

FREE TRADE AGREEMENT BETWEEN MOLDOVA AND CROATIA

FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF MOLDOVA AND THE REPUBLIC OF CROATIA *

PREAMBLE

The Republic of Moldova and the Republic of Croatia hereinafter referred to as Parties,

Reaffirming their desire to actively participate in the process of economic integration in Europe;

Taking into account the importance of historic, traditional and spiritual relationships between the Parties and spiritual values they share;

Admitting that Parties are willing to consolidate these relations and to establish strong and durable relationships of cooperation and economic integration;

Reaffirming their commitment to pluralist democracy based on observance of the rules, rights and basic human liberties of the state governed by the rule of law;

Firmly convinced that this Agreement will promote intensification of commercial mutually advantageous exchange leading to creation of a wide zone of free trade, and contributing to the process of European integration,

Resolved for this purpose to progressively eliminate the barriers in mutual trade in general, in conformity with the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "GATT 1994"), and the Agreement establishing the World Trade Organisation (hereinafter referred to as "WTO")

Have agreed as follows:

* The associated Annexes have been submitted to the Secretariat for consultation by interested Members (office 1174).

Article 1

Objectives

1. The Parties shall gradually establish a free trade area in a transitional period ending on January 1, 2006 in accordance with the provisions of this Agreement and in conformity with the definition set out in Article XXIV of the GATT 1994 and the Agreement establishing WTO, on substantially all their trade.
2. The objectives of this Agreement are:
 - (a) to promote, through the expansion of mutual trade, the harmonious development of economic relations between the Parties, improvement of living standards and conditions of work, raising productivity and enhancing financial stability;
 - (b) to provide fair competition in trade between the Parties;
 - (c) to gradually eliminate difficulties and restrictions on trade in goods, including also the agricultural products;
 - (d) to create conditions for further encouragement of investments, particularly for the development of joint investments in both countries;
 - (e) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Article 2

Basic Duties

1. For commercial exchanges covered by this Agreement, the Customs Tariffs of the Parties shall be applied to the classification of goods for imports into them.
2. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation (MFN) duty in force on the date of entry into force of this Agreement.
3. If after the date of entry into force of this Agreement, any tariff reduction is applied on an *erga omnes* basis, in particular, reductions resulting from the tariff agreement concluded in the WTO, such reduced duties shall replace the basic duties referred to in paragraph 2 of this Article as from that date when such reductions are applied.
4. The reduced duties calculated in accordance with paragraph 2 of this Article shall be rounded off to the second decimal place.
5. The Parties shall mutually exchange their basic duties.

CHAPTER I: INDUSTRIAL PRODUCTS

Article 3

Scope

1. The provisions of this Chapter shall apply to industrial products originating in the Parties.
2. The term “industrial products” means for the purpose of this Agreement the products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System with the exception of the products listed in Annex 1 to this Agreement.

Article 4

Customs Duties On Imports And Charges Having Equivalent Effect

1. From the date of entry into force of this Agreement no new customs duties on imports or charges having equivalent effect shall be introduced, nor shall those already applied be increased in trade between the Parties.
2. Customs duties on imports and charges having equivalent effect shall be progressively reduced in accordance with the following timetable:
 - From the date of entry into force of the Agreement to 50% of the basic duty;
 - From January 1, 2005 to 30% of the basic duty;
 - From January 1, 2006 the remaining duties shall be abolished.

Article 5

Fiscal Duties

The provisions of Article 4 shall also apply to customs duties of a fiscal nature.

Article 6

Customs Duties On Exports And Charges Having Equivalent Effect

1. No new custom duties on exports or charges having equivalent effect shall be introduced in trade between the Parties as from the date of entry into force of this Agreement.
2. The Parties shall abolish all existing customs duties on exports or charges having equivalent effect on the date of entry into force of this Agreement.

Article 7

Quantitative Restrictions On Imports And Measures Having Equivalent Effect

No quantitative restrictions on imports or measures having equivalent effect shall be maintained or introduced between the Parties as from the date of entry into force of this Agreement.

Article 8

Quantitative Restrictions On Exports And Measures Having Equivalent Effect

No quantitative restrictions on exports or measures having equivalent effect shall be maintained or introduced between the Parties as from the date of entry into force of this Agreement.

