

Pakistan-Sri Lanka Free Trade Agreement (PSFTA)

Overview

As the 2nd bilateral FTA of Sri Lanka, the framework agreement of PSFTA was signed on the 01st August 2002 and the PSFTA came into operation from 12th June 2005. In accordance with the respective commitments under the PSFTA, Pakistan has implemented its final phasing out in March 2009, whereas Sri Lanka has completed its phasing out commitments in November 2010.

PSFTA- at a glance

Product Coverage by Pakistan

Product Coverage	Description	Applicable Customs Duty
(i). No Concession List	541 Tariff Lines at 6-digits level	General duty rates
(ii). 100% Immediate Duty Reduction w.e.f 12.06.2005	206 Tariff lines at 6-digit level	Zero
(iii). Phasing out (other than i and ii above)	Upon entering into force reduce basic customs duties not less than by 34% (12.06.2005)	
	At the end of the second year, increase customs duty reduction to 67%	
	At the end of third year increase customs duty reduction to 100%	
(iv). Tariff Rate Quota at Zero Duty		
Tea	10,000 MTs per year at zero duty (01 July to 30 June)	Zero
(v). Tariff Rate Quota with a Margin of Preference (MOP)		
Apparel-21 Tariff Lines	3 million pieces of garments with a maximum quantity of 200,000 pieces per tariff line (01 July to 30 June)	35% -MOP
Betel Leaves	Originally 1200 MTs/year with a MOP of 35% At present this quota (1200 MTs) is not administered strictly	72% -MOP
(vi). Tariff Lines with a Margin of Preference (MOP)		

HS 6907.20	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics: Flags and paving, hearth or wall tiles, other than those of subheadings 690730 and 690740: Of a water absorption coefficient by weight not exceeding 0.5 %	20% MOP
HS 6907.22	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics: Flags and paving, hearth or wall tiles, other than those of subheadings 690730 and 690740: Of a water absorption coefficient by weight exceeding 0,5 % but not exceeding 10 %	20% MOP
HS 6907.23	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics: Flags and paving, hearth or wall tiles, other than those of subheadings 690730 and 690740: Of a water absorption coefficient by weight exceeding 10 %	20% MOP
HS 690730	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics: Mosaic cubes and the like, other than those of subheading 690740	20% MOP
HS 691110	Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Tableware and kitchenware	20% MOP
HS 691190	Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Other	20% MOP
HS 6914.10	Other ceramic articles: Of porcelain or china	20% MOP

Product Coverage by Sri Lanka

Product Coverage	Descriptions	Current Applicable Customs Duty
(i). No Concession List	697 Tariff Lines at 6- digits level	General duty rates
(ii).100% Immediate Duty Reduction w.e.f.12.06.2005	102 Tariff Lines at 6- digits level	Zero
(iii).Phasing Out List of Sri Lanka(other than i and ii above)	Upon entering into force ,reduce basic customs duties by not less than 20% (12.06.2005)	-
	At the end of first year increase customs duty reduction to 30%	-
	At the end of the second year increase customs duty reduction to 40%	-
	At the end of the third year increase customs duty reduction to 60%	-

	At the end of the fourth year increase customs duty reduction to 80%	
	At the end of the fifth year increase	
	customs duty reduction to 100%	
(iv).Tariff Lines with Tariff Rate Quota at zero duty		
Long grain rice(Basmati)	6,000 MTs per year	Zero
Potatoes In the recent years, no imports of potatoes were made under the quota	1,000 MTs per year 2/3 rd during June – July and 1/3 rd during October – November	Zero

Rules of Origin (ROO) Criteria under the PSFTA

There are key ROO criteria as "wholly obtained or produced" vs the products which are "not wholly produced". Requirements of ROOs under "not wholly produced" are as follows:

1. Minimum Domestic Value Addition (DVA): 35% of FOB and when it is applicable to Cumulative Rules of Origin there should be a minimum DVA of 25%, subject to the Aggregate Value Addition of 35%
2. Change of Tariff Sub-Heading (CTSH) or at HS 6-digit level
3. And there should be a sufficient working or processing or should not be an in sufficient working.

