



AFRICAN NUCLEAR WEAPON FREE ZONE TREATY

Background

African Nuclear Weapon Free Zone Treaty (Pelindaba Treaty) was made to convinced the need to achieving the ultimate goal of a world entirely free nuclear weapons, as well as of the obligations of all states to contribute to maintaining peace in African region.

The Treaty and Protocols were negotiated under the auspices of the OAU and the United Nations. The Treaty was adopted by the OAU at Pelindaba, South Africa, on June 2, 1995, at the site where the South African Government constructed its first nuclear device. It was opened for signature to the fifty-three states of Africa in Cairo, Egypt, on April 11, 1996. It entered into force on July 15, 2009, when Burundi became the 28th State to deposit its instrument of ratification. The Protocols entered into force at the same time for those Protocol signatories that had deposited their instruments of ratification. Shortly thereafter Tunisia followed suit to bring the total number of Parties to 29. The Treaty refers to certain functions (depository, referring compliance issues to the UN Security Council) being performed by the OAU, but the OAU was superseded by the African Union in 2002. The analysis below retains the Treaty terminology.

Concept

The Treaty prohibits research, development, manufacture, stockpiling, acquisition, testing, possession, control, or stationing of nuclear explosive devices by Parties to the Treaty, as well as assistance to others in such activities, or seeking or receiving assistance in such activi-

ties. The Treaty also prohibits Parties from assisting or encouraging the dumping of radioactive wastes and other radioactive matter within the African zone, and requires each Party to implement or use as guidelines the provisions of the Bamako Convention with respect to the handling of radioactive waste. The Treaty prohibits any armed attack against nuclear installations in the zone by Treaty Parties. It requires Parties to maintain the highest standards of physical protection of nuclear material, facilities, and equipment. The Treaty requires all Parties to apply fullscope International Atomic Energy Agency (IAEA) safeguards to all of their peaceful nuclear activities. The Treaty creates the African Commission on Nuclear Energy to monitor compliance and promote the peaceful use of nuclear energy. The Treaty affirms the right of each Party to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, explicitly upholds the freedom of the seas, and does not affect rights to passage, guaranteed by international law, through territorial waters.

Entry into Force

According to Article 18, this Treaty shall be open for signature by any State in the African nuclear-weapon-free zone. It shall be subject to ratification. It shall enter into force on the date of deposit of the twenty-eighth instrument of ratification. For a signatory that ratifies this Treaty after the date of the deposit of the twenty-eighth instrument of ratification, it shall enter into force for that signatory on the date of deposit of its instrument of ratification.

Main Features

The Agreement consists of a Preamble, 22 Articles and 3 Protocols.

Based on Article 3 of the Agreement each contracting party of the convention shall not conduct research on, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere. And also not to seek or receive any assistance in the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device. And also includes the prohibition on assist or encourage the research on,

development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device.

Based on Article 6 of the Agreement, state parties shall declare any capability for the manufacture of nuclear explosive devices, dismantle and destroy any nuclear device that it has manufactured prior to the coming into force of this Treaty, facilities for the manufacture of nuclear explosive devices or, where possible, to convert them to peaceful uses, and also each parties should permit the International Atomic Energy Agency (hereinafter referred to as IAEA) and the Commission established in article 12 to verify the processes of dismantling and destruction of the nuclear explosive devices, as well as the destruction or conversion of the facilities for their production.

Aside from the prohibition, the convention also regulates the peaceful nuclear activities in the region for the purpose of nuclear sciences and technology for peaceful purposes. As part of their efforts to strengthen their security, stability and development, the Parties undertake to promote individually and collectively the use of nuclear science and technology for economic and social development. To this end they undertake to establish and strengthen mechanisms for cooperation at the bilateral, subregional and regional levels Parties are encouraged to make use of the programme of assistance available in IAEA and, in this connection, to strengthen cooperation under the African Regional Cooperation Agreement for Research, Training and Development Related to Nuclear Science and Technology (hereinafter referred to as AFRA).

