

No. 13679

MULTILATERAL

Agreement establishing the Asian Rice Trade Fund. Drawn up at Bangkok on 16 March 1973

Authentic text: English.

Registered ex officio on 1 December 1974.

MULTILATÉRAL

Accord établissant le Fonds asiatique pour le commerce du riz. Elaboré à Bangkok le 16 mars 1973

Texte authentique : anglais.

Enregistré d'office le 1^{er} décembre 1974.

AGREEMENT¹ ESTABLISHING THE ASIAN RICE TRADE FUND

PREAMBLE

The Contracting Parties to this Agreement (hereinafter called the “members”),

Noting that rice is of special importance to the social well-being and the political and economic stability of developing Asian countries in general and that imbalances between its supply and demand can have disruptive effects through the balance of payments on their development programmes in particular,

Realizing that the formation of a regional organization among the developing Asian countries which have a substantial interest in the production of and trade in rice could serve as an effective instrument for initiating and implementing programmes for the promotion of intra-regional trade and development of their economies,

Believing that such a regional grouping is in accordance with the principle endorsed by the United Nations Economic Commission for Asia and the Far East at its twenty-third and twenty-fourth sessions, by the United Nations Economic and Social Council at its forty-third and forty-fifth sessions, by the United Nations Conference on Trade and Development in General Principle Ten of the Final Act of its first session, and the International Development Strategy for the Second Development Decade adopted by the United Nations General Assembly on 24 October 1970,²

Have resolved to combine their efforts and have agreed to establish hereby the Asian Rice Trade Fund (hereinafter called the “Rice Fund”) which shall operate in accordance with the following.

ARTICLES OF AGREEMENT

Article 1. MEMBERSHIP

(i) Membership in the Rice Fund shall be open to developing countries that are members or associate members of the United Nations Economic Commission for Asia and the Far East and are exporters or importers of rice.

(ii) The Rice Fund shall consist initially of those members, not being less than three, that shall have acceded to this Agreement as hereinafter provided.

(iii) Other eligible developing countries as specified in clause (i) above may apply for membership of the Rice Fund and may become members on the unanimous decision of all of the existing members of the Rice Fund and by accession to this Agreement.

¹ Came into force for the following States on 1 December 1974, i.e. when three of the Parties had deposited instruments of acceptance as indicated below, in accordance with article 19:*

| <i>State</i> | <i>Date of acceptance</i> |
|--|-------------------------------|
| India (Signature affixed on 29 June 1973.) | 28 November 1974 |
| Sri Lanka (Signature affixed on 31 May 1974.) | 29 November 1974 |
| Bangladesh (Signature affixed on 29 June 1973.) | 1 December 1974 |

*The signatories agreed on 29 November 1973 to extend to 31 May and 1 December 1974, respectively, the time limits under articles 17 and 19 for signature and acceptance.

² See General Assembly Resolution 2626 (XXV) in United Nations, *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 28 (A/8028)*, p. 39.

Article 2. FUNCTIONS

The functions of the Rice Fund shall be to promote intraregional trade in rice among developing countries which are members of the Rice Fund, and, to that end, the Rice Fund shall:

- (i) undertake or arrange financing and refinancing facilities for rice sales transactions between the members involving deferred payments up to five years initially and on such terms as may from time to time be specified in the rules; however, the period for refinancing may be extended beyond five years through a decision of the Directors should the resources available so justify;
- (ii) perform such other activities as may be necessary for the furtherance of the activity referred to in clause (i) above; and
- (iii) initiate other schemes for co-operation in the field of intra-regional trade in rice.

Article 3. FINANCING AND REFINANCING FACILITIES AND OBLIGATIONS

(i) The members will be eligible for facilities to be provided under article 2, clause (i), and the relevant rules.

(ii) Each member shall fully guarantee repayment of such financial assistance as may be provided to it or its central bank by the Rice Fund or by another central bank under this Agreement.

(iii) Should a member or its central bank fail to meet its obligations as noted in clause (ii) above within three months of due date, the defaulting member shall be suspended forthwith from further access to financing or refinancing facilities from the Rice Fund without prejudice to the right of the Rice Fund or the sellers' central bank to recover the amount due from the defaulting member, including accrued interest at a penalty rate that will be twice the rate applicable to the amount in default.

(iv) The Board of Directors of the Rice Fund shall convene urgently to consider means to recover the amount in default in the shortest possible time. In considering all cases of default, the Director of the defaulting member will have no right to vote.

Article 4. POWERS

The Rice Fund shall have the power to:

- (i) Borrow money required for its operations from such sources and on such terms and conditions as the Rice Fund may decide, and accept interest-free and/or concessional loan funds or grants;
- (ii) Negotiate and arrange with an international financial institution or a central bank in the ECAFE region for custody and management of the resources of the Rice Fund;
- (iii) Impose a charge at the rate of one per cent on the total f.o.b. value of each transaction refinanced by the Rice Fund, such contribution being shared equally between the buying and the selling country as provided in the rules;
- (iv) Invest and re-invest funds not needed for financing under this Agreement in such manner as the Board of Directors deems appropriate;
- (v) Levy such annual membership fee as may be decided upon by the Board of Directors; and
- (vi) Undertake such action as may be necessary or appropriate to carry out the provisions of this Agreement.

