

SAARC Preferential Trading Arrangement (SAPTA)

Overview

The SAARC Preferential Trading Arrangement (SAPTA) reflected the desire of the Member States to promote and sustain mutual trade and economic cooperation within the SAARC region through the exchange of tariff concessions.

The idea of liberalizing trade among SAARC countries was first mooted by Sri Lanka at the sixth Summit of the South Asian Association for Regional Co-operation (SAARC) held in Colombo in December 1991.

Four rounds of negotiations were held under SAPTA. SAPTA was envisaged primarily as the first step towards the transition to a South Asian Free Trade Area (SAFTA) leading subsequently towards a Customs Union. Accordingly SAPTA was superseded with the implementation of SAFTA. Product coverage was limited under SAPTA and usage of tariff preferences under the SAPTA has been gradually decreasing.

SAPTA - at a glance

Date of signing of the agreement	Date of coming into effect	Members	Negotiation approach	Products coverage
11 th April 1993	07 th December 1995	Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka	Positive List	Over 6,500

SAPTA Rules of Origin Criteria (RoO) under SAPTA applicable to Sri Lanka - at a glance

Wholly obtained products	Not Wholly obtained products	
	General Rule	Cumulative Rule
√	40% < DVA	50% < RAC

DVA = Domestic Value Addition
RAC = Regional Aggregate Content

Framework Agreement

Article I

Definitions

For the purpose of this Agreement:

- "Least Developed Country" means a country designated as such by the United Nations.
- "Contracting State" means any Member State of the South Asian Association for Regional Cooperation (SAARC) which has entered into this Agreement.
- "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 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.
- "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.
- "Sectoral basis" means agreements amongst Contracting States regarding the removal or reduction of tariff, non-tariff and para-tariff barriers as well as other trade promotion or cooperative measures for specified products or groups of products closely related in end-use or in production.
- "Direct trade measures" means measures conducive to promoting mutual trade of Contracting States such as long and medium-term contracts containing import and supply commitments in respect of specific products, buy-back arrangements, state trading operations, and government and public procurement.
- "Tariffs" means customs duties included in the national tariff schedules of the Contracting States.
- "Para-tariffs" means 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-tariffs" means any measure, regulation, or practice, other than "tariffs" and "para-tariffs", the effect of which is to restrict imports, or to significantly distort trade.

- Products" means all products including manufactures and commodities in their raw, semi-processed and processed forms.

Article II

Establishment and Aims

- By the present Agreement, the Contracting States establish the SAARC Preferential Trading Arrangement (SAPTA) to promote and sustain mutual trade and the economic cooperation among the Contracting States, through exchanging concessions in accordance with this Agreement.
- SAPTA will be governed by the provisions of this Agreement and also by the rules, regulations, decisions, understandings and protocols to be agreed upon within its framework by the Contracting States.

Article III

Principles

SAPTA shall be governed in accordance with the following principles:

- SAPTA shall be based and applied on the principles of overall reciprocity and mutuality of advantages in such a way as to benefit equitably all Contracting States, taking into account their respective levels of economic and industrial development, the pattern of their external trade, trade and tariff policies and systems;
- SAPTA shall be negotiated step by step, improved and extended in successive stages with periodic reviews;
- The special needs of the Least Developed Contracting States shall be clearly recognised and concrete preferential measures in their favour should be agreed upon;
- SAPTA shall include all products, manufactures and commodities in their raw, semi-processed and processed forms.

Article IV

Components

SAPTA may, inter-alia, consist of arrangements relating to:

- tariffs;
- para-tariffs;
- non-tariff measures;
- direct trade measures.

Article V

Negotiations

- The Contracting States may conduct their negotiations for trade liberalisation in accordance with any or a combination of the following approaches and procedures:
 - Product by product basis;
 - Across-the-board tariff reductions;
 - Sectoral basis;
 - Direct trade measures.
- Contracting States agreed to negotiate tariff preferences initially on a product-by-product basis.
- The Contracting States shall enter into negotiations from time to time with a view to further expanding SAPTA and the fuller attainment of its aims.

