

CHAPTER 2 TRADE IN GOODS

ARTICLE 6

Scope

1. This Chapter applies to the following products originating in Albania or in an EFTA State:

- (a) all products classified under Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS), excluding the products listed in Annex I;
- (b) processed agricultural products specified in Protocol A, with due regard to the arrangements provided for in that Protocol; and
- (c) fish and other marine products as provided for in Annex II.

2. Albania and each EFTA State have concluded agreements on trade in agricultural products on a bilateral basis. These agreements form part of the instruments establishing a free trade area between Albania and the EFTA States.

ARTICLE 7

Rules of Origin and Methods of Administrative Co-operation

1. The provisions on rules of origin and methods of administrative co-operation are set out in Protocol B.

2. The Parties agree to consider favourably requests for negotiations aiming at concluding bilateral Agreements on Mutual Administrative Assistance in Customs Matters.

ARTICLE 8

Customs Duties

1. Upon entry into force of this Agreement, the Parties shall abolish all customs duties on imports and exports of products originating in Albania or in an EFTA State covered by paragraph 1 of Article 6, except as otherwise provided for in the relevant Annexes and Protocols. No new customs duties shall be introduced, nor shall those

already applied be increased in trade between the Parties from the entry into force of this Agreement, except as provided for in Article 1 of Protocol A.

2. A customs duty includes any duty or charge of any kind imposed in connection with the importation or exportation of a product, including any form of surtax or surcharge, but does not include any charge imposed in conformity with Articles III and VIII of the GATT 1994.

ARTICLE 9

Import and Export Restrictions

The rights and obligations of the Parties in respect of export and import restrictions shall be governed by Article XI of the GATT 1994, which is hereby incorporated into and made part of this Agreement.

ARTICLE 10

Internal Taxation and Regulations

1. The Parties commit themselves to apply any internal taxes and other charges and regulations in accordance with Article III of the GATT 1994 and other relevant WTO Agreements.

2. Exporters may not benefit from repayment of internal taxes in excess of the amount of indirect taxation imposed on products exported to the territory of a Party.

ARTICLE 11

Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties shall exchange names and addresses of contact points with sanitary and phytosanitary expertise in order to facilitate communication and the exchange of information.

ARTICLE 12

Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade.
2. The Parties shall strengthen their co-operation in the field of technical regulations, standards and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

ARTICLE 13

Trade Facilitation

The Parties, in accordance with the provisions set out in Annex III, with the aim to facilitate trade between Albania and the EFTA States, shall:

- (a) simplify, to the greatest extent possible, procedures for trade in goods and related services;
- (b) promote co-operation among them in order to enhance their participation in the development and implementation of international conventions and recommendations on trade facilitation; and
- (c) co-operate on trade facilitation within the framework of the Joint Committee.

ARTICLE 14

Sub-Committee on Rules of Origin, Customs Procedures and Trade Facilitation

1. With reference to Articles 7, 8 and 13, a Sub-Committee of the Joint Committee on Rules of Origin, Customs Procedures and Trade Facilitation (hereinafter referred to as “the Sub-Committee”) is hereby established.
2. The mandate of the Sub-Committee is set out in Annex IV.

ARTICLE 15

State Trading Enterprises

The rights and obligations of the Parties in respect of state trading enterprises shall be governed by Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994, which are hereby incorporated into and made part of this Agreement.

ARTICLE 16

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as provided for in paragraph 2.

2. Before Albania or an EFTA State, as the case may be, initiates an investigation to determine the existence, degree and effect of any alleged subsidy in Albania or in an EFTA State, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 45 day period with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if any Party so requests within 20 days from the receipt of the notification.

ARTICLE 17

Anti-dumping

1. A Party shall not apply anti-dumping measures as provided for under Article VI of the GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