

Have agreed as follows:

CHAPTER I

TRADE

ARTICLE 1

Most-favored-nation and Nondiscriminatory Treatment

I. Each Party shall accord unconditionally to products originating in or exported to the territory of the other Party treatment no less favorable than that accorded to like products originating in or exported to the territory of any third country in all matters relating to:

- (a) customs duties and charges of any kind imposed on or in connection with importation or exportation, including the method of levying such duties and charges;
- (b) methods of payment for imports and exports, and the international transfer of such payments;
- (c) rules and formalities in connection with importation and exportation, including those relating to customs clearance, transit, warehouses and transshipment;
- (d) taxes and other internal charges of any kind applied directly or indirectly to imported products;
- (e) laws, regulations and requirements affecting the sale, offering for sale, purchase, transportation, distribution, storage and use of products in the domestic market; and
- (f) the application of quantitative restrictions and the granting of licenses.

2. Each Party shall accord unconditionally to products and services originating in the territory of the other Party treatment no less favorable than that accorded to like products and services originating in the territory of any third country with respect to the allocation of and access to the currency needed to pay for such imports.

3. The provisions of section 1 and 2 of this Article shall not preclude action by either Party which is required or specifically permitted by the Agreement Establishing the World Trade Organization (the "WTO Agreement"), or by any legal instrument under the WTO Agreement, during such time as such Party is a Member of the World Trade Organization.

Similarly, the provisions of sections 1 and 2 shall not apply to special advantages accorded by virtue of the WTO Agreement.

4. The provisions of sections 1 and 2 of this Article shall not apply to:
 - (a) advantages accorded by either Party by virtue of such Party's full membership in a customs union or free trade area; and
 - (b) advantages accorded to adjacent countries for the facilitation of frontier traffic.
5. The provisions of section 2 of this Article shall not apply to trade in textiles and textile products.

ARTICLE 2

National Treatment

For the purposes of Chapter I of this Agreement:

1. Each Party shall administer tariff and nontariff measures affecting trade in a manner which affords, with respect to both third country and domestic competitors, meaningful competitive opportunities for products of the other Party.
2. Accordingly, neither Party shall impose, directly or indirectly, on the products of the other Party imported into its territory, internal taxes or charges of any kind in excess of those applied, directly or indirectly, to like domestic products.
3. Each Party shall accord to products originating in the territory of the other Party treatment no less favorable than that accorded to like domestic products in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, storage or use.
4. In addition to the obligations of sections 2 and 3 of this Article, the charges and measures described in sections 2 and 3 of this Article shall not otherwise be applied to imported or domestic products so as to afford protection to domestic production.
5. The Parties shall ensure that technical regulations and standards are not prepared, adopted or applied with a view to creating obstacles to international trade or to protect domestic production. Furthermore, each Party shall accord products imported from the territory of the other Party treatment no less favorable than the better of the treatment accorded to like domestic products or like products originating in any third country in relation to such technical

regulations or standards, including conformity testing and certification. Accordingly, the Parties shall:

- (a) ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient evidence (i.e., a risk assessment), taking into account the availability of relevant scientific information and regional conditions, such as pest free zones; and
- (b) ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfill a legitimate objective, taking into account of the risks non-fulfillment would create. Such legitimate objectives include national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. In assessing such risks, relevant elements of consideration include available scientific and technical information, related processing technology or intended end-uses of products.

6. The Parties shall grant, in accordance with the requirements of national treatment, the right to all individuals and entities to engage in foreign trade of goods (both import and export). Trading rights shall be granted without the requirement to invest in a Party or produce or purchase locally and shall be granted to foreign and domestic individuals and enterprises.

7. If a Party has not acceded to the International Convention on the Harmonized Commodity Description and Coding System, it will undertake every reasonable effort to do so as soon as possible, but in any event no later than by December 31, 2004.

