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Regional Trade Agreement (RTA) Policy, 2022

Ministry of Commerce
Government of the People's Republic of Bangladesh



Acronyms

BTTC	-	Bangladesh Trade and Tariff Commission
DFQF	-	Duty Free Quota Free
E-Commerce	-	Electronic Commerce
FTA	-	Free Trade Agreement
GSP	-	Generalized System of Preferences
LDC	-	Least Developed Country
MoFA	-	Ministry of Foreign Affairs
NBR	-	National Board of Revenue
RTA	-	Regional Trade Agreement
SPS	-	Sanitary and Phyto-Sanitary Standards
SRO	-	Statutory Regulatory Order
TBT	-	Technical Barriers to Trade
TEP	-	Trade Expert Pool
TNC	-	Trade Negotiating Committee
ToR	-	Terms of Reference
WTO	-	World Trade Organization



Regional Trade Agreement (RTA) Policy, 2022

Preamble:

The year 2021 marks the Golden Jubilee of Bangladesh's independence. In this historic year Bangladesh has earned the glory of transforming herself from Least Developed Countries (LDC) category to a developing one through continuation of programs adopted by the Father of the Nation Bangabandhu Sheikh Mujibur Rahman, the greatest Bengalee of all time and the timely steps taken by the present government. The graduation is a testimony to the consistent economic prosperity of Bangladesh and will uphold the image of Bangladesh in the international arena. However, at the same time it would put quite a few challenges as well. Reaping the benefit and overcoming the challenges are crucial for the smooth and sustainable transition of the country.

In the journey of five decades, Bangladesh has travelled quite a good distance in developing its economic policies, especially related to trade and investment, and implementing them in the face of external challenges, uncertainties, risks, constraints etc. Utilizing global concept of trade as an engine of growth significantly, the country grabbed duty-free and quota-free market access alongside all LDC-specific preferential market penetration mechanism with alacrity and aptness. Bangladesh is now at a critical juncture of development. The country has formulated the Perspective Plan of Bangladesh 2021-2041 which is aligned with Sustainable Development Goals of 2030.

In the Perspective Plan of Bangladesh 2021-2041, Bangladesh has set a target to upgrade itself to a higher middle-income country by 2031, which is likely to affect eligibility of Bangladesh to remain a GSP beneficiary country under various GSP schemes. Bangladesh needs to prepare itself to offset all obstacles on its way to access to global and regional markets for smooth and sustainable graduation. While initiatives are on to retain existing preferential market access after graduation, it is pertinently opined that concluding RTAs with prospective trading partners might be an instrument to augment the trade and investment momentum of the country.



In the global context, the proliferation of RTAs has become a reality. To keep pace with the evolving reality, Bangladesh urgently needs to be actively engaged in bilateral and regional initiatives to overcome the protectionism and barriers to trade through successful conclusion and implementation of RTAs.

The new generation RTAs is going beyond conventional trends of trade in goods only. In addition to trade in goods, trade in services has expanded significantly throughout the world in recent years. Agreement on investment has become another important component of RTAs. The newer RTAs also push for deeper economic collaboration, commonly referred as WTO-X issues, which extends to commitments on intellectual property rights, trade facilitation, government procurement, labour issues, environmental protection, gender equality, competition policy, digital trade, e-commerce, dispute settlement mechanism etc.

To keep pace with the current RTA trends, the country needs to align its regulatory framework and legal measures with global best practices by protecting its offensive and defensive interests. Some actions may be required to address challenges such as, capacity constraints, support to domestic industries, prevalent provisions of different laws and regulation, impact on revenue etc.

The existing FTA Policy Guideline was formulated in 2010 when Bangladesh's approach towards RTAs was conservative. Therefore, to address the LDC graduation challenges and incorporate the trends of modern generation of RTAs, there is an urgent need to formulate an effective RTA Policy.

This RTA Policy concentrates upon expanding the export market by diversifying export basket as well as widening domestic manufacturing base and reducing the excessive dependence on limited products. It also aims at retaining preferential market access. The Guideline has moved away from the narrow scope of area like reduction or elimination of tariff and trade in goods to a wide range of issues. The RTA Policy would enable over time the capacity of the country to pursue outward-integration strategies in a wide spectrum of areas, including trade in services,

investment, trade facilitation, intellectual property, e-commerce and digital trade, employment and movement of natural persons, competition policy etc.

1.0 Title:

This Policy will be called “Regional Trade Agreement (RTA) Policy, 2022”.