CHAPTER II: AGRICULTURAL PRODUCTS

Article 9

Scope

1. The provisions of this Chapter shall apply to agricultural products originating in the Parties.
2. The term "agricultural products" means for the purpose of this Agreement the products falling within Chapters 1 to 24 of the Harmonized Commodity Description and Coding System and the products listed in Annex I to this Agreement.

Article 10

Exchange Of Concessions

1. The Parties shall grant each other the concessions specified in Protocol 1 to this Agreement (hereinafter Protocol 1) as laid down in that Protocol and in accordance with the provisions of this Chapter.
2. Taking account of:
 - the role of agriculture in their economies,
 - the development of trade in agricultural products between the Parties,
 - the particular sensitivity of the agricultural products,
 - the rules of their agricultural policies,
 - the results of the multilateral trade negotiations under the WTO,

the Parties shall examine within the framework of the Joint Committee referred in Article 33 of this Agreement (hereinafter referred to as "Joint Committee") the possibilities of granting each other further concessions in trade in agricultural products.

Article 11

Concessions And Agricultural Policies

1. Without prejudice to the concessions granted under Article 10 to this Agreement the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of the provisions of the respective provisions under the WTO.

2. The Parties shall notify to the Joint Committee changes in their respective agricultural policies pursued or measures applied, which may affect the conditions of trade in agricultural products between them as provided for in this Agreement. On the request of any Party prompt consultations shall be held to examine the situation.

Article 12

Specific Safeguards

Notwithstanding other provisions of this Agreement, and in particular Article 26 to this Agreement, and given the particular sensitivity of the agricultural products, if imports of products originating in a Party, which are subject to the concessions granted under this Agreement, cause serious disturbances to the markets of the other Party, the Party concerned shall immediately enter into consultations to find an appropriate solution. Pending such solution, the Party concerned may take the measures it deems necessary. The type and duration of the measure should not go beyond what is strictly necessary to remedy the situation.

Article 13

Veterinary, Sanitary And Phytosanitary Measures

1. The Parties shall apply their regulations in veterinary, sanitary and phytosanitary matters in a non-discriminatory fashion and shall not introduce any measures that have the effect of unduly obstructing trade.

2. The veterinary and sanitary measures and the work of the veterinary services will be in accordance with international conventions in this field.

3. The phytosanitary measures and the work of the plant protection service will be in accordance with international conventions in this field.

CHAPTER III: GENERAL PROVISION

Article 14

Elimination Of Technical Barriers To Trade

1. The rights and obligations of the Parties relating to standards or technical regulations and related measures shall be governed in accordance with the WTO Agreement on Technical Barriers to Trade.

2. The Parties shall co-operate and exchange information in the field of standardization, metrology, conformity assessment and accreditation with the aim of eliminating technical barriers to trade.

3. Each Party, upon a request of the other Party, shall provide information on particular individual cases of standards, technical norms or related measures.

4. The Parties shall aim to reduce technical barriers to trade. To this end the Parties will enter, where appropriate, into negotiations for the conclusion of the agreements for the mutual recognition in the field of conformity assessment in the spirit of recommendations of the WTO Agreement on Technical Barrier to Trade, for the products subject to mutual trade between the Parties.

Article 15

Internal Taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in the Parties.

2. Products exported to the territory of one of the Party may not benefit from repayment of internal taxes in excess of the amount of direct or indirect taxation imposed on them.

Article 16

Rules Of Origin And Co-Operation In Customs Administration

1. The Parties agree to apply the harmonized European preferential rules of origin in the mutual trade including all existing and further amendments thereto. In case the European rules of origin are amended, the Joint Committee shall make a decision on amending rules of origin.

2. Protocol 2 to this Agreement (hereinafter referred to as “Protocol 2”) lays down the rules of origin and related methods of administrative co-operation.

3. The Parties shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Protocol 2 and Articles 2, 4 to 8, 10, 11, 12, 15, 26, 27 and 28 of this Agreement are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

4. The Parties shall conclude separate Agreement for co-operation between their Customs Administration, as soon as possible.