ARTICLE 3

General Obligations with Respect to Trade

1. The Parties shall seek to achieve a satisfactory balance of market access opportunities through the satisfactory reciprocation of reductions in tariffs and nontariff barriers to trade in goods resulting from multilateral negotiations. To this end, each Party shall:

- (a) except as specifically provided in its Annex A to this Agreement, eliminate all import and export restrictions, quotas, licensing requirements, and controls for

all product categories, other than those that would be permitted by Articles XX and XXI of the GATT 1994;¹

- (b) eliminate all import substitution regulations, guidance and policies;
- (c) limit all fees and charges of whatever character (other than import and export duties and other taxes within the purview of Article II of this Agreement) imposed on or in connection with importation or exportation to an amount approximate to the cost of services rendered, and ensure that such fees and charges do not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes;
- (d) adopt a system of customs valuation based on the transaction value of the imported merchandise on which duty is assessed, or of like merchandise, rather than on the value of merchandise of national origin or on arbitrary or fictitious values, with the transaction value being the price actually paid or payable for the goods when sold for export to the country of importation in accordance with the standards established in the Agreement on Implementation of Article VII of the GATT 1994; and
- (e) ensure that the fees and charges referred to in subparagraph (c) and the customs valuation system referred to in subparagraph (d) are imposed or implemented uniformly and consistently throughout each Party's customs territory.

2. The Parties shall provide tariff treatment to products originating in the customs territory of the other Party no less favorable than provided for by the provisions of its Annex B to this Agreement.

3. Neither Party shall require its nationals or companies to engage in barter or counter trade transactions with nationals or companies of the other Party. Nevertheless, where nationals or companies decide to resort to barter or counter trade operations, the Parties may furnish them information to facilitate the transaction and assist them as they would other export and import operations.

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¹ To the extent that import quotas remain, the Parties will publish no later than ninety (90) days after signature of the Agreement a list of all organizations, including those organizations delegated such authority by the Party, that are responsible for authorizing or approving imports whether through grant of license or other approval. Procedures for obtaining these import licenses and approvals and the criteria for deciding whether a license should be granted will also be published. The Parties will also ensure that the issuance of import licenses are not conditioned on the transfer of technology, meeting requirements related to investment in their territories, or the existence or nature of domestic suppliers of such products or services.

4. After the entry into force of this Agreement, and upon the request of the Lao PDR, the United States will give due consideration to the eligibility of Laos for beneficiary developing country status in accordance with the U.S. statutes implementing the Generalized System of Preferences.

ARTICLE 4

Transparency and Right to Appeal

1. Each Party shall publish on a regular and prompt basis all laws, regulations, rules, decrees, administrative guidance, interpretative rulings, practices, and policies pertaining to the classification or valuation of products for customs purposes; or to rates of duty, taxes or other charges; or to requirements, restrictions or prohibitions on imports or exports or the transfer of payments therefore; or affecting the sale, distribution, transportation, insurance, warehousing, manufacture, use, inspection, exhibition, processing, mixing or other use of imports or exports; or otherwise related to commercial activity, including trade, investment, intellectual property, taxation, banking, telecommunications, insurance and other financial services, transport, distribution, retail sale, manufacturing, and labor. Such information will include among other things the quantity or value to be imported of any product subject to quantitative restriction, the types of products intended to be imported, and other relevant commercial information, such as projects which could involve imported products. Publication of such information and measures will be in a manner which enables governments persons engaged in commercial activity to become acquainted with them before they come into effect and to apply them in accordance with their terms.

2. Each Party shall provide nationals and companies of the other Party with access to data on the national economy and individual sectors, including information on foreign trade. The requirements of this paragraph and the preceding paragraph do not require disclosure of confidential information which would impede law enforcement other otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private. For the purposes of this Agreement, confidential information that would prejudice the legitimate commercial interests of particular enterprises means specific information concerning the importation of a product that would have a significant adverse effect on the price or quantity available of such product, but shall not include information required to be disclosed under the WTO Agreement.

3. Each Party shall allow, to the extent possible, the other Party and its nationals the opportunity to comment on the formulation of rules and regulations which affect the conduct of business activities covered by this Agreement.

4. All laws, regulations, rules, decrees, administrative guidance, interpretative rulings, practices, and policies referred to in paragraph 1 of this Article that are not published and readily available to other governments and persons engaged in commercial activities as of the date of signature of this Agreement will be made public and readily and quickly available.

Only laws, regulations, rules, decrees, administrative guidance, interpretative rulings, practices, and policies that are published and readily available to other governments and persons engaged in commercial activity will be enforced and enforceable.

5. Publication of each new law, regulation, rule, decree, administrative guidance, interpretative ruling, practice, and policy governing matters set forth in paragraph 1 shall take place before the related measure is effective. Each such publication shall include the effective date of the measure, the products (by tariff line) or services affected by the measure, and all authorities that must approve or be consulted in the implementation of the measure, and provide a contact point within each authority from which relevant information can be obtained.

