

ROMANIA AND MOLDOVA FREE TRADE AGREEMENT

FREE TRADE AGREEMENT BETWEEN ROMANIA AND THE REPUBLIC OF MOLDOVA

PREAMBLE

Romania and the Republic of Moldova, hereinafter called *the parties*,

Recalling their intention to participate actively in the process of economic integration in Europe,

Considering the importance of the traditional, historical and spiritual links existing between Romania and the Republic of Moldova and the common values they share, and recognizing that Romania and the Republic of Moldova wish to strengthen these links and to establish close and lasting cooperation and economic integration relations,

Reaffirming their commitment to pluralistic democracy based on the rule of law, of human rights and fundamental human freedoms,

Firmly convinced that this Agreement will promote the increasing of bilateral mutually advantageous trade exchanges, will foster to the creation of enlarged free-trade area, thus constituting an important contribution to the European integration process,

Resolved to this end to eliminate progressively the obstacles in their bilateral trade, in accordance with the General Agreement on Tariffs and Trade (GATT),

Considering that no provision of this Agreement may be interpreted as exempting the States Parties to this Agreement from their obligations under other international agreements,

Have decided:

Article 1

Objectives

1. Romania and the Republic of Moldova shall establish a free-trade area, in accordance with the provisions of the present Agreement.
2. The objectives of this Agreement are:
 - (a) to promote, through the expansion of mutual trade, the harmonious development of the economic relations between Romania and the Republic of Moldova, the improvement of living and employment standards, increasing of productivity and financial stability;
 - (b) to provide fair conditions of competition for trade between the States Parties to this Agreement;

- (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Article 2

Scope

The Agreement shall apply to products originating in the States Parties to this Agreement.

Article 3

Customs duties on imports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between Romania and the Republic of Moldova.
2. Upon the date of entry into force of this Agreement, Romania and the Republic of Moldova shall abolish all customs duties on imports for products originating in Romania, and respectively, in the Republic of Moldova.
3. On the same date, Romania applies an import charge of 0.5 per cent *ad valorem* to all its imports, and the Republic of Moldova an import charge of 0.25 per cent.

Article 4

Customs duties of a fiscal nature

The provisions of Article 3 shall also apply to customs duties of a fiscal nature.

Article 5

Customs duties on exports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between Parties.
2. On the date of entry into force of the Agreement, Romania applies an export charge of 0.5 per cent *ad valorem* to all its exports, and the Republic of Moldova an export charge of 0.25 per cent.

Article 6

Quantitative restrictions on imports and measures having equivalent effect

No quantitative restrictions on imports and measures having equivalent effect shall be introduced in trade between the Parties.

Article 7

Quantitative restrictions on exports and measures having equivalent effect

1. No quantitative restriction on exports or measures having equivalent effect shall be introduced in trade between the Parties.

2. Quantitative restrictions and measures having equivalent effect shall be abolished on the date of entry into force of the Agreement, except those provided for in Annex I, for Romania and, those provided for in Annex II, for the Republic of Moldova.

Article 8

Information procedure on draft technical regulations

The Parties to this Agreement shall notify each other, at the earliest practicable stage, the draft technical regulations and draft amendments thereto which they intend to issue.

Article 9

Rules of origin and co-operation in customs administration

1. Protocol A lays down the rules of origin and methods of administrative co-operation.
2. The Parties to this Agreement shall take appropriate measures, including regular reviews by the *Joint Committee* and arrangements for administrative co-operation, to ensure that the provisions of the Protocol A and of the Agreement are effectively and harmoniously applied.

Article 10

Internal taxation

1. The Parties to this Agreement shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirect, discrimination between the products originating in the States Parties.
2. Products exported to the territory of one of the States Parties to this Agreement may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

Article 11

Sanitary and phyto-sanitary measures

The Parties shall apply their veterinary, phyto-sanitary and sanitary measures in a non-discriminatory manner and no new measure having trade restrictive effect will be introduced.

Article 12

General exceptions

1. This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection or health of humans, animals or plants and the environment; the protection of national treasures possessing artistic, historical or archaeological value; the protection of intellectual property; rules 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 means of arbitrary discrimination or a disguised restriction on trade between the Parties to this Agreement.