Article VI

Additional Measures

- Contracting States agree to consider, in addition to the measures set out in Article 4, the adoption of trade facilitation and other measures to support and complement SAPTA to mutual benefit.
- Special consideration shall be given by Contracting States to requests from Least Developed Contracting States for technical assistance and cooperation arrangements designed to assist them in expanding their trade with other Contracting States and in taking advantage of the potential benefits of SAPTA. The possible areas for such technical assistance and cooperation are listed in Annex I.

Article VII

Schedules of Concessions

The tariff, para-tariff and non-tariff concessions negotiated and exchanged amongst Contracting States shall be incorporated in the National Schedules of Concessions. The initial concessions agreed to by the Contracting States are attached as Annex II.

Article VIII

Extension of Negotiated Concessions

The concessions agreed to under SAPTA, except those made exclusively to the Least Developed Contracting States in pursuance of Article 10 of this Agreement, shall be extended unconditionally to all Contracting States.

Article IX

Committee of Participants

A Committee of Participants hereinafter referred to as the Committee, consisting of representatives of Contracting States, is hereby established. 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 all Contracting States equitably. The Committee shall also accord adequate opportunities for consultation on representations made by any Contracting State with respect to any matter affecting the implementation of the Agreement. The Committee shall adopt appropriate measures for settling such representations. The Committee shall determine its own rules of procedures.

Article X

Special Treatment for the Least Developed Contracting States

- In addition to other provisions of this Agreement, all Contracting States shall provide, wherever possible, special and more favourable treatment exclusively to the Least Developed Contracting States as set out in the following sub-paragraphs:
 - Duty-free access, exclusive tariff preferences or deeper tariff preferences for the export products,
 - The removal of nontariff barriers,
 - The removal, where appropriate, of paratariff barriers,
 - The negotiations of longterm contracts with a view to assisting Least Developed Contracting States to achieve reasonable levels of sustainable exports of their products,
 - Special consideration of exports from Least Developed Contracting States in the application of safeguard measures,
 - Greater flexibility in the introduction and continuance of quantitative or other restrictions provisionally and without discrimination in critical circumstances by the Least Developed Contracting States on imports from other Contracting States.

Article XI

Non-application

Notwithstanding the measures as set out in Articles 4 and 6, the provisions of this Agreement shall not apply in relation to preferences already granted or to be granted by any Contracting State to other Contracting States outside the framework of this Agreement, and to third countries through bilateral, plurilateral and multilateral trade agreements, and similar arrangements. The Contracting States shall

also not be obliged to grant preferences in SAPTA which impair the concession extended under those agreements.

Article XII

Communication, Transport and Transit

Contracting States agree to undertake appropriate steps and measures for developing and improving communication system, transport infrastructure and transit facilities for accelerating the growth of trade within the region.

Article XIII

Balance of Payments Measures

- Notwithstanding the provisions of this Agreement, any Contracting State facing serious economic problems including balance of payments difficulties may suspend provisionally the concessions as to the quantity and value of merchandise permitted to be imported under the Agreement. When such action has taken place, the Contracting State which initiates such action, shall simultaneously notify the other Contracting States and the Committee.
- Any Contracting State which takes action according to paragraph 1 of this Article shall afford, upon request from any other Contracting State, adequate opportunities for consultations with a view to preserving the stability of the concessions negotiated under the SAPTA. If no satisfactory adjustment is effected between the Contracting States concerned within 90 days of such notification, the matter may be referred to the Committee for review.

Article XIV

Safeguard Measures

If any product, which is a subject of a concession with respect to a preference under this Agreement, is imported into the territory of a Contracting State in such a manner or in such quantities as to cause or threaten to cause, serious injury in the importing Contracting State, the importing Contracting State concerned may, with prior consultations, except in critical circumstances, suspend provisionally without discrimination, the concession accorded under the Agreement. When such action has taken place the Contracting State which initiates such action shall simultaneously notify the other Contracting State(s) concerned and the Committee shall enter into consultations with the concerned Contracting State and endeavour to reach mutually acceptable agreement to remedy the situation. In the event of the failure of the Contracting States to resolve the issue within 90 days of the receipt of original notification, the Committee of Participants shall meet within 30 days to review the situation and try to settle the issue amicably. Should the consultations in the Committee of Participants fail to resolve the issue within 60 days, the parties affected by such action shall have the right to withdraw equivalent concession(s) or other obligation(s) which the Committee does not disapprove of.