For the products that are eligible for tariff concession from Pakistan under PSFTA, you may check the List of Concession attached.

Pl. visit the following website of Sri Lanka for the PSFTA duty concessions and other tariff information of Sri Lanka: <http://www.customs.gov.lk/classification/tariff>

Framework Agreement

Introduction

The Government of the Islamic Republic of Pakistan and the Government of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to individually as a "Contracting Party" and collectively as the "Contracting Parties"). Considering that the expansion of their domestic markets, through commercial cooperation, is an important prerequisite for accelerating their processes of economic development. Bearing in mind the desire to promote mutually beneficial bilateral trade in goods and services. Convinced of the need to establish and promote free trade arrangements for strengthening

intra-regional economic co-operation and the development of national economies. Recognizing that progressive reductions and elimination of obstacles to bilateral trade through a bilateral free trade agreement (hereinafter referred to as "The Agreement") will contribute to the expansion of bilateral as well as world trade, have agreed as follows.

Article I

Objectives

The contracting parties shall establish a Free Trade Area in accordance with the provisions of this Agreement and in conformity with the relevant provisions of the General Agreement on Tariffs and Trade, 1994.

The objectives of this Agreement are:

- To promote through the expansion of trade in goods and services the harmonious development of the economic relations between Pakistan and Sri Lanka .
- To provide fair conditions of competition for trade in goods and services between Pakistan and Sri Lanka .
- To contribute in this way, by the removal of barriers to trade in goods and services, to the harmonious development and expansion of bilateral as well as world trade.

Article II

Definitions

For the purpose of this Agreement:

- "**Tariffs**" mean basic customs duties included in the national schedules of the Contracting Parties.
- "**Para - tariffs**" mean border charges and fees, other than "tariffs", on foreign trade transactions of a tariff-like effect which are levied solely on imports, but not those indirect taxes and charges, which are levied in the same manner on like domestic products. Import charges corresponding to specific services rendered are not considered as para-tariff measures.
- "**Non - tariff barriers**" mean any measures, regulation, or practice, other than "tariffs" and "para-tariffs", the effect of which is to restrict imports, or to significantly distort trade within the Contracting Parties.
- "**Products**" mean all products including manufactures and commodities in their raw, semi-processed and processed forms.
- "**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 and services.

- **"The Committee"** means the Joint Committee referred to in Article XI.
- **"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.
- **"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 products, 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.
- **"Critical circumstances"** mean 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,

Para-Tariffs and Non-Tariffs

Barriers

- The Contracting Parties hereby agree to establish a Free Trade Area for the purpose of free movement of goods and services between their countries through elimination of tariffs on the movement of goods and services in accordance with the provisions of Annexes A & B which shall form an integral part of this Agreement.
- The Contracting Parties further agree to eliminate from the date this Agreement enters into force, all non-tariff barriers, and any other equivalent measures on the movement of goods and services, other than those imposed in accordance with Article IV of this Agreement.
- The Contracting Parties also agree not to make any increase in the existing para-tariffs, if any, or introduce new or additional para-tariffs without mutual consent.
- In the implementation of this Agreement the Contracting Parties shall pay due regard to the principle of reciprocity.

Article IV

General Exceptions

Nothing in this Agreement shall prevent a 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 Article XX and XXI of the General Agreement on Tariffs and Trade, 1994 and WTO Agreement on Application of Sanitary and Phytosanitary Measures.

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

- 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 the General Agreement on Tariffs and Trade, 1994.
- 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 that Contracting Party under this Agreement and accords non-discriminatory treatment in the import from and export to the other Contracting Party.

