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*Commencement:*

**REPUBLIC OF VANUATU**

**TRADE AGREEMENT AMONG THE MELANESIAN SPEARHEAD  
GROUP COUNTRIES (RATIFICATION) ACT  
NO. 5 OF 1994**

Arrangement of Sections

1. Ratification
2. Commencement

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**REPUBLIC OF VANUATU**

**TRADE AGREEMENT AMONG THE MELANESIAN SPEARHEAD  
GROUP COUNTRIES (RATIFICATION) ACT  
NO. 5 OF 1994**

An Act to provide for the ratification of the Trade Agreement among the Melanesian Spearhead Group Countries.

**BE IT ENACTED** by the President and Parliament as follows: -

**RATIFICATION**

1. (1) The Trade Agreement among the Melanesian Spearhead Group Countries signed in Rabaul on the 22<sup>nd</sup> day of July, 1993 which is set out in the Schedule hereto is hereby ratified.
- (2) The Trade Agreement referred to in subsection (1) shall be binding on the Republic of Vanuatu in accordance with the terms thereof.

**COMMENCEMENT**

2. This Act come into force on the date of its publication in the Gazette.

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**SCHEDULE**

**TRADE AGREEMENT AMONG THE  
MELANESIAN SPEARHEAD GROUP  
COUNTRIES**

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**HAVE AGREED AS FOLLOWS: -**

## **ARTICLE 1**

### **Definition and Interpretation**

1. In this Agreement unless the context otherwise requires: -

"Agreement" means the "Trade Agreement among the Melanesian Spearhead Group Countries" established by Article 2 of this Agreement.

"Custom duties" means import duties and other charges of equivalent effect levied on goods by reason of their importation and includes suspended duties and fiscal duties or taxes where such duties or taxes affect the importation of goods but does not include internal duties and taxes such as sales, turnover, consumption or service taxes nor import levies and export tax.

"Goods and Services" means good and services in Schedule 1 of this Agreement and shall include such other goods and services that may be included in the said Schedule 1 by mutual Agreement between the Parties.

"Party" means a State Party to the Trade Agreement.

"person" means a natural or legal person.

"third country" means any country other than a Party.

2. In this Agreement, unless the context otherwise require:

(a) the headings are inserted for convenience only and do not affect the interpretation or construction of this Agreement; and

(b) words importing the singular include the plural and vice versa.

## **ARTICLE 2**

### **Membership to Trade Agreement**

Membership in the Agreement shall initially be opened to the Independent State of Papua New Guinea, Solomon Islands and the Republic of Vanuatu.

## **ARTICLE 3**

### **Objectives**

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1. The objectives of the Parties in concluding this Agreement are: -
  - (a) to promote and facilitate the free flow of identified goods and services;
  - (b) to ensure as far as possible that trade between the Parties takes place under conditions of fair competition; and
  - (c) to contribute to the harmonious development and expansion of world trade and to progressive removal of barriers thereto.

#### **ARTICLE 4**

##### **General Undertakings**

1. The Parties shall make every effort to plan and direct their development policies with a view to creating conditions favourable for the achievement of the objectives of the Agreement and the implementation of the provisions of this Agreement and shall abstain from taking any measures likely to jeopardize the achievement of its objectives and the implementation of its provisions.
2. The Parties shall extend the product coverage in this Agreement in order to ensure that the duties and other restrictive regulation of commerce are eliminated on substantially all the trade between the Parties.

Requests for such extension shall be presented by interested Parties in accordance with the procedure laid down in Article 18.

#### **ARTICLE 5**

##### **Most favoured nation treatment**

1. The Parties shall accord to one another in relation to trade between them the most favoured nation treatment.
2. The provisions of paragraph 1 of this article shall not apply to:
  - (a) tariff preferences or other advantages granted by either Party consequent on the membership of the Party in other free trade agreements or customs unions or on interim agreement leading to the formation of another free trade area or custom union.
  - (b) such measures as either party may take pursuant to a multilateral international commodity agreement or arrangement.

