

95

**PREFERENTIAL TRADE AGREEMENT
BETWEEN
THE TRANSITIONAL ISLAMIC STATE OF AFGHANISTAN
AND
THE REPUBLIC OF INDIA**

PREAMBLE

The Transitional Islamic State of Afghanistan and The Government of the Republic of India, (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 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 preferential trading arrangement (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 Preferential Trading Arrangement in accordance with the provisions of this Agreement.
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 Afghanistan.



- (ii) To provide fair conditions of competition for trade between India and Afghanistan.
- (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 progressive reduction and/or 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 Preferential Trading Arrangement for the purpose of free movement of goods between their countries through reduction of tariffs on the movement of goods in accordance with the provisions of Annexures A & B which shall form an integral part 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, those relating to importation or exportation of gold and silver, the conservation of exhaustible natural resources and the protection of national treasures of artistic, historic and archaeological value.

Article V **National Treatment**

Both Contracting Parties agree to accord to each others products imported into their territory, treatment no less favourable than that accorded to like domestic products in respect of internal taxation and in respect of all other domestic laws and regulations affecting their sale, purchase, transportation, distribution or use.

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.

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.

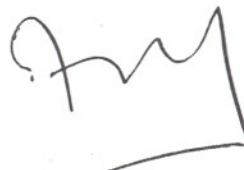
2. For the development of specific sectors of the industry of either Contracting Party, lower value addition norms for the products manufactured or produced by those sectors may be considered through mutual negotiations.

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 discrimination 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 endeavor to reach mutually acceptable agreement to remedy the situation. Should the consultations in the Committee fail to resolve the issue within sixty days, the party affected by such action shall have the right to withdraw the preferential treatment.



Article IX
Domestic Legislation

1. The Contracting Parties shall be free to apply their domestic legislation to restrict imports, in cases where prices are influenced by unfair trade practices including subsidies or dumping.
2. The contracting parties undertake to notify at the earliest opportunity, through the competent bodies, of the opening of investigations and preliminary and final conclusions regarding such unfair trade practices that affect reciprocal trade.

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 6 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

1. 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.
2. 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)

The list of items covered under preferential tariff by the Government of Afghanistan is at Annexure - A and the list of items covered under preferential tariff by the Government of India is at Annexure-B which are integral parts of this Agreement.

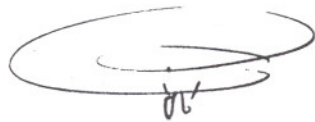
Article XVII

Entry into Force

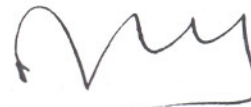
1. The Agreement shall enter into force on the thirtieth day after the Contracting Parties hereto have notified each other that their respective constitutional requirements and procedures have been completed.

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

3. Signed at New Delhi on the 6 day of March 2003 in two originals each in Hindi, Dari and English languages, all of them being equally authentic. In case of any divergence in interpretation, the English Text shall prevail.



(SAYED MUSTAFA KAZEMI)
MINISTER OF COMMERCE
TRANSITIONAL ISLAMIC
STATE OF AFGHANISTAN



(ARUN JAITLEY)
MINISTER OF COMMERCE
AND INDUSTRY
GOVERNMENT OF THE
REPUBLIC OF INDIA

ANNEXURE - A

**THE LIST OF ITEMS WHERE PREFERENTIAL TARIFF IS GRANTED
BY THE GOVERNMENT OF AFGHANISTAN**

S.NO.	HS CODE	PRODUCT DESCRIPTION	MFN DUTY %	MOP % *
1	090230	Black Tea (fermented)	Temporary Exempted	100
2	090240	Other Black Tea	Temporary Exempted	100
3	300210	Antisera & Other BLD Frctn; Mdfd Immunlgcl products	7	100
4	300390	Other Ayurvedic, Homeopathic Medicine	7	100
5	300490	Other Medicine for retail sale	7	100
6	170199	Sugar refined	Temporary Exempted	100
7	252310	Cement Clinkers	25	100
8	252321	White Cement	25	100

(* Margin of Preference)



ANNEXURE - B

THE LIST OF ITEMS WHERE PREFERENTIAL TARIFF IS GRANTED
BY THE GOVERNMENT OF INDIA

S.No.	H.S. Code	Product Description	MFN Duty %	M O P*
1	080620	Green Raisins	105	50%
2	080620	Green Large	105	50%
3	080620	Black Raisins	105	50%
4	080620	Red Raisins	105	50%
5	081310	Dried Apricots Nuts	30	50%
6	081310	Dried Apricots	30	50%
7	080420	Fig Dried	30	100%
8	080250	Pistachios closed Shell	30	100%
9	080250	Pistachios Open Shell	30	100%
10	080250	Pistachios Shelled (Kernall)	30	100%
11	080231	Walnuts Unshelled	30	50%
12	080232	Walnuts shelled	30	50%
13	081340	Plums Dried	30	50%
14	080212	Almond Thin Shelled	Rs. 65/Kg.	50%
15	080212	Almond Hard Shelled	Rs. 65/Kg.	50%
16	080212	Almond Shelled	Rs. 65/Kg.	50%
17	081340	Mulberries Dried	30	100%

Amu

18	081340	Pine Nuts Toasted	30	100%
19	080620	Raisins Golden	105	50%
20	081310	Apricots Nuts, Bitter Unshelled	30	50%
21	081310	Apricots Nuts, Bitter Shelled	30	50%
22	080620	Green Raisins except Large	105	50%
23	081340	Cherries Sour Dried	30	50%
24	080610	Grapes fresh, All types	40	50%
25	080719	Melon fresh	30	100%
26	080810	Apples fresh	50	50%
27	080910	Apricots fresh	30	50%
28	081090	Pomegranates	30	50%
29	090910	Anise Seeds	30	50%
30	090940	Caraway Seeds, White, Black Kajak	30	50%
31	120400	Linseeds	30	50%
32	120740	Sesame Seeds etc.	30	50%
33	121110	Liquorice Roots plants for Pharmacy etc.	30	50%
34	121410	Alfalfa Seeds	30	50%
35	130190	Asafeotida	30	100%
36	710310	Lapis Lazuli, Ruby, Emerald etc.(Unworked)	30	100%
37	710391	Emeralds (Otherwise worked)	30	100%
38	710399	Lapis Lazuli, Ruby (Otherwise worked)	30	100%

(* Margin of Preference)

ضمیمه الف:

لست اقلام هندی که شامل تعرفه های ترجیحی گردیده است
List of Indian products received 100 percent concession
on import in to Afghanistan

شماره	Hs code	تعریف تولیدات	MFN Duty	MOP %
1	090230	چای سیاه بسته های سه کیلوگرامی	موقتاً معاف است	100
2	090240	اقسام چای سیاه	موقتاً معاف است	100
3	300210	اقسام ادویه که شکل و قایوی داشته باشند مانند واکسن های مختلف	7%	100
4	300390	ادویه که منشا حیوانی - معدنی - نباتی داشته باشد و ساختمان کیمیاوی نداشته باشد مانند عصاره ریشه جواری در مداوی سنگ گرده و یا سیر در مداوی فشار بلند که به شکل تابلیت ساخته شده باشد	7%	100
5	300490	سایر ادویه که به شکل پرچون به فروش می رسد	7%	100
6	170199	شکر تصفیه شده	Temporary exempted	100
7	252310	سمنت کلکرز	25%	100
8	252321	سمنت سفید	25%	100