Article 17

General Exceptions

1. The provisions of this Agreement shall not prevent from applying prohibitions or restrictions on import, export, or goods in transit justified on grounds of public morality, public policy or public security; the protection health and human life, animals or plants as well as environment protection; protection of national treasures possessing artistic, historical or archaeological value; the protection of intellectual property; regulations relating to gold or silver, or the conservation of exhaustible natural resources, if such measures are effectively applied in relation with domestic consumption or production restrictions.

2. Such prohibitions or restrictions shall not, however, constitute a mean of arbitrary discrimination or disguised restriction on trade between the Parties.

Article 18

Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any appropriate measures which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies:
 - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
 - (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
 - (iii) in time of war or other serious international tension constituting the threat of war.

Article 19

State Monopoly

1. The Parties shall adjust progressively any state monopoly of a commercial character so as to ensure that by the end of the transitional period laid down in Article 1 of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed, exists between natural and legal persons of the Parties. The Parties shall inform each other about the measures adopted to implement this objective.

2. The provisions of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. These provisions shall likewise apply to monopolies delegated by the State to other bodies.

Article 20

Payments

1. Payments in freely convertible currencies relating to trade in goods between the Parties and the transfer of such payments to the territory of the Party where the creditor resides shall be free from any restrictions.

2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short and medium term credits to trade in goods in which person residing in one of the Parties participates.

3. Notwithstanding the provisions of paragraph 2, any measure regarding current payments related to flow of goods shall conform to the conditions stipulated in Article VIII of the Articles of Agreement of International Monetary Fund.

Article 21

Rules Of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they can affect trade between the Parties:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices concerning undertakings which have as their objective or effect the prevention, restriction or distortion of competition;
- (b) abuse by one or more economical agents of a dominant position in the territories of the Parties, as a whole or in substantial part thereof.

2. If one Party considers that a certain practice is incompatible with the provisions of paragraph 1 of this Article, or if such a practice causes or threatens to cause serious prejudice to the interests of this Party or material injury to its domestic industry, it may take appropriate measures, upon consultations within the Joint Committee or after 30 days after a request for such consultations is made.

Article 22

State Aid

1. Any aid granted by one Party or through State resources in any form whatsoever, distorting or threatening to distort competition by favouring certain undertakings or the production of certain goods shall be incompatible with the proper functioning of this Agreement, insofar as it may affect trade between the Parties.

2. The provisions of paragraph 1 shall not apply to products covered by Chapter II of this Agreement.

3. The Parties shall ensure transparency of state aid measures, *inter alia* also through annual reporting to the Joint Committee on the whole volume of the state aid and its distribution and will provide, on the other Party's request, information on the schemes in specific cases.

4. If one Party considers that a given practice is incompatible with the provisions of this Article, it may take appropriate measures against this practice, which shall not be in excess of the injury caused, under the conditions and in accordance with the procedures laid down in Article 30 of this Agreement. Such appropriate measures may only be taken in conformity with the procedures and under the conditions laid down by the GATT 1994 and WTO and any other relevant instrument negotiated under their auspices, which are applicable between the Parties.

Article 23

Public Procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.

2. The Parties shall progressively develop regulations on public procurement for the purpose of ensuring mutual access to bidding based contracting on their public procurement markets, at the latest to the end of transitional period from Article 1 of this Agreement.

3. The Joint Committee shall examine the evolution of regulations in this area, aiming to meet the objectives of this Article, and shall recommend concrete ways to implement its provisions.

4. During the time of examination indicted in Paragraph 3, the Joint Committee may take into consideration, in particular, within the framework of international relations development, the possibility of extending the coverage or/and degree of openness of the market mentioned in paragraph 2.

Article 24

Intellectual Property Protection

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, including measures for the enforcement of such rights. The protection shall be improved to a level corresponding to the substantive standards of the multilateral agreements, which are specified in Annex II to this Agreement by the date of entry into force of this Agreement.

2. For the purposes of this Agreement, the protection of intellectual property rights includes mainly the protection of copyright, computer programs, databases and related rights, trademarks, geographic indications, industrial projects, patents, integrated circuits and drawings, as well as undisclosed information on know-how.

3. The Parties shall co-operate in intellectual property rights protection matters and, at the request of any Party, consultations on expert level regarding these problems shall be held, mainly in areas dealing with the existing and future international conventions on harmonization, administration and enforcement of intellectual property rights and on activities in international organizations such as the WTO and World Organization on Intellectual Property, as well as the relationships of the Parties with any other third country on intellectual property matter.