Article 5. ORGANIZATION AND MANAGEMENT

(i) The Rice Fund shall have a Board of Directors which shall be responsible for policy and general administration of the Rice Fund and each member shall appoint one Director and an alternate Director to act in the absence or incapacity of the Director.

(ii) Directors shall hold office for a term of two years and may be re-appointed. If the office of a Director becomes vacant, his alternate shall exercise the powers of the Director pending appointment of a Director by the member concerned.

(iii) The chairmanship of the Board of Directors shall be held in turn by the Directors of members in alphabetical order of their countries. The term of office of the Chairman shall be one year.

(iv) The Directors, including alternates, shall not receive any salary or remuneration from the Rice Fund with respect to their service as directors.

(v) The Chairman shall act as the Chief Executive of the Rice Fund, with over-all supervision over operations of the Rice Fund in accordance with the policies and directives of the Board of Directors.

(vi) In the discharge of his responsibilities, the Chairman will be assisted by a General Manager and the minimum necessary staff appointed by the Board of Directors.

(vii) The Board shall submit reports on the activities of the Rice Fund at least once a year to the Governments of members.

(viii) The Board shall also submit an annual report on its activities to the United Nations Economic Commission for Asia and the Far East.

Article 6. MEETINGS OF THE BOARD OF DIRECTORS

(i) The Board of Directors shall meet at least twice a year; however, the Board may meet more often if deemed necessary by the Chairman or when a written request to meet is made to him by at least half of the members of the Rice Fund. The Chairman shall convene all meetings of the Board.

(ii) A majority of all the Directors shall constitute a quorum.

(iii) Subject to the provisions of this Agreement, the Board of Directors shall adopt its own rules of procedure.

Article 7. VOTING

(i) Each Director shall have one vote.

(ii) Extension of the financing or refinancing period beyond 5 years (article 2, clause (i)) shall require a vote of not less than two thirds of all the Directors.

(iii) Decisions concerning article 3, clause (iv), shall require a unanimous vote of all Directors present, other than the Director of the defaulting member who shall have no right to vote.

(iv) Decisions on matters covered in article 4, clauses (i), (ii) and (iv), and determination of rules and procedures for financing and refinancing shall be made by a unanimous vote of the Directors present.

(v) Decisions on matters covered in article 13 shall require a unanimous vote of all Directors.

(vi) Decisions on matters referred to in article 14, clause (i), shall be subject to approval by not less than two thirds of all the members.

(vii) Decisions on matters covered in article 15 shall require a vote of not less than two thirds of all the Directors.

(viii) Decisions on other matters may be made by a majority vote of the Directors present.

Article 8. EXPENDITURE AND FINANCE

The expenses of the Rice Fund shall be financed out of its income and receipts.

Article 9. LEGAL STATUS

The Rice Fund shall possess full juridical personality and, in particular, full capacity to:

- (i) contract;
- (ii) acquire, and dispose of property; and
- (iii) institute legal proceedings.

Article 10. IMMUNITIES, EXEMPTIONS AND PRIVILEGES

(a) *Judicial proceedings*

(i) The Rice Fund shall enjoy immunity from every form of legal process, except in cases arising out of or in connexion with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Rice Fund in a court of competent jurisdiction in the territory of a country in which the Rice Fund has its principal office, or has appointed an agent for the purpose of accepting service or notice of process, or has borrowed money or has issued or guaranteed securities.

(ii) Notwithstanding the provisions of clause (a)(i) of this article, no action shall be brought against the Rice Fund by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Rice Fund and its members as may be prescribed in the rules and regulations of the Rice Fund, or in contracts entered into with the Rice Fund.

(iii) Property and assets of the Rice Fund shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Rice Fund.

(b) *Assets*

Property and assets of the Rice Fund, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

(c) *Archives*

The archives of the Rice Fund and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

(d) *Freedom of assets from restrictions*

To the extent necessary to carry out the purpose and functions of the Rice Fund effectively, and subject to the provisions of this Agreement, all property and assets of the Rice Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

(e) *Privilege for communications*

Official communications of the Rice Fund shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

(f) *Immunities and privileges of Rice Fund personnel*

All Directors, alternates, officers and employees of the Rice Fund, including experts performing missions for the Rice Fund:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Rice Fund waives the immunity;
- (ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations as are accorded by members to the representatives, officials and employees of comparable rank of other members; and
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

(g) *Exemption from taxation*

(i) The Rice Fund, its assets, property, income and its operations and transactions, shall be exempt from all taxation and from all customs duties. The Rice Fund shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

(ii) No tax shall be levied on or in respect of salaries and emoluments paid by the Rice Fund to Directors, alternates, officers or employees of the Rice Fund, including experts performing missions for the Rice Fund, except where a member deposits with its instrument of acceptance a declaration that such member retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Rice Fund to citizens or nationals of such member.