Article VII

Rules of Origin

- 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 Annex C to this Agreement which shall form an integral part of this Agreement.
- 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

- If any product which is subject to 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 territory of that Contracting Party, such Contracting Party may, with prior consultations with the other Contracting Party, except in critical circumstances, suspend provisionally without discrimination, the preferential treatment accorded to that product under the Agreement.
- 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 Contracting Parties

and endeavour to reach a mutually acceptable agreement to remedy the situation. If such consultations fail to resolve the issue within sixty days, the Contracting Party affected by such action shall have the right to withdraw the equivalent preferential treatment in accordance with the WTO Agreement on Safeguards.

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 Tariffs and Trade 1994 and the relevant WTO Agreements.

Article X

Balance of Payment Measures

- Notwithstanding the provisions of this Agreement, any Contracting Party, facing balance of payment 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.
- A 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

- A Joint Committee shall be established at Ministerial level. The Committee shall meet initially within six months of the entry into force of the Agreement and thereafter 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 the Contracting Parties equitably. The meetings of the Joint Committee will take place, to the extent possible, to coincide with the meetings of the Sri Lanka - Pakistan Joint Economic Commission.
- The Committee may also set up any other Sub-Committee and/or Working Group for specific purposes as it may consider necessary.
- 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 Joint Committee on its deliberations.

- The Committee shall accord adequate opportunities for consultation on representations made by either 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 having been made. Each Contracting Party shall implement such measures immediately.
- 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

- 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.
- The Committee set up under Article XI may meet at the request of either 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

- Any dispute that may arise between commercial entities of the Contracting Parties shall be referred for amicable settlement to the Nodal Chambers. Such references shall as far as possible, be settled through mutual consultation by the Chambers. In the event of an amicable solution not being found, the matter shall be referred to an Arbitration Tribunal for a binding decision. The tribunal shall be constituted by the Joint Committee.
- 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 for settlement of the dispute.

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 Contracting Party, through diplomatic channels, 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 or 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

Annexes to be Finalised

Annex A (Attachment I, II, III and IV) containing the No Concession list and tariff preferences to be granted by the Government of Pakistan and Annex B (Attachments I, II and III) containing the No Concession list and tariff preferences to be granted by the Government of Sri Lanka and Annex C containing the Rules of Origin under the Agreement shall be finalised within a period of 90 days of the signing of this Agreement.

All the Annexes shall become effective and shall constitute an integral part of the Agreement when the two Contracting Parties have confirmed through the exchange of diplomatic notes.

Article XVII

Entry into Force

The Agreement shall enter into force on the 30th day after the Contracting Parties hereto have notified each other through diplomatic channels that their respective constitutional requirements and procedures have been completed in respect of this Agreement including the Annexes under Article XVI. In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement. Done in duplicate at Colombo this 1st day of August, 2002 in two originals in the English language.

Rules of Origin

In order to receive PSFTA benefits, the merchandise exported between Pakistan and Sri Lanka should comply with the following Rules of Origin criteria.

Wholly Obtained Products

All wholly obtained products such as tea, fish, spices etc. will be able to enjoy duty free benefits at each other's markets without difficulty, provided they are eligible for duty concessions.

Products not Wholly Produced or Obtained

These include the products manufactured using imported raw materials. In order to enjoy PSFTA benefits, the products should comply with the following criteria.

- The Domestic Value Addition (DVA) in the exporting country should not be less than 35% of the FOB value of the finished product and
- HS Codes of the imported raw materials and the finished products should be different at 6-digit level. (Change of Tariff Heading criteria)

Cumulative Rules of Origin

The Cumulative Rules of Origin encourage the contracting states (Pakistan and Sri Lanka) to source raw materials needed for their exports from each other. Accordingly, an exporter has to show only a minimum DVA of 25% of the FOB value of the finished product, provided the raw materials imported from the other contracting state accounts for not less than 10% of the FOB value of the particular product. (In other words, the aggregate value addition should not be less than 35% of the FOB value of the finished product, while the DVA in the exporting country should be minimum 25% of the FOB value)