#### **ARTICLE 6**

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### **Customs Duties**

1. Each Party shall reduce and eventually eliminate, in accordance with the provisions of this Article, Customs duties imposed on or in connection with the importation of goods specified in Schedule 1 to this Agreement imported from the territory of other Parties.
2. The Parties shall not levy customs duties on goods appearing in Schedule 1 to this Agreement in excess of the rates referred to therein.
3. The Annual Summit of Heads of Government of the Parties shall, after considering proposals from the meeting of trade officials convened in accordance with paragraph 3 of Article 18 or from Technical Committees established pursuant to paragraph 4 of that same Article, consider and approve a programme for the progressive reduction of customs duties among the Parties with a view to eliminating such duties. Such a programme shall take into account the effects of the reduction and elimination of customs duties on the revenues of the Parties.

### **ARTICLE 7**

#### **Quantitative Import Restriction**

1. The Parties shall neither maintain nor introduce quantitative import restrictions on trade in products listed in Schedule 1.
2. Notwithstanding the provisions of paragraph 1 of this Article, a Party may, after consultations with the other Parties re-impose quantitative import restrictions or introduce new quantitative import restrictions on trade in goods listed in Schedule 1 of this Agreement, provided such restrictions are imposed to prevent prejudice to balance of payment in accordance with such Party's international obligations.
3. At the request of an of the Party consultation shall be held regarding the application and effect by the restrictions referred to in paragraph 1 and 2 of this Article. In the event that such restrictions are interfering unduly, with conditions of fair competition the Parties shall in those consultations consider appropriate measures to remedy the situation.
4. A Party which is maintaining quantitative import restrictions on imports from the other Parties shall ensure, to the extent permitted by its balance of payments, that the administration of such restrictions is in conformity with the objective of the gradual elimination of barriers to trade between the Parties to this Agreement.

### **ARTICLE 8**

#### **Quantitative Export Restrictions**

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1. Subject to the provisions of paragraph 2 of this Article, a Party shall not impose new prohibitions or restrictions, or intensify existing prohibitions or restrictions on exports to the other Parties.
2. A Party may take such measures as may be necessary to prevent evasion, by means of re-export, of restrictions which it applies in respect of export to their countries.

## **ARTICLE 9**

### **Revenue Duties or Taxes**

A Party may levy revenue duties or taxes on goods contained in Schedule 1 to this Agreement imported from the territory of the other Parties, but such duties or taxes shall not be levied at a rate higher than the rate to which such goods would be subject if produced or manufactured in the territory of the importing Party.

## **ARTICLE 10**

### **Deflection of Trade**

1. If in the opinion of a Party (hereinafter referred to as "the first Party") the import of any goods specified in Schedule 1 of this Agreement from the territory of the other Parties causes or threatens to cause serious injury to its producers of like or directly competitive goods and the other Parties are deriving advantage because -
  - (i) the duties or taxes by the other Parties on raw materials, intermediate products or machinery, imported from a third country and used in the production of those goods, are significantly lower than the duties or taxes levied by the first party on import of similar raw materials, intermediate products or machinery, imported from third countries, or
  - (ii) the prices of raw materials, intermediate products or machinery, used in the production of those goods, are unduly low by reason of dumping or subsidization by third countries, or
  - (iii) drawback, exemption or remission of import duties is allowed by the other Parties on raw materials, intermediate products or machinery, imported from third countries and used in the production of those goods;

then the first Party, if it considers that action may be necessary to offset the advantage, shall in writing request consultation with the other Parties on the situation which had developed. Such consultation shall be as full as circumstances permit, and the first Party shall consider any measures taken or proposed to be taken by the other Parties to offset the advantage.

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2. Unless, in the consultation referred to in paragraph 1 of this Article, some alternative solution acceptable to the first Party is found, the first Party may, in respect of the goods referred to in paragraph 1 of this Article, suspend the application of provisions of Articles 6 and 7 of this Agreement to those goods to such extent and for such time, as it considers necessary to offset the advantage, provided that during any such suspension the first Party shall not levy on those goods revenue duties or taxes higher than those which could have been levied prior to the entry into force of this Agreement, or import duties at rates higher than the lowest rate applicable to imports of similar goods from any third country.

