade.

Convinced of the need to establish and promote free trade arrangements for strengthening intra-regional economic cooperation and the development of national economies.

Further recognising that progressive reductions and elimination of obstacles to bilateral trade through a bilateral free trade agreement (hereinafter referred to as "The Agreement") would contribute to the expansion of world trade.

Have agreed as follows:

Article I

Objectives

1. The Contracting Parties shall establish a Free-Trade Area in accordance with the provisions of this Agreement and in conformity with relevant provisions of the General Agreement on Tariffs and Trade, 1994.
2. The objectives of this Agreement are:
 - (i) To promote through the expansion of trade the harmonious development of the economic relations between India and Sri Lanka;
 - (ii) To provide fair conditions of competition for trade between India and Sri Lanka;
 - (iii) In the implementation of this Agreement the Contracting Parties shall pay due regard to the principle of reciprocity;
 - (iv) To contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Article II

Definitions

For the purpose of this agreement:

1. "**Tariffs**" means basic customs duties included in the national schedules of the Contracting Parties.
2. "**Products**" means all products including manufactures and commodities in their raw, semi-processed and processed forms.
3. "**Preferential Treatment**" means any concession or privilege granted under this Agreement by a Contracting Party through the elimination of tariffs on the movement of goods.
4. "**The Committee**" means the Joint Committee referred to in Article XI.
5. "**Serious Injury**" means significant damage to domestic producers, of like or similar products resulting from a substantial increase of preferential imports in situations which cause substantial losses in terms of earnings, production or employment unsustainable in the short term. The examination of the impact on the domestic industry concerned shall also include an evaluation of other relevant economic factors and indices having a bearing on the state of the domestic industry of that product.
6. "**Threat of serious injury**" means a situation in which a substantial increase of preferential imports is of a nature so as to cause "Serious injury" to domestic producers, and that such injury, although not yet existing is clearly imminent. A determination of threat of serious injury shall be based on facts and not on mere allegation, conjecture, or remote or hypothetical possibility.
7. "**Critical circumstances**" means the emergence of an exceptional situation where massive preferential imports are causing or threatening to cause "serious injury" difficult to repair and which calls for immediate action.

Article III

Elimination of Tariffs

The Contracting Parties hereby agree to establish a Free-Trade Area for the purpose of free movement of goods between their countries through elimination of tariffs on the movement of goods in accordance with the provisions of Annexures A & B which shall form an integral of this Agreement.

Article IV

General Exceptions

Nothing in this Agreement shall prevent any Contracting Party from taking action and adopting measures, which it considers necessary for the protection of its national security, the protection of public morals, the protection of human, animal or plant life and health, and the protection of articles of artistic, historic and archaeological value, as is provided for in Articles XX and XXI of the General Agreement on Tariff and Trade, 1994.

Article V

National Treatment

The Contracting Parties affirm their commitment to the principles enshrined in Article III of GATT 1994.

Article VI

State Trading Enterprises

1. Nothing in this Agreement shall be construed to prevent a Contracting Party from maintaining or establishing a state trading enterprise as understood in Article XVII of General Agreement on Tariff and Trade, 1994.
2. Each Contracting Party shall ensure that any state enterprise that it maintains or establishes acts in a manner that is not inconsistent with the obligations of the Contracting Parties, under this Agreement and accords non-discriminatory treatment in the import from and export to the other Contracting Party.

Article VII

Rules of Origin

1. Products covered by the provisions of this Agreement shall be eligible for preferential treatment provided they satisfy the Rules of Origin as set out in Annexure C to this Agreement which shall form an integral part of this Agreement.
2. For the development of specific sectors of the industry of either Contracting Party, lower value addition norms for the products manufactured or produced by those sectors may be considered through mutual negotiations.

Article VIII

Safeguard Measures

1. If any product, which is the subject of preferential treatment under this Agreement, is imported into the territory of a Contracting Party in such a manner or in such quantities as to cause or threaten to cause, serious injury in the importing Contracting Party, the importing Contracting Party may, with prior consultations except in critical circumstances, suspend provisionally without discriminations the preferential treatment accorded under the Agreement.
2. When action has been taken by either Contracting Party in terms of paragraph 1 of this Article, it shall simultaneously notify the other Contracting Party and the Joint Committee established in terms of Article XI. The Committee shall enter into consultations with the concerned Contracting Party and endeavour to reach mutually acceptable agreement to remedy the situation. Should the consultations in the Committee fail to resolve within sixty days, the party affected by such action shall have the right to withdraw the preferential treatment.