2.0 Definition:

(a) Regional Trade Agreement (RTA): Regional Trade Agreement (RTA) means any reciprocal trade agreement between two or more countries, trade blocs, not necessarily belonging to the same region.

3.0 Goal:

The goal of this RTA Policy is to provide guideline to negotiate, sign and implement trade treaty to encourage free movement of goods and services and thus contribute to national economy, investment and public welfare through deeper trade and economic integration.

4.0 Objectives:

Objectives of the RTA Policy are to guide:

- (1) identification and prioritization of potential partners for RTAs;
- (2) determination of RTA coverage for negotiation;
- (3) institutional arrangement and authority;
- (4) strategy for negotiation;
- (5) internal procedures for concluding RTA;
- (6) signing the RTA; and
- (7) implementation and evaluation of RTA.

4.1 Identifying and prioritizing potential RTA partners :

- (i) political guidance and willingness for concluding RTAs;
- (ii) preference to be given to the neighboring countries and blocs, countries with geographical proximity, connectivity, diplomatic relationship, geopolitical importance, bilateral cooperation and strategic partnership;
- (iii) gateway for market access to other countries for expansion of trade;

- (iv) economic strength and growth potential of trade partners with prospect of demand and supply;
- (v) countries having significant trade volume, prospects of market access, and product diversification;
- (vi) countries to which DFQF preferential market access may be lost;
- (vii) willingness of potential trade partners;
- (viii) potential countries with the prospect of cooperation in the field of technology transfer, employment, investments, remittance, trade facilitation, development of standardization or mutual recognition etc.; and
- (ix) possibility of acceding to mega RTAs for trade and economic benefit and/or competitive advantage in future;

4.2 Determination of RTA coverage for negotiation:

Depending on interests of the potential partners, RTAs may include:

- (i) trade in goods which may cover tariff reduction mechanism, removal of non-tariff barriers, rules of origin, customs cooperation, trade remedial measures, SPS, TBT etc.;
- (ii) trade in services and investment depending on sectoral needs. Agreements on trade in services should cover, among others, movement of natural persons and cooperation in other service sectors. Such actions will be in the form of step-by-step approach towards liberalization;
- (iii) Intellectual Property, Labour issues, Cooperation and Technical assistance, Competition policy, Mutual Recognition of Standards, Environment, Government procurement, E-commerce and digital trade etc. for mutual interest of the partners; and
- (iv) trade facilitation, dispute settlement mechanism and institutional mechanism to oversee and monitor the implementation of the agreements.

4.3 Institutional Arrangement and Authority:

As per the Allocation of Business among the Different Ministries and Divisions, the Ministry of Commerce has been authorized for signing foreign

trade agreements. Accordingly, the TNC will be given the authority from the Ministry for negotiating the trade agreements adhering to the following principles/guidelines:

- (i) all relevant Acts, Rules and Regulations, and other national legislations;
- (ii) all WTO Agreements including plurilateral ones to which Bangladesh is a Party;
- (iii) International treaties, conventions and declarations to which Bangladesh is a Party;
- (iv) other new generation RTA provisions; and
- (v) domestic and international best practices.

4.4 Strategy for negotiation:

The following steps are to be followed for concluding an RTA; but, the number and order of the steps might change by mutual consent depending on the situation and necessity.

4.4.1 Pre-negotiation activities:

- (i) Initiation without feasibility study: Government may consider initiating any RTA with any country or trade bloc suo moto, or upon a proposal made by any country or trade bloc without any feasibility study.
- (ii) Conducting Feasibility Study: Before initiating negotiation of an RTA in general, a feasibility study, independently or jointly with the interested country or trade bloc, will be conducted to identify potentials and challenges, including offensive and defensive interests. The Ministry of Commerce will carry out the preliminary feasibility study independently or with assistance of Bangladesh Trade and Tariff Commission. If necessary, the Ministry may engage Bangladesh Foreign Trade Institute (BFTI), private sector research organization, academia, think-tank or any international organization for conducting such feasibility study.



In case of joint feasibility study, the Ministry will constitute a committee to represent in the joint study group. The committee, in consultation with the counterpart, will conduct and finalize the draft report of the feasibility study with recommendations.

The Ministry will facilitate the access to information, rules and regulations, trade and economic data etc. from the relevant agencies for conducting the feasibility study.