## **ARTICLE 11**

### **Development of Industry**

1. A Party after consultation with the other Parties may for the purpose of encouraging new productive activities which contribute to economic development, whether by the establishment of a new industry or an extension of the range of commodities produced or manufactured by an existing industry suspend for a period of 3 years the application of the provisions of Article 6 of this Agreement which are imported from the territory of the other Parties and which are like, or competing with, goods produced by the new activities.
2. Duties shall not be levied under the provisions of paragraph 1 of this Article at a rate higher than the lowest rate applicable to import of similar goods from any third country.
3. In exceptional circumstances and after consultation and renegotiation with other Parties a Party may, for the purpose of establishing new industries or encouraging the expansion of established industries, withdraw items from Schedule 1 to this Agreement.

## **ARTICLE 12**

### **Temporary Suspension of Obligations**

1. If as a result of the application of any of the provisions of Articles 6 and 7 of this Agreement, goods contained in Schedule 1 to this Agreement are, in the opinion of a Party being imported into the territory of that Party in such increased quantity and under such conditions as to cause or threaten serious injury to its producers of like or directly competitive products, that Party may in writing request consultations with the other Parties on measures to prevent future injury and shall consider any measures taken or proposed by the other Parties. For the purpose of this Article consultations shall be deemed to have commenced on the day on which the request was made.
2. If the Parties do not reach a satisfactory solution on the matter within sixty days from the commencement of the consultations referred to in paragraph 1 of this Article, the Party in whose territory the goods are being imported may after giving notice in writing to the other Parties suspend, to such extent and for such time as it considers necessary to prevent future injury to its producers of like or directly competitive products, the

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application to those goods of all or any of the provisions of Articles 6 and 7 of this Agreement. In that event the Party whose exports are affected may after giving notice in writing to the other Parties suspend, for an equivalent period the application of all or any of the provisions of Article 6 and 7 of this Agreement to goods imported from the territory of the first Party the value of which is equal to the value of goods affected by the measures taken by the first Party pursuant to the provisions of this article.

3. A Party taking action in accordance with the provisions of paragraph 2 of this Article shall not levy on the goods referred to in that paragraph revenue duties or taxes at rates higher than the lowest rate applicable to imports of similar goods from any third country.

### **ARTICLE 13**

#### **Preferential Treatment**

1. For the purposes of this Agreement, goods shall be accepted as eligible for preferential treatment if such goods: -
  - (a) originate in the Parties in accordance with the rules of origin applicable to this Agreement as set forth in Annex I.
  - (b) are specified in Schedule 1 to this Agreement.

### **ARTICLE 14**

#### **Suspension of Obligations**

##### **Dumped or Subsidised Imports**

1. If in the opinion of a Party goods being imported into it from the other Parties are being dumped or are being subsidized by the other Parties so as to cause or threaten material injury to an industry producing like or directly competitive goods or to materially retard the establishment of an industry to produce like or directly competitive goods, it may request the other Parties to consult with it on measures to reduce or prevent such injury or retardation.
2. If a mutually acceptable solution is not reached within sixty days of the date of the request referred to in paragraph 1 of this Article, the importing Party may, after giving notice to the other Parties, suspend the application of Article 6 of this Agreement to the extent necessary to enable it to levy dumping or countervailing duties on the goods concerned.

### **ARTICLE 15**

#### **Exceptions**

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Provided that such measures are not used as a means of arbitrary or unjustifiable discretion or as a disguised restriction on trade between the Parties nothing in this Agreement shall prevent the adoption or enforcement by a Party of measures –

- (i) necessary for the protection of its essential security interests;
- (ii) necessary to protect public morals;
- (iii) necessary for the prevention of public disorder or crime;
- (iv) imposed for the protection of its national treasures of artistic, historical, anthropological, geological, palaeontological or archaeological value;
- (v) necessary to reserve for approval purposes the use of the national and provincial coats of arms, flags and seals;
- (vi) necessary to protect human, animal or plant life or health;
- (vii) necessary to protect its indigenous flora and fauna;
- (viii) undertaken in pursuance of obligations in international commodity agreements;
- (ix) necessary to prevent or relieve critical shortages of foodstuffs or other essential goods;
- (x) relating to the conservation of limited natural resources;
- (xi) necessary to protect industrial property or copyrights or prevent deceptive practices;
- (xii) necessary for the application of standards or of regulations for the classifications, grading or marking of goods; or
- (xiii) relating to the products of prison labour.