Article XV

Maintenance of the Value of Concessions

Any of the concessions agreed upon under this Agreement shall not be diminished or nullified, by the application of any measures restricting trade by the Contracting States except under the provisions as spelt out in other Articles of this Agreement.

Article XVI

Rules of Origin

Products contained in the National Schedules of Concessions annexed to this Agreement shall be eligible for preferential treatment if they satisfy the rules of origin, including special rules of origin, in respect of the Least Developed Contracting States, which are set out in Annex III.

Article XVII

Modification and Withdrawal of Concessions

- Any Contracting State may, after a period of three years from the day the concession was extended, notify the Committee of its intention to modify or withdraw any concession included in its appropriate schedule.
- The Contracting State intending to withdraw or modify a concession shall enter into consultation and/or negotiations, with a view to reaching agreement on any necessary and appropriate compensation, with Contracting States with which such concession was initially negotiated and with any other Contracting States that have a principal or substantial supplying interest as may be determined by the Committee.
- Should no agreement be reached between the Contracting States concerned within six months of the receipt of notification and should the notifying Contracting State proceed with its modification or withdrawal of such concessions, the affected Contracting States as determined by the Committee may withdraw or modify equivalent concessions in their appropriate schedules. Any such modification or withdrawal shall be notified to the Committee.

Article XVIII

Withholding or Withdrawal of Concessions

A Contracting State shall at any time be free to withhold or to withdraw in whole or in part any item in its schedule of concessions in respect of which it determines that it was initially negotiated with a State which has ceased to be a Contracting State in this Agreement. A Contracting State taking such action shall notify the Committee, and upon request, consult with Contracting States that have a substantial interest in the product concerned.

Article XIX

Consultations

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

Article XX

Settlement of Disputes

Any dispute that may arise among the Contracting States regarding the interpretation and application of the provisions of this Agreement or any instrument adopted within its framework shall be amicably settled by agreement between the parties concerned. In the event of failure to settle a dispute, it may be referred to the Committee by a party to the dispute. The Committee shall review the matter and make a recommendation thereon within 120 days from the date on which the dispute was submitted to it. The Committee shall adopt appropriate rules for this purpose.

Article XXI

Withdrawal from SAPTA

- Any Contracting State may withdraw from this Agreement at any time after its entry into force. Such withdrawal shall be effective six months from the day on which written notice thereof is received by the SAARC Secretariat, the depositary of this Agreement. That Contracting State shall simultaneously inform the Committee of the action it has taken.
- The rights and obligations of a Contracting State which has withdrawn from this Agreement shall cease to apply as of that effective date.
- Following the withdrawal by any Contracting State, the Committee shall meet within 30 days to consider action subsequent to withdrawal.

Article XXII

Entry into Force

This Agreement shall enter into force on the thirtieth day after the notification issued by the SAARC Secretariat regarding completion of the formalities by all Contracting States.

Article XXIII

Reservations

This Agreement may not be signed with reservations nor shall reservations be admitted at the time of notification to the SAARC Secretariat of the completion of formalities.

Article XXIV

Amendments

This Agreement may be modified through amendments to this Agreement. All amendments shall become effective upon acceptance by all Contracting States.

Article XXV

Depositary

This Agreement shall be deposited with the Secretary General of SAARC who shall promptly furnish a certified copy thereof to each Contracting State.

Annex I

Additional Measures in Favour of Least Developed Contracting States

- The identification, preparation and establishment of industrial and agricultural projects in the territories of Least Developed Contracting States which could provide the production base for the expansion of exports of Least Developed Contracting States to other Contracting States, possibly linked to cooperative financing and buyback arrangements;
- the setting up of manufacturing and other facilities in Least Developed Contracting States to meet intra-regional demand under cooperative arrangements;
- the formulation of export promotion policies and the establishment of training facilities in the field of trade to assist Least Developed Contracting States in expanding their exports and in maximising their benefits from SAPTA;
- the provision of support to export marketing of products of Least Developed Contracting States by enabling these countries to share existing facilities (for example, with respect to export credit insurance, access to market information) and by institutional and other positive measures to facilitate imports from Least Developed Contracting States into their own markets;
- bringing together of enterprises in other Contracting States with project sponsors in the Least Developed Contracting States (both public and private) with a view to promoting joint ventures in projects designed to lead to the expansion of trade;
- the provision of special facilities and rates in respect to shipping.