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AGREEMENT ON SOUTH ASIAN FREE TRADE AREA (SAFTA)

Background

The Agreement on South Asian Free Trade Area (SAFTA) was signed on 6 January 2004 during Twelfth SAARC Summit held in Islamabad, Pakistan. The South Asian Association for Regional Cooperation (SAARC) comprising seven South Asian countries; Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka was formed in 1985 with the adoption of its Charter at its first Summit in Dhaka, Bangladesh. It was created for the purpose of holding periodic, regional consultations on matters of mutual interest.

Prior to the SAFTA, The South Asian Preferential Trade Agreement (SAPTA) was approved in 1993 and implemented in December 1995. SAPTA was intended as the initial step in the process to support regional economic integration. It was anticipated that SAPTA will facilitate greater specialization and cost reduction generating substantial trade creation in the region in the view of significant tariff reductions and removal of other non-tariff barriers, given the existing complementarity in resource endowment, technical know-how and expanding production capability.

However, the effectiveness of the SAPTA process was rather poor and had little or no impact in changing the existing trade patterns in South Asia. It was hoped that the South Asian Free Trade Agreement (SAFTA) would provide a boost to the integration process.

Concept

Based on the Preamble, the Agreement was made out of the commitment to strengthen intra-SAARC economic cooperation to maximize the realization of the region's potential for trade and development of their people. According to Article 3, the Agreement calls for eliminating barriers to trade and facilitating the cross-border movement of

goods between contracting states; promoting conditions for fair competition; and establishing a framework for further regional cooperation. Governed by the principles of the World Trade Organization (WTO), reciprocity, and an awareness of the needs of least-developed SAFTA countries), the agreement targets the elimination of tariffs, para-tariffs, and non-tariff barriers.

Entry into Force

The Agreement entered into force on 1 January 2016 and is operational following the ratification by all seven Contracting States.

According to Article 22 of the Agreement:

1. This agreement shall enter into force on 1st January 2006 upon completion of formalities, including ratification by all Contracting States and issuance of notification thereof by the SAARC Secretariat. This Agreement shall supercede the Agreement on SAARC Preferential Trading Arrangement (SAPTA).
2. Notwithstanding the supercession of SAPTA by this Agreement, the concessions granted under SAPTA Framework shall remain available to the Contracting States until the completion of the Trade Liberalisation Programme.

Main Features

The Agreement consists of a Preamble and 25 Articles.

The main features of the Agreement are related to the modalities of the Trade Liberalisation Programme, the treatment of sensitive goods, and the Rules of Origin.

Trade Liberalisation Programme. The approach adopted is a commitment towards a reduction of tariffs among Contracting States. Reductions will proceed in two stages but at a difference schedules for Least Developed Contracting States (LDC) and Non-Least Developed Contracting States (Non-LDC). According to Article 7(1), LDC member are required to reduce existing tariffs to 30% in 2 years and further ensure a reduction to range of 0-5% in the next 8 years, whereas non-

LDC member are required to reduce existing tariffs to 20% in 2 years of implementation of the agreement, and thereafter to further reduce tariffs to a range of 0-5% in the next 5 years.

Trade liberalization provisions also address nontariff barriers under Article 7(4). The most definite requirement is that quantitative restrictions not consistent with WTO provisions be eliminated for products not on sensitive lists. No timeframe or mechanism, however, is specified. In addition, all nontariff barriers and para-tariffs must be notified to the SAARC Secretariat annually. The Committee of Experts will review measures for WTO compliance and can recommend their elimination or amendment. The agreement makes no positive statement about compliance or systematic elimination of nontariff barriers.

Sensitive List. Unlike SAPTA, SAFTA adopted a negative list approach with the intention that South Asian Countries would phase out import tariffs to other member countries on all goods apart from those items reserved under a sensitive list. According to Article 7(3) of the Agreement, certain categories of products may be excluded permanently or temporarily from preferences. These products included in the list, shall be negotiated by the Contracting States. The Agreement does not restrict the size or scope of the Sensitive List, stating simply that these will be decided through negotiation. The Sensitive List shall be reviewed after every four years or earlier as may be decided by SAFTA Ministerial Council (SMC), establish under Article 10, with a view to reducing the number of items in the Sensitive List.