Article IX

Domestic Legislation

The Contracting Parties shall be free to apply their domestic legislation to restrict imports, in cases where prices are influenced by unfair trade practices like subsidies or dumping. Subsidies and

dumping shall be understood to have the same meaning as in the General Agreement on Tariff and Trade, 1994 and the relevant WTO Agreements.

Article X

Balance-of-Payment Measures

1. Notwithstanding the provisions of this Agreement, any Contracting Party facing balance-of-payments difficulties may suspend provisionally the preferential treatment as to the quantity and value of merchandise permitted to be imported under the Agreement. When such action has taken place, the Contracting Party, which initiates such action shall simultaneously notify the other Contracting Party.
2. Any Contracting Party, which takes action according to paragraph 1 of this Article, shall afford, upon request from the other Contracting Party, adequate opportunities for consultations with a view to preserving the stability of the preferential treatment provided under this Agreement.

Article XI

Joint Committee

1. A Joint Committee shall be established at Ministerial level. The Committee shall meet at least once a year to review the progress made in the implementation of this Agreement and to ensure that benefits of trade expansion emanating from this Agreement accrue to both Contracting Parties equitably. The Committee may set up Sub-Committees and/or Working Groups as considered necessary.
2. In order to facilitate cooperation in customs matters, the Contracting Parties agree to establish a Working Group on Customs related issues including harmonisation of tariff headings. The Working Group shall **meet as** often as required and shall report to the Committee on its deliberations.
3. The Committee shall accord adequate opportunities for consultation on representations made by any Contracting Party with respect to any matter affecting the **implementation** of the Agreement. The Committee shall adopt appropriate measures for settling any matter arising from such representations within six months of the representation being made. Each Contracting Party shall implement such measures immediately.
4. The Committee shall nominate one apex chamber of trade and industry in each country as the nodal chamber to represent the views of the trade and industry on matters relating to this Agreement.

Article XII

Consultations

1. Each Contracting Party shall accord sympathetic consideration to and shall afford adequate opportunity for, consultations regarding such representations as may be made by the other Contracting Party with respect to any matter affecting the operation of this Agreement.
2. The Committee may meet at the request of a Contracting Party to consider any matter for which it has not been possible to find a satisfactory solution through consultations under paragraph 1 above.

Article XIII

Settlement of Disputes

1. Any dispute that may arise between commercial entities of the Contracting Parties shall be referred for amicable settlement to the nodal apex chambers. Such references shall, as far as possible, be settled through mutual consultations by the Chambers. In the event of an **amicable** solution not being found, the matter shall be referred to an **Arbitral** Tribunal for a binding decision. The Tribunal shall be constituted by the Joint Committee in consultation with the relevant Arbitration Bodies in the two countries.

2. Any dispute between the Contracting Parties regarding the interpretation and application of the provisions of this Agreement or any instrument adopted within its framework shall be amicably settled through negotiations failing which a **notification** may be made to the Committee by any one of the **Contracting** Parties.

Article XIV

Duration and Termination of Agreement

This Agreement shall remain in force until either Contracting Party terminates this Agreement by giving six months written notice to the other of its intention to terminate the Agreement.

Article XV

Amendments

The Agreement may be modified or amended through mutual agreement of the Contracting Parties. Proposals for such modifications or amendments shall be submitted to the Joint Committee and upon acceptance by the Joint Committee, shall be approved in accordance with the applicable legal procedures of each Contracting Party. Such modifications or amendments shall become **effective** when confirmed through an exchange of diplomatic notes and shall constitute an integral part of the Agreement.

Provided however that in emergency situations, proposals for modifications may be considered by the Contracting Parties and if agreed, given effect to through an exchange of diplomatic notes.

Article XVI

Annexures to be finalised

Annexures D(i) and D(ii) (Negative Lists of India and Sri Lanka respectively), E (Items on which India has undertaken to give **100 per cent** tariff concession on coming into force of the Agreement) and F (items on which Sri Lanka has undertaken to give 100 per cent tariff concession on the coming into force of the Agreement) shall be finalised within a period of 60 days of the signing of this Agreement. All the Annexures shall form an integral part of the Agreement.

Article XVII

Entry into Force

The Agreement shall enter Into force on the thirtieth day after the Contracting Parties hereto have notified each other that their respective constitutional requirements and procedures have been completed.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have **signed this** Agreement.

Done in duplicate at New Delhi this 28th day of December 1998 in two originals in the English language.

For the Government of the
Republic of India

For the Government of the Democratic
Socialist Republic of Sri Lanka