Article 13

Security exceptions

1 Nothing in this Agreement shall prevent a State Party to this Agreement from taking any 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;
- (c) 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;
- (d) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
- (e) taken in time of war or other serious international tension constituting threat of war.

Article 14

State monopolies

The States Parties to this Agreement shall ensure that any state monopoly of a commercial character be adjusted, so that the objectives of the Agreement are not to be affected. At the end of the fifth year upon entry into force of the Agreement, there will be no discrimination on the conditions under which goods are procured or sold between the nationals of the two Parties to this Agreement. The Joint Committee will examine the necessary measures to fulfil this objective.

Article 15

Payments

1. Payments in free currency relating to trade between the Parties and the transfer of such payments to the territory of the State Party to this Agreement, 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 or medium term credits covering commercial transactions in which a resident participates.

3. Until a full convertibility of the currency in the meaning of Article VIII of the Articles of Agreement of the International Monetary Fund is introduced, the Parties reserve the right to apply exchange restrictions connected to the granting or tacking up of short and medium term credits, provided that these restrictions are applied in a non-discriminatory manner. They shall be applied in such a manner as to cause the least possible disruption to this Agreement. The Parties shall promptly inform the Joint Committee on the introduction of such measures and on any changes therein.

Article 16

Rules of competition between the undertakings

1. The following are incompatible with the proper functioning of this Agreement insofar as they affect trade between the Parties:
 - (a) all agreements between the undertakings, decisions by associations of undertakings and concerted practices between the undertakings which have as their objective or effect the prevention, restriction or distortion of competition;
 - (b) abuse by one or more economic undertakings of a dominant position in the territories of the States Parties to this Agreement as a whole or in a substantial part thereof.
2. If a State Party to this Agreement considers that a given practice is incompatible with the provisions of paragraph 1 and if such practice causes or threatens to cause serious prejudice to the interest of that State Party or material injury to its domestic industry, it may take appropriate measures, upon consultation within the Joint Committee or 30 days after a request for such consultations is made.

Article 17

State aid

1. Any aid granted by a State Party to this Agreement 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 Joint Committee shall set out the basic criteria to verify any practices contrary to paragraph 1, and the rules of their application.
3. The Parties shall ensure transparency of state aid measures; they will submit each year a report 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 aid schemes in specific cases.
4. If a State Party to this Agreement considers that a given practice is incompatible with the provisions of paragraph 1, 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 25.

Article 18

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 the rules governing the public procurement, in order to ensure mutual access to contract award procedures, based on auctions on their respective public procurement markets.
3. The Joint Committee shall examine the development of regulations in this field, in order to fulfil the objective of this Article, and may recommend specific modalities to fulfil its provisions.

Article 19

Protection of intellectual property

1. The States Parties to this Agreement shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, including measures for the enforcement of such rights against infringement, counterfeiting and piracy.
2. For the purposes of this Agreement, the protection of intellectual property rights includes mainly the protection of copyright, computer programs, data bases and related rights, trademarks, geographical indications, industrial projects, patents, integrated circuits and drawings, as well as unpublished know-how information.
3. The Parties shall co-operate in intellectual property rights protection matters and, at the request of the other Party, consultations at expert level regarding these problems shall be held, mainly in areas dealing with the existing and future international treaties on harmonization, administration and enforcement of intellectual property rights and international specialized organizations' activities.

Article 20

Dumping

If one of the Parties to this Agreement finds that dumping is taking place in its trade, the State Party concerned may take appropriate measures against this practice under the conditions and in accordance with the procedure laid down in Article 25.

Article 21

General safeguard actions

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

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the importing state, or
- (b) serious disturbance in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the concerned State Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 25.

Article 22

Structural adjustment

1. Exceptional measures of a limited duration which derogate from the provisions of Article 3, may be taken in the form of 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. The interested Party shall inform the Joint Committee of any exceptional measures it intends to take and, at the request of the other Party, consultations shall be held within the Joint Committee

regarding such measures and the sectors to which they apply, even before they are put into force. When taking such measures, the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article.

Article 23

Re-export and serious shortage

Where the compliance with the provisions of this Agreement leads to:

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

and where the situation referred to above gives rise or is likely to give rise to major difficulties for the exporting State Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 25.