Rules of Origin. Another main feature from the Agreement is Rules of Origin (ROO), it is one of the instruments used to implement the SAFTA Agreement according to Article 4(2). Based on Article 18, ROO shall be negotiated by the Contracting States and incorporated in the Agreement as an integral part.

Special and Differential Treatment. The Agreement has several provisions of differential treatment for Least Developed Contracting States (LDC), including a longer implementation period, faster tariff reductions for Non-Least Developed Contracting States (Non-LDC), and a favorable consideration for applying antidumping and/or countervailing measures and for continuing quantitative restrictions or direct

trade measures. Most significantly, the Agreement provides for a revenue compensation mechanism for LDC members, by which Contracting States agree to establish an appropriate mechanism to compensate the Least Developed Contracting States for their loss of custom revenue. Special and differential treatment for Least Developed Contracting States can be found on Article 11 of the Agreement.

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CHARTER OF THE INDIAN-OCEAN RIM ASSOCIATION

Background

The Indian Ocean Rim Association (“IORA”), formerly the Indian Ocean Rim Association for Regional Co-operation (“IOR-ARC”) was established as a result of the broadening political consciousness of the Indian Ocean as a unifying factor among rim countries after World War II, though it was mostly security-related concerns during the Cold War. The idea of forming an Indian Ocean Rim trading bloc was first mooted by the then South African Foreign Minister, Pik Botha in November 1993 during a visit to India. This resulted into several meetings being conducted and working groups being established from 1995 to 1997. The initiative is also based on the observation that many new economic groupings were being conceived and motivated by the conviction that the process of co-operation on a regional basis would be beneficial, such as APEC. Ultimately, the meeting in Mauritius in March 1997 adopted the Charter of the Indian Ocean Rim Association for Regional Co-operation. The charter was then amended to the Charter of the Indian Ocean Rim Association (the “Charter”) in 2010.

Concept

IORA’s primary aim is the “sustained growth and balanced development of the region and of the Member States.” Article 2 of the Charter states that “The [Indian Ocean Rim] Association will facilitate and promote economic co-operation, bringing together inter-alia representatives of Member State’s governments, businesses, and academia. In a spirit of multilateralism, the [Indian Ocean Rim] Association seeks to build and expand understanding and mutually beneficial co-operation through a consensus-based, evolutionary and non-intrusive approach...” It is important to note that IORA does not bind member countries to any commitments, it is based on voluntary action, and decisions are taken on the basis of consensus.

Entry into Force

Article 7 of the Charter (as amended in 2010) states that the Charter will take effect from the date of its adoption, which was on 6 March 1997.

Main Features

The Charter itself contains a Preamble and 8 Articles. Currently, IORA consists of 21 Member States. According to Article 4 of the Charter, all sovereign States of the Indian Ocean Rim may apply for membership to IORA, as long as the States adhere to the principles and objectives of the Charter. The Charter also allows the Council of Ministers to grant the status of Dialogue Partners or Observers to other States or Organizations that have the capacity and interest to contribute to IORA, under which it now has 7 Dialogue Partners. IORA also recognizes 2 organizations/groups as Observers. The Charter calls for the creation of three bodies: a Council of Ministers, a Committee of Senior Officials, and the Secretariat. The Council of Ministers (“COM”) is the highest authority of IORA, which functions as the board of trustees of the organization as it is entrusted with formulation of policy and reviewing actions taken by the IORA. The Committee of Senior Officials (“CSO”), composed of the governmental representatives of the member states, serves as an executive committee to review implementation policy and to work to develop programme and initiatives that promote the goals of IORA. The Secretariat is tasked to manage, co-ordinate, and monitor the implementation of policy decisions and Work Programmes, as well as prioritization of projects. The IORA established two new Working Groups, namely the Working Group of Trade and Investment (“WGTI”) and the Working Group of Heads of Missions (“WGHM”). WGTI focuses on trade facilitation, trade cooperation, investment facilitation, and infrastructure. WGHM, which consists of the Heads of Diplomatic Mission of IORA member states will review the work programme presented by the Chair of COM and will act as a follow-up mechanism to those programmes.

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