Article 25

Dumping

If one of the Parties finds that dumping, in the meaning of Article VI of GATT 1994, is taking place in the trade relations governed by this Agreement, the concerned Party may take appropriate measures against this practice under the conditions and in accordance with the procedure laid down in Article 30 of this Agreement, as well as in conformity with Article VI of GATT 1994 and with the WTO Agreement on Implementation of Article VI of the GATT 1994.

Article 26

General Safeguards

Where any product is being imported in such increased quantities and under conditions as to cause, or threaten to cause:

- (a) serious injuries to domestic producers of like or directly competitive products in the territory of the importing Party, or
- (b) serious disturbances in any related sector of the economy or difficulties which could bring serious deterioration in the economic situation of a certain region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 30 of this Agreement.

*Article 27*Structural Adjustment

1. Exceptional measures of limited duration, which derogate from the provisions of Article 4, may be taken by the Parties in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Import customs duties applied by one of the Parties for goods originating in other Party shall not exceed 25% *ad valorem* and shall contain a preference element in terms of the rate of customs duty for goods originating in other Party. The total value of imported goods subject to such measures cannot exceed 15% of the total amount of imports of industrial goods from the other Party during the last year for which statistic data is valid.
4. These measures shall apply for a period that will not exceed two years, otherwise the authorization of the Joint Committee is needed. They will cease to be applied, at latest, by the end of the transition period.
5. No measure can be applied to goods if more than two years passed since the removal of all customs duties and quantitative restrictions or measures having equivalent effect for such goods.
6. The interested Party shall inform the other Party of any exceptional measure it intends to take and, at the request of the other Party, consultations shall be held within the Joint Committee regarding such measures and sectors to which they apply, before they are applied. When taking such measures, the Party concerned shall provide the Joint Committee with a schedule for the elimination of customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties, starting at the latest two years after their introduction, at equal rates. The Joint Committee may decide upon a different schedule.

*Article 28*Re-Export And Serious Shortage

Where compliance with the provisions of Articles 6 and 8 leads to:

- (a) re-export towards a third country, against which the exporting Party maintains for that product quantitative export restrictions, export duties, or measures or charges having equivalent effect; or
- (b) serious shortage, or a threat thereof, of a product essential to the exporting Party,

and where the situation referred to above gives rise or is likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 30 of this Agreement. The measures shall be non-discriminatory and be eliminated when conditions no longer their maintenance.

Article 29

Fulfilment Of Obligations

1. The Parties shall take all necessary measures to ensure the fulfilment of their obligations under the provisions of this Agreement.
2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, the Party concerned may take the appropriate measures under the conditions and in accordance with the procedure laid down in Article 30 of this Agreement.

Article 30

Procedure For The Application Of Safeguard Measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs of the present Article, the Parties shall endeavour to solve any differences between them through direct consultations.
2. In the event of Party subjecting imports of products liable to give rise to the situation referred to in Article 26 of this Agreement to an administrative procedure having as its purpose the rapid provisions of information on the trend of trade flows, it shall inform the other Party.
3. Without prejudice to paragraph 7 of the present Article, each Party, which considers resorting to safeguard measures, shall promptly notify the other Party and shall supply all relevant information. Consultations between the Parties shall take place without delay but not later than 30 days after requesting such consultations in the Joint Committee with a view to finding acceptable solution to the Parties.
4.
 - (a) As regards Article 21 and 23, the Parties shall give the Joint Committee all required assistance required in order to examine the case. If the Party fails to stop the practice objected to, within the period fixed by the Joint Committee, or if the Joint Committee fails to reach an agreement after consultations, or after 30 days following the referral for such consultations, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the disputed practice.
 - (b) As regards Articles 25, 26 and 27, the Joint Committee shall examine the case or situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In absence of such a decision within 30 days of the matter being referred to the Joint Committee, the Party concerned may adopt the necessary measures in order to remedy the situation.
 - (c) As regards Article 29 the Party concerned may take appropriate measures after the consultation have been concluded or a period of three months has elapsed from the date of the notification of the other Party.
5. The safeguard measures taken shall be immediately notified to the other Party. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation-giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures as will least disturb the functioning of the Agreement.
6. The safeguard measures taken shall be object of periodic consultations within the Joint Committee with a view to their relaxation as soon as possible or abolition when conditions no longer justify their maintenance.