## **ARTICLE 16**

### **Association with the Agreement**

1. The Parties may agree to the association of any other member of the Melanesian Spearhead Group or any other country which is a member of the South Pacific Forum.
2. The terms and conditions of the association referred to in paragraph 1 of this Article shall be negotiated between the Parties and the other member of the Melanesian Spearhead Group or a country which is a member of the South Pacific Forum.

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## **ARTICLE 17**

### **Administrative Co-operation**

The Parties shall, having regard to the desirability of reducing as far as practicable the formalities required in connection with trade between them take appropriate measures, including arrangements relating to administrative co-operation, to promote the effective and harmonious application of the provisions of this Agreement.

## **ARTICLE 18**

### **Institutional Framework**

1. The Parties shall utilize the existing Melanesian Spearhead Group institutional framework for the purposes of overseeing the implementation of this Agreement.
2. In accordance with paragraph 1 of this Article the Annual Summit of Heads of Governments of the Melanesian Spearhead Group shall provide policy directions with respect to the implementation of this Agreement.
3. Trade officials of the Parties shall meet annually prior to the Annual Summit of Heads of Governments to jointly review trade amongst Parties including goods not listed in Schedule 1 to this Agreement with the view to inclusion of additional items in that Schedule.
4. The Annual Summit of the Heads of Governments may decide from time to time to establish technical committees to oversee the implementation of specific fields of activity of this Agreement such as quarantine, customs and trade.

## **ARTICLE 19**

### **Consultation and Review**

1. In addition to the provisions for consultation elsewhere in this Agreement, consultation shall take place between the Parties if a Party is of the opinion that any benefits conferred on it by this Agreement are not being achieved and if it requests such consultation in writing. In such consultations, which shall take place as soon as practicable, the Parties shall consider appropriate measures to remedy the situation which has prompted the request.
2. The consultations provided for in this Article shall take place through the institutional framework established under Article 18 of this Agreement.

## **ARTICLE 20**

### **Notices**

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The Parties agree in addition to the provisions of Article 18 of this Agreement that any notice or request required or permitted to be given or made under this Agreement and any Agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail or facsimile to the Party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Independent State of Papua New Guinea:

The Secretary  
Department of Trade & Industry  
PO Wardstrip  
WAIGANI, NCD  
Papua New Guinea

Telephone: (675) 271115  
Facsimile: (675) 252403

For Solomon Islands:

Permanent Secretary  
Ministry of Foreign Affairs  
PO Box G10  
HONIARA  
Solomon Islands

Telephone: (677) 21250  
Facsimile: (677) 20351

For the Republic of Vanuatu:

The Secretary  
Department of Foreign Affairs  
Private Mail Bag 051  
PORT VILA  
Republic of Vanuatu

Telephone: (678) 22913 or (678) 22347  
Facsimile: (678) 23142

## **ARTICLE 21**

### **Entry into Force and Duration**

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1. This Agreement shall be subject to ratification by the Parties and shall enter into force on the thirtieth day following the day on which they exchange instruments of ratification.
2. This Agreement shall remain in force unless terminated in accordance with the provisions of paragraph 3 of this Article.
3. A Party which desires that this Agreement be terminated shall give to the other Parties notice in writing of its desire and consultations shall then take place between the Parties as soon as practicable. If at the end of one hundred and eightieth (180<sup>th</sup>) day from the day on which notice was given, the Party which has given notice still desires that this Agreement be terminated and again gives to the other Parties notice in writing to this effect, this Agreement shall cease to have effect on the one hundred and eightieth (180<sup>th</sup>) day from the day on which the last mentioned notice is given.