6. The Parties shall have or designate an official journal or journals and all measures of general application shall be published in such journals. The Parties will publish such journals on a regular basis and make copies of them readily available to the public.

7. The Parties shall administer in a uniform, impartial and reasonable manner all their respective laws, regulations, rules, decrees, administrative guidance, interpretative rulings, practices, and policies of the type described in paragraph 1.

8. The Parties will maintain administrative and judicial bodies and procedures for the purpose, inter alia, of the prompt review and correction of administrative action relating to customs matters, including customs valuation, or any other matters regarding quantitative restrictions on imports (other than textile products). These procedures shall include the opportunity for appeal, without penalty, by persons affected by the relevant decision. If the initial right of appeal is to an administrative body, there shall also be the opportunity for appeal of the decision to a judicial body. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of the right to any further appeal.

ARTICLE 5

Expansion and Promotion of Trade

1. The Parties affirm their desire to expand trade in products and services consistent with the terms of this Agreement. They shall take appropriate measures to encourage and facilitate trade in goods and services and to secure favorable conditions for long-term development of trade relations between their respective nationals and companies.

2. The Parties shall take appropriate measures to encourage the expansion of commercial contacts with a view to increasing trade. Toward this end, the Parties shall publicize this Agreement and ensure that it is made available to all interested parties.

3. Each Party shall encourage and facilitate the holding of trade promotional events such as fairs, exhibitions, missions and seminars in its territory and in the territory of the other Party. Similarly, each Party shall encourage and facilitate the participation of its respective nationals and companies in such events. Subject to the laws in force within their respective territories, the Parties agree to allow the import and re-export on a duty free basis of all articles for use in such events, provided that such articles are not sold or otherwise transferred.

ARTICLE 6

Government Commercial Offices

1. Subject to its laws and regulations governing foreign missions, each Party shall allow government commercial offices to hire directly host-country nationals and, subject to immigration laws and procedures, third-country nationals.

2. Each Party shall ensure unhindered access of host-country nationals to government commercial offices of the other Party.

3. Each Party shall encourage the participation of its nationals and companies in the activities of the other Party's government commercial offices, especially with respect to events held on the premises of such commercial offices.

4. Each Party shall encourage and facilitate access by government commercial office personnel of the other Party to host-country officials at both the national and subnational level, and to representatives of nationals and companies of the host Party.

ARTICLE 7

Financial Provisions Relating to Trade in Products and Services

1. Unless otherwise agreed between the parties to such transactions, all commercial transactions shall be made in United States dollars or any other currency that may be designated from time to time by the International Monetary Fund as being a freely usable currency.

2. Neither Party shall restrict the transfer from its territory of convertible currencies or deposits, or instruments representative thereof, obtained in connection with trade in products and services by nationals and companies of the other Party provided that nationals and companies of the other Party may be required to comply with administrative formalities for

such repatriation; and provided further that such formalities may not constitute a restriction on payments or transfers for current transactions.

3. Without derogation from section 2 of this Article, in connection with trade in products and services, each Party shall grant to nationals and companies of the other Party most-favored-nation or national treatment, whichever is most favorable, with respect to:

- (a) opening and maintaining accounts, in both local and foreign currency, and having access to funds deposited in financial institutions located in the territory of the Party provided that nationals and companies of the other Party may be required to comply with administrative formalities for such repatriation; and provided further that such formalities may not constitute a restriction on payments or transfers for current transactions;
- (b) payments, remittances and transfers of convertible currencies, or financial instruments representative thereof, between the territories of the two Parties, as well as between the territory of that Party and that of any third country provided that nationals and companies of the other Party may be required to comply with administrative formalities for such repatriation; and provided further that such formalities may not constitute a restriction on payments or transfers for current transactions; and
- (c) rates of exchange and related matters, including access to freely usable currencies.

ARTICLE 8

Areas for Further Economic and Technical Cooperation

1. The Parties shall take appropriate steps to foster economic and technical cooperation on as broad a base as possible in all fields deemed to be in their mutual interest.

2. The Parties, taking into account the growing economic significance of service industries, shall consult on matters affecting the conduct of service business between the two countries and particular matters of mutual interest relating to individual service sectors with the objective, among others, of attaining maximum possible market access and liberalization.