Article 24

Fulfilment of obligations

1. The States Parties to this Agreement shall take all necessary measures to ensure the fulfilment of their obligations under the Agreement.
2. If one State Party considers that the other Party has failed to fulfil an obligation under this Agreement, the State Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 25.

Article 25

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 States Parties to this Agreement shall endeavour to solve any differences between them through direct consultations.
2. Without prejudice to paragraph 6 of the present Article, a State Party to this Agreement, which considers resorting to safeguard measures, shall promptly notify the other State Party and supply all relevant information. Consultations between the State Parties shall take place without delay with a view to finding a mutually acceptable solution.
3.
 - (a) As regards Article 17, the States Parties shall give the Joint Committee all the assistance required in order to examine the case. If the State Party fails to put an end to 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 State Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.
 - (b) As regards Articles 20, 21 and 22, the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by

the State Party concerned. In the absence of such a decision within 30 days of the matter being referred to the Joint Committee, the State Party concerned may adopt the measures necessary in order to remedy the situation.

- (c) As regards Article 24, the State Party concerned shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a mutually acceptable solution. If the Joint Committee fails to reach such a solution or if a period of 30 days has elapsed from the date of notification, the State Party concerned may take appropriate measures.

4. The safeguard measures taken shall be notified immediately to the other Party to this Agreement and to the Joint Committee. They will 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.

5. The safeguard measures taken shall be the object of regular consultation within the Joint Committee with a view to their relaxation, substitution or abolition, as soon as possible.

6. Where exceptional circumstances requiring immediate action make prior examination impossible, the State Party concerned may, in the cases of Articles 20, 21 and 22 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 States Parties to this Agreement shall take place as soon as possible within the Joint Committee.

Article 26

Balance-of-payments difficulties

1. Where a Party of this Agreement is in serious balance-of-payments difficulties, or under imminent threat thereof, the Party concerned may adopt, in accordance with the conditions established in this Agreement, 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 relaxed as balance-of-payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The State Party concerned shall inform the other State Party to this Agreement and the Joint Committee forthwith their introduction and, whenever practicable, of a time schedule for their removal.

2. The State Parties to this Agreement shall endeavour to avoid the imposition of restrictive measures based on balance-of-payments difficulties.

Article 27

Evolutionary clause

1. Where a State Party to this Agreement considers that, in the interest of their economies, it would be useful to develop and deepen the relations established by the Agreement, by extending them to fields not covered thereby, it shall submit a reasoned request to the other State Party to this Agreement. The States Parties may instruct the Joint Committee to examine their 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 will be subject to ratification or approval by the States Parties to this Agreement, in accordance with their own procedures.

Article 28

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 the Agreement, the States Parties shall exchange information and, at the request of any State 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 provided for in this Agreement. On other matters the Joint Committee may take recommendations.

Article 29

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. Each State Party to this Agreement may request that a meeting be held.
2. The Joint Committee shall act by common agreement.
3. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure.
4. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.

Article 30

Trade relations governed by other Agreements

1. This Agreement applies to trade relations between Romania and the Republic of Moldova.
2. This Agreement shall not prevent the maintenance or establishment of customs unions, free-trade areas, economic unions or arrangements for frontier trade.

Article 31

Annexes and Protocols

The Annexes and the Protocols to this Agreement form an entire part of it. The Joint Committee may decide to modify the Annexes and Protocols of this Agreement, in accordance with the provisions of Article 29.

Article 32

Territorial application

This Agreement shall apply to the territories of Romania and the Republic of Moldova.

Article 33

Amendments

Amendments to this Agreement other than those referred to in Article 31, which are approved by the Joint Committee, shall be submitted to the State Parties for acceptance and shall enter into force at the date of communication of their acceptance.

Article 34

Withdrawal and expiration

Each State Party to this Agreement may withdraw therefrom by means of a written notification to the other Party to the Agreement.

The withdrawal shall take effect six months after the date on which the notification is received.

Article 35

Entry into force

This Agreement shall enter into force at the date of the last notification through which the other Party notifies its ratification.

The Parties will do their utmost in order to fulfil the ratification procedures, within a maximum of six months from the date of signature of the present Agreement.

Article 36

Depositary

Done at Bucharest, this 15th day of February 1994, in two authentic copies in the Romanian language, both copies being equally valid.