**IN WITNESS WHEREOF** the undersigned, duly authorized, have signed this Agreement.

**DONE** in triplicate at Rabaul this 22<sup>nd</sup> day of July 1993.

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**FOR THE GOVERNMENT OF THE  
INDEPENDENT STATE OF  
PAPUA NEW GUINEA**

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**FOR THE GOVERNMENT OF  
SOLOMON ISLANDS**

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**FOR THE GOVERNMENT OF THE  
REPUBLIC OF VANUATU**

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**SCHEDULE 1**

- A. For the purpose of Article 6, the tariff concessions granted by Papua New Guinea consist of the following goods:

<b>PNG Customs Tariff</b>	<b>Description</b>	<b>Rate of Duty</b>
02.01	Meat of Bovine Animals, Fresh or Chilled:	0
02.02	Meat of Bovine Animals, Frozen:	0
16.04.1400	Tunas, Skipjack and Atlantic bonito	0

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- B. For the purpose of Article 6, the tariff concessions granted by Vanuatu consist of the following goods:

<b>Vanuatu Customs Tariff</b>	<b>Description</b>	<b>Rate of Duty</b>
09.02	Tea	0
16.04	Canned Tuna	0

- C. For the purpose of Article 6, the tariff concessions granted by Solomon Islands consist of the following goods:

<b>Solomon Islands Tariff</b>	<b>Description</b>	<b>Rate of Duty</b>
02.01	Fresh or Chilled Beef	0
02.02	Frozen Beef	0
09.02	Tea	0

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## **ANNEX I**

### **RULES OF ORIGIN**

1. For the purpose of this Agreement goods shall be accepted as originating in a Party if it has been either wholly obtained or sufficiently worked or processed in a Party territory.
2. The following shall be considered as wholly obtained in the Parties territories:
  - (a) mineral products extracted from their soil or from their seabed;
  - (b) vegetable products harvested there;
  - (c) live animals born and raised there;
  - (d) products from live animals raised there;
  - (e) products obtained by hunting or fishing conducted there;
  - (f) products of sea fishing and other products taken from the sea by their vessels;
  - (g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);

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- (h) used articles collected there fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) goods produced there exclusively from products specified in subparagraphs (a) to (i).

3. The following shall be considered as sufficient working and processing.

When the product obtained is classified in a heading which is different from those in which all the non originating materials used in its manufacture are classified, subject to paragraph 4.

The expression "heading" shall mean the 4 digit headings used in the Harmonised Commodity Description and Coding System.

4. The following shall be considered as insufficient working or processing to confer the status of originating products whether or not there is a change of heading:

- (a) operations to ensure the preservation of merchandise in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);
- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making up of sets of articles), washing, painting, cutting up;
- (c)
  - (i) changes of packing and breaking up and assembly of consignments;
  - (ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc, and all other simple packaging operations;
- (d) affixing marks, labels or other like distinguishing signs on products or their packaging;
- (e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Annex to enable them to be considered as originating products;
- (f) simply assembly of parts of articles to constitute a complete article;
- (g) a combination of two or more operations specified in subparagraphs (a) to (f);
- (h) slaughter of animals.

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5. The preferential treatment provided for under this Agreement applies to products or materials which are transported directly between the territories of the Parties.

However, goods originating in the parties and constituting one single shipment which is not split up may be transported through territory other than that of the Parties with, should the occasion arise, transshipment or temporary warehousing in such territory, provided that the crossing of the latter territory is justified for geographical reasons, that the goods have remained under the surveillance of the customs authorities in the country of transit or of warehousing, that they have not entered into the commerce of such countries nor been delivered for home use there and have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

6. (a) Originating products within the meaning of this Annex shall, on import into the Parties benefit from the Agreement upon submission of a certificate of origin, Form A, a specimen of which appears in Annex II, signed by the exporter and certified by the Parties respective Customs Authorities.
- (b) The exporter shall be prepared to submit a declaration setting forth all pertinent details concerning the production or manufacture of the articles covered by the certificates of origin upon request by a Party. A declaration should only be requested when a Party has reason to question the accuracy of the statement on a certificate of origin or when a Party randomly verifies certificates of origin.
- (c) The Parties agree to assist each other in obtaining information for the purpose of reviewing transactions made under this Agreement in order to verify compliance with the conditions set forth in this Agreement.

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