ARTICLE 9

Emergency Action on Imports

1. If, as a result of unforeseen developments and of the effect of the obligations incurred by a Party under the agreements administered by the WTO or this Agreement, including tariff concessions, any product is being imported into the territory of that Party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the Party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

2. Before a Party shall take action pursuant to the provisions of section 1 of this Article, if the other Party has a substantial interest as exporter of the product concerned, then the importing Party shall afford the other Party an opportunity to consult with it in respect of the proposed action. In critical circumstances where delay would cause damage which it would be difficult to repair, action under section 1 of this Article may be taken provisionally without prior notice or consultation, on the condition that consultations shall be effected immediately after taking such action.

3. Unless a different solution is mutually agreed upon during the consultations, the importing Party shall be free to take or continue action under section 1 of this Article. In that event, the other Party shall be free to deviate from its obligations under this Agreement with respect to substantially equivalent trade.

4. The Parties acknowledge that the elaboration of the market disruption safeguard provisions in this Article is without prejudice to the right of either Party to apply its laws and regulations applicable to trade in textiles and textile products and its laws and regulations applicable to unfair trade, including antidumping and countervailing duty laws.

ARTICLE 10

Commercial Disputes

For the purposes of Chapter I of this Agreement:

1. Nationals and companies of either Party shall be accorded national treatment with respect to access to all courts and administrative bodies in the territory of the other Party, as plaintiffs, defendants or otherwise. They shall not be entitled to claim or enjoy immunity from suit or execution of judgment, proceedings for the recognition and enforcement of arbitral

awards, or other liability in the territory of the other Party with respect to commercial transactions; they also shall not claim or enjoy immunities from taxation with respect to commercial transactions, except as may be provided in other bilateral agreements.

2. The Parties encourage the adoption of arbitration for the settlement of disputes arising out of commercial transactions concluded between nationals or companies of the United States of America and nationals or companies of the Lao PDR. Such arbitration may be provided for by agreements in contracts between such nationals and companies, or in separate written agreements between them.

3. Nationals and companies of either Party which have thus agreed to arbitration (the “parties”) may provide for arbitration under any internationally recognized arbitration rules, including the UNCITRAL Rules of December 15, 1976, and any modifications thereto. If arbitration is to be conducted under the UNCITRAL Rules, an Appointing Authority should be designated pursuant to the UNCITRAL Rules in a country other than the United States of America or the Lao PDR.

4. Unless otherwise agreed between the parties, the parties should specify as the place of arbitration a country other than the United States of America or the Lao PDR, that is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958.

5. Nothing in this Article shall be construed to prevent, and the Parties shall not prohibit, the parties from agreeing upon any other form of arbitration or on the law to be applied in such arbitration, or other forms of dispute settlement which they mutually prefer and agree best suits their particular needs.

6. Each Party shall ensure that an effective means exists within its territory for the recognition and enforcement of arbitral awards.

ARTICLE 11

State Trading and Industrial Subsidies

1. To the extent either Party establishes or maintains a State enterprise, or grants to any enterprise, formally or in effect, exclusive or special privileges, it shall ensure that such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

2. The provisions of paragraph 1 of this Article shall be understood to require that such enterprises shall, having due regard to the other provisions of this Agreement, make any such

purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other Party adequate opportunity, in accordance with customary business practice, to compete for participation in such purchase or sales.

3. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in government use and not otherwise for resale or use in the production of goods for sale. With respect to such imports, each Party shall accord to the trade of the other Party fair and equitable treatment.

4. Neither Party may grant or maintain subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon the recipient meeting any export performance or import substitution requirement, including subsidies to state enterprises and to firms located in export processing zones.

ARTICLE 12

Government Procurement

The Parties shall make readily available to the public and foreign entities procedures and criteria for tendering all central-government level procurement with a value above two hundred thousand U.S. dollars. This shall include, among other things, making readily available to the public all procedures for bidding or otherwise applying for such tenders, and all the criteria on which such bids or applications will be judged including pre-qualification and short listing, if any. These materials shall be made available as far in advance as is necessary to allow interested suppliers a meaningful opportunity to submit responsive bids. Contracts shall be awarded strictly on the basis of criteria identified publicly. Notice of evaluation results, invitations to negotiate contracts, and the monetary value of final contracts and amounts paid once contracts are performed shall be made available to all bidders to ensure fairness and transparency.