- (iii) Consultation on the Feasibility Study: The draft feasibility study report will be presented in a workshop in the presence of all relevant stakeholders. The workshop will review the findings of the study and provide necessary inputs.
- (iv) Finalization of the Feasibility Study: The feasibility study report will be finalized by incorporating the inputs and recommendations made in the consultation workshop.
- (v) Formal Proposal of RTA: The Ministry will take decision on whether or not to initiate an RTA upon the findings of the feasibility study or guidance from the government. If an affirmative decision is taken then the Ministry will send a formal proposal to the potential RTA partner through diplomatic channel.
- (vi) Concurrence of the Party: The Ministry will commence negotiation upon receipt of concurrence of the concerned RTA partner.

4.4.2 Negotiation activities:

- (i) Establishing Trade Negotiating Committee (TNC): Upon receiving concurrence of the RTA partner, the Ministry of Commerce will establish a Trade Negotiating Committee (TNC) with the appointment of a Chief Negotiator, a Deputy Chief Negotiator, a Focal Point and relevant officials. The TNC will in general consist of the representatives from the MoFA, Finance Division, NBR, BTTC, WTO

Cell and relevant ministry/division/department/agency. The representatives of the relevant ministry/division/department/agency should have the proper mandate of the respective organization. The TNC may also include representative from BFTI, members from private sector and academia, if necessary. The TNC may form technical working group(s) based on necessity and functions to assist the TNC in delivering its responsibility.

(ii) Terms of Reference (ToR) and Timetable:

The TNC in its first meeting will set out the ToR and a time bound Work Plan for concluding the negotiation. Since RTA negotiation strategy differs from country to country or bloc to bloc, the ToR and Work Plan may be finalized through mutual consent.

(iii) Coverage of the RTA:

The TNC will chalk out the broad spectrum of issues for negotiation based on the findings of the feasibility study and pertinent issues to ensure win-win situation for both.

(iv) Access to information:

For the purpose of negotiation, the TNC may obtain necessary information from the relevant ministry (ies)/ division(s)/ department(s) /authority (ies) and other relevant private sector organizations. Such information will not be disclosed, shared or disseminated for any purpose other than negotiation.

(v) Consultations:

In the process of negotiations the TNC, as and when necessary, will conduct consultations with relevant stakeholders from the public sectors, private sectors, think tanks, academia etc. Public sector may be comprised of policy makers, different ministries and divisions, agencies, regulatory bodies etc.

(vi) Text of the RTA: The TNC in consultation with the counterpart will prepare the draft text and negotiate to finalize the text of the RTA including its relevant components and coverage. The text may include, but not limited to, the following aspects,:

- (a) Trade in Goods;
- (b) Rules of Origin;
- (c) Product Specific Rule;
- (d) Sanitary and Phyto-Sanitary Measures;
- (e) Technical Barriers to Trade;
- (f) Trade Remedial Measures;
- (g) Trade Facilitation;
- (h) Trade in Services;
- (i) Investments;
- (j) Intellectual Property Rights;
- (k) Labour issues;
- (l) Gender Equality;
- (m) E-commerce and digital trade;
- (n) Technical Assistance;
- (o) Competition Policy;
- (p) Government Procurement;
- (q) Cooperation and Development;
- (r) Dispute Settlement;
- (s) Environment conservation;
- (t) Institutional arrangement; and
- (u) Payment settlement system.

4.5 Internal procedures for concluding RTA:

The following internal procedures may be followed after completion of negotiation and finalization of RTA:

- (i) legal scrubbing in compliance with domestic, WTO and other international rules and regulations;

- (ii) vetting from the Legislative and Parliamentary Affairs Division; and
- (iii) approval of the Cabinet.

4.6 Signing the RTA:

After completion of the internal process the date and venue for signing the Agreement may be determined by mutual consent. An hon'ble Minister or an official nominated by the Government will sign the Agreement.

4.7 Implementation and Evaluation of RTA:

The following steps are to be followed for implementing the signed RTA:

- (i) ratification of the RTA;
- (ii) notification to the WTO;
- (iii) issuance of related SROs and Orders; and
- (iv) the RTA will be evaluated periodically to ascertain impacts on trade, industry, welfare and as a whole overall economy. In case of adverse impact appropriate remedial measures will be initiated.

5.0 Trade Expert Pool (TEP):

In order to retain experience and knowledge in the area of trade analysis and negotiation the Ministry of Commerce may establish a Trade Expert Pool (TEP) comprising of Ministry officials and representatives from the relevant ministry (ies), division(s), department(s), agency (ies) etc. The TEP may also include representatives from experienced ex-government officials, private sector, think tanks and academia.

6.0 This Policy will replace the Policy Guidelines on Free Trade Agreement, 2010 and will come into force immediately.