(iii) No tax of any kind shall be levied on any obligation or security issued by the Rice Fund, including any dividend or interest thereon, by whomsoever held:

- (a) which discriminates against such obligation or security solely because it is issued by the Rice Fund; or
- (b) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Rice Fund.

(iv) No tax of any kind shall be levied on any obligation or security guaranteed or refinanced or financed by the Rice Fund, including any dividend or interest or discount earnings thereon, by whomsoever held:

- (a) which discriminates against such obligation or security solely because it is guaranteed or refinanced or financed by the Rice Fund; or
 - (b) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Rice Fund.
- (h) *Waiver of immunities, exemptions and privileges*

The Rice Fund at its discretion may waive any of the privileges, immunities and exemptions conferred under this article in any case or instance, in such manner and upon such condition as it may determine to be appropriate in the best interests of the Rice Fund.

Article 11. GENERAL PROVISIONS

Subject to the provisions of this Agreement, the Board of Directors shall adopt such rules and regulations, including staff regulations, as may be necessary to carry out the provisions of this Agreement.

Article 12. VOLUNTARY WITHDRAWAL

After this Agreement has entered into force, a member may withdraw voluntarily from the Agreement by giving written notice of withdrawal to the Secretary-General of the United Nations. Withdrawal shall become effective 90 days after the notice is received, provided, however, that such withdrawal shall not diminish any existing liability under any outstanding financing arrangement or any assessment with respect to the outstanding expenses of the Rice Fund up to the time of withdrawal. The Secretary-General shall notify the Board of Directors of each notice of withdrawal and the date on which it shall become effective.

Article 13. AMENDMENT OF THE AGREEMENT

Proposals to amend this Agreement may be initiated through a resolution of the Board of Directors.

The amendment shall come into effect immediately on acceptance by all members.

Article 14. TERMINATION OF OPERATIONS

(i) The Rice Fund may terminate its operations by a resolution of the Board of Directors approved by not less than two thirds of all of the members; however, such termination shall not take place if at least three members are willing to continue operation.

(ii) After such termination, the Rice Fund shall forthwith cease all activities except those incidental to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

(iii) In the event of termination, the Board of Directors shall decide, by a vote of two thirds of all of the Directors, the procedures for determining liability of members, payment of claims and distribution of assets. No distribution of assets shall however be made until all liabilities to creditors shall have been discharged or provided for.

Article 15. INTERPRETATION OR APPLICATION

Any question of interpretation or application of the provisions of this Agreement (including rules and regulations framed under this Agreement) arising between any member and the Rice Fund or between two or more members of the Rice Fund shall be submitted to the Board of Directors for decision and their decision shall be final.

Article 16. ARBITRATION

If a disagreement should arise between the Rice Fund and a Government which has ceased to be a member, or between the Rice Fund and any member, after adoption of a resolution to terminate the operations of the Rice Fund, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Rice Fund, another by the Government concerned and the third, unless the Parties agree otherwise, by such other authority as may have been prescribed in the regulations adopted by the Board of Directors. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the Parties. The third arbitrator shall be empowered to settle all questions of procedure in any case where the Parties are in disagreement with respect thereto.

Article 17. SIGNATURE

(i) The original of this Agreement in a single copy in the English language shall remain open for signature by the fully accredited representatives of the Parties to this

Agreement at the United Nations Economic Commission for Asia and the Far East until 30 June 1973. Thereafter, the Agreement shall be transmitted to the Secretary-General of the United Nations.

(ii) The Secretary-General shall send certified copies of this Agreement to all signatories and to those countries which become members of the Rice Fund.

(iii) Any subsequent amendment as referred to under article 13 shall be communicated to the Secretary-General, who shall send certified copies to all members.

Article 18. ACCEPTANCE

This Agreement shall be subject to acceptance by the signatory Governments in accordance with their respective constitutional procedures.

Instruments of acceptance shall be deposited with the Secretary-General of the United Nations by 1 July 1974.

Article 19. ENTRY INTO FORCE

This Agreement shall enter into force when not less than three of the Parties to this Agreement have deposited instruments of acceptance.

Article 20. COMMENCEMENT OF OPERATIONS

(i) As soon as this Agreement enters into force, each member shall appoint a Director and an alternate and the Executive Secretary of the United Nations Economic Commission for Asia and the Far East shall call the inaugural meeting of the Board of Directors.

(ii) At its inaugural meeting, the Board of Directors shall make arrangements for the determination of the date on which the Rice Fund shall commence its operations.

(iii) The Rice Fund shall notify its members of the date of the commencement of its operations.

The undersigned, having been fully authorized thereto by their respective Governments, have signed this Agreement on the date appearing opposite their signatures.

For the Khmer Republic:

(*) KHY TAING LIM

For the Philippines:

(**) TROADIO T. QUIAZON, JR.

For the Peoples Republic of Bangladesh:

(***) EKRAM HOSSAIN

For the Government of India:

(***) R. BHANDARI

* 18 April 1973.

** 19 April 1973.

*** 29 June 1973.

For the Government of the Republic of Viet-Nam:

NGUEN-HÛU-CHÌ

April 16, 1974

For the Government of the Republic of Sri Lanka:

HAMILTON S. AMERASINGHE

May 31, 1974