7. When exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 25, 26 and 27, apply forthwith the precautionary and provisional measures strictly necessary to remedy the respective situation. The measures shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee.

Article 31

Balance-Of-Payments Difficulties

1. Where either Party is in serious balance-of-payments difficulties, or under imminent threat thereof, the Party concerned may adopt, in accordance with the conditions established by GATT 1994 and the WTO, trade restrictive measures, which shall be of limited duration and may not go beyond what is necessary to remedy the balance-of-payments situation. The measures shall be progressively attenuated, as the balance-of-payments conditions improve, and they shall be eliminated when conditions no longer justify their maintenance. The Party in concerned shall inform the other Party and the Joint Committee forthwith their introduction and, whenever practicable, of a time schedule for their removal.

2. The Parties shall endeavour to avoid the imposition of restrictive measures base on balance-of-payments difficulties.

Article 32

Evolutionary Clause

1. Where either Party considers that it would be useful in the interest of the economies of the Parties to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 of this Article will be subject to ratification or approval by the Parties to this Agreement in accordance with their internal legal procedure.

CHAPTER IV: INSTITUTIONAL AND FINAL PROVISIONS

Article 33

The Joint Committee

1. The Parties agree to establish a Joint Committee composed of their representatives.

2. The implementation of this Agreement shall be supervised and administrated by the Joint Committee.

3. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.

4. The Joint Committee may take decisions in the cases provide for in this Agreement. On other matters the Joint Committee may take recommendations.

Article 34

Procedures Of The Joint Committee

1. For the proper implementation of this Agreement, the Joint Committee shall meet whenever necessary but at least once a year. Either Party may request a meeting to be held.
2. The Joint Committee shall act by consensus.
3. If a representative of a Party in the Joint Committee has accepted a decision, subject to the fulfilment of internal legal requirements, the decision shall enter into force, if no later date is contained therein, on the date of the receipt of the written notification about the fulfilment of such requirements.
4. For the purpose of this Agreement, the Joint Committee shall adopt its rules of procedure, which shall, *inter alia*, contain provisions for convening meetings and for the designation of the Chair person and its term of office.
5. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks.

Article 35

Customs Unions, Free Trade Areas And Frontier Trade

1. The provisions of this Agreement apply to all trade relationships between the Parties.
2. This Agreement shall not prevent the maintenance or establishment of customs unions, free-trade zones, economic unions or arrangements for frontier trade to the extent that these do not negatively affect the trade regime between the Parties and in particular the provisions concerning rules of origin provided for by this Agreement.

Article 36

Annexes And Protocols

1. Annexes and Protocols to this Agreement are an integral part of it.
2. The Joint Committee may decide to amend Annexes and Protocols to this Agreement in accordance with the provisions of paragraph 2 of Article 34.

Article 37

Amendments

Amendments to this Agreement, as well as to its including Annexes and Protocols shall enter into force on the date of receipt of the last notification, through diplomatic channels, confirming that all internal legal procedures required by either Party for their entry into force have been fulfilled.

Article 38

Duration And Denunciation

1. This Agreement is concluded for an indefinite period of time.
2. Either Party may denounce this Agreement by a written notification to the other Party. The Agreement shall terminate on the first day of the seventh month following the date when the other Party received the denunciation notice.
3. In the event of any Party to this Agreement becoming a member of the European Union, that Party will withdraw from this Agreement at the latest the day before membership takes effect.

Article 39

Entry Into Force

This Agreement shall enter into force on the first day of the second month following the date of the receipt of the last written notification by which the Parties inform each other through diplomatic channels that all necessary requirements foreseen by their internal legislation for the entry into force of this Agreement have been fulfilled.

DONE at Chisinau, on 27 of February 2004 in two originals, in Moldavian, Croatian and English languages, being equally authentic. In case of divergence in interpretation the English text shall prevail.

FOR THE REPUBLIC OF MOLDOVA

FOR THE REPUBLIC OF CROATIA
