

Annex-III of SAFTA Agreement

MECHANISM FOR COMPENSATION OF REVENUE LOSS FOR LDC MEMBER STATES

(i) **Date of coming into force** - The Mechanism for Compensation of Revenue Loss (hereinafter referred to as MCRL) shall come into force from the date on which the first tranche of Trade Liberalisation Programme (TLP) under Article 7 of SAFTA Agreement would be implemented.

(ii) **Definitions** - The following shall be defined in the manner as given below:

- a. "Customs revenue" may be defined as basic customs duty agreed to be reduced under Trade Liberalisation Programme (TLP) of SAFTA.
- b. "Reference Exchange Rate" may be defined as the average of the exchange rate of the domestic currency of the respective Contracting State vis-à-vis US dollar of each of the working day of the calendar year separately for each LDC Contracting State.
- c. "Base Year" may be defined as the average of the calendar years 2004 and 2005 for the purposes of calculation of revenue loss. Therefore, hereinafter the references to all variables, other than the tariff rate of duties, for the calendar year 2005 shall refer to the average of the relevant variables for calendar year 2004 and 2005.

(iii) **Administrative arrangements** -

- a. Periodicity of release of revenue compensation if quantified to be due shall be annual.
- b. The claim for revenue loss, duly quantified along with supporting data/documents may be submitted in prescribed format, to be devised, to the COE to be established under Article 10 of the SAFTA Agreement within a period of six (06) months from 31st December of the preceding year.
- c. Upon receipt of claims, as also intimation of non-claim by LDC Contracting States, the COE may meet and settle the claims within a period that the COE may fix and following the procedure that the COE may adopt.
- d. The non-LDC Contracting States shall release the compensation due from them to the LDC Contracting States within a period not exceeding six months from the date of finalization of quantum of compensation by COE, subject to completion of due procedure.
- e. The due procedure shall be completed within a period of not exceeding nine months from the date of finalization of quantum of compensation, failing which the concerned LDC Contracting States shall have the right to withdraw concessions given to the concerned Non-LDC Contracting State.
- f. The claim of revenue compensation shall be decided by the COE the decision of which shall be final.

- g. Notwithstanding the above, if the Contracting States so desire, the claim of revenue compensation could be conducted on a bilateral basis under intimation to the COE and the SAARC Secretariat.

(iv) Quantification of revenue loss – The revenue loss for the year 2006 shall be calculated in the following manner.

$$RL_{06} = CRNS_{06} - (1 + a) \times CRNS_{05}$$

Where:

- a. RL_{06} for LDC Contracting State is the quantum of revenue loss suffered in 2006.
- b. $CRNS_{05} = \sum_{i=1}^n [V_{SAFTA(05)} \times T_{APL(05)}]$ - to be summed up separately for each of the three non-LDC Contracting States.
- c. 'i' is non-sensitive item covered under the TLP of SAFTA;
- d. $V_{SAFTA(05)}$ refers to CIF value [in USD] of import of non-sensitive items covered under TLP of SAFTA from non-LDC Contracting States in 2005;
- e. $T_{APL(05)}$ refers to applied rate of basic customs duty (BCD) under SAPTA covered for reduction under TLP of SAFTA, provided it is = applied BCD under any bilateral agreement with non-LDC Contracting States. For items not covered under SAPTA, MFN applied rate shall apply.
- f. $CRNS_{06} = \sum_{i=1}^n [V_{SAFTA(06)} \times T_{SAFTA(06)}]$, provided $V_{SAFTA(06)} = V_{SAFTA(05)}$. In case $V_{SAFTA(06)} < V_{SAFTA(05)}$, $V_{SAFTA(06)} = V_{SAFTA(05)}$ shall be assumed. This would be summed up separately for each of the three non-LDC Contracting States.
- g. $V_{SAFTA(06)}$ refers to CIF value [in USD] of import of items covered under TLP programme from non-LDC Contracting States in 2006;
- h. $T_{SAFTA(06)}$ refers to applied rate of basic customs duty (BCD) covered for reduction under SAFTA TLP, provided it is = applied BCD under any bilateral agreement with non-LDC Contracting States.
- i. **a** is the annual trend rate of growth of customs revenue (basic customs duty) of non-sensitive items covered under TLP of SAFTA from Non-LDC Contracting States to the respective LDC Contracting State over previous five years i.e. from 2001 to 2005. This factor may be quantified and would remain unchanged for the duration of the Mechanism.

(v) The quantification of revenue loss of LDC Contracting State for calendar year 2007 and subsequent years would be calculated in the following manner:

$$RL_{07} = CRNS_{07} - (1+a)^2 CRNS_{05}$$

$$RL_{08} = CRNS_{08} - (1+a)^3 CRNS_{05}$$

$$RL_{09} = CRNS_{09} - (1+a)^4 CRNS_{05} \text{ and so on.}$$

(vi) Sharing of revenue compensation to any LDC Contracting State by the Non-LDC Contracting States shall be on the basis of quantified loss of customs revenue, if any, on bilateral basis.

(vii) Extent of compensation – The extent of compensation for each of the LDC Contracting State shall not exceed the following percentage of the basic customs duty collected on imports of non-sensitive items from concerned Non-LDC Contracting States in the base year –

- (a) First year – 1%;
- (b) Second year – 1%;
- (c) Third year – 5%;
- (d) Fourth year – 3%; and
- (e) Fifth & sixth year – 5% [applicable only in the case of claims by Maldives].

Provided that the above restriction on the extent of compensation shall not apply in case of claims of compensation by Maldives from India in the event of the loss of revenue being higher than the above annual ceilings.

(viii) Form of Compensation: The compensation equal to the extent of revenue loss quantified under clause (iv) above subject to the ceiling prescribed under clause (vii) above shall be paid in cash in US dollars.

(ix) Exchange of Data - The Contracting States may provide the following information by 31st December 2005 through the SAARC Secretariat:-

- a. Product-wise and country-wise breakdown of statistics on imports (value in US dollars) from Non-Least Developed Contracting States (from 2000 to 2005 – latest available);
- b. Latest Customs Tariff Guide containing import tariff (both MFN and SAPTA) and other levies;
- c. Formula for calculating other levies contained in the Customs Tariff Guide; and
- d. The similar data in prescribed format, shall be submitted by the Contracting States by a date not later than 31 December in subsequent calendar years.

(x) Duration of Mechanism: The Mechanism shall be in place for a period of four years from the date of coming into force.

Provided that the Mechanism in respect of claims by the Maldives shall be in place for an additional period of one year i.e. for a period of five years;

Provided further that the Mechanism in respect of claims by the Maldives from India shall be in place for an additional two years, i.e. for a period of six years.

Provided further that the Mechanism in respect of payment of revenue compensation by Sri Lanka shall be in place for a shorter period of three years to LDC Contracting States other than to the Maldives to which Sri Lanka would provide compensation, if due, for an additional period of one year i.e. for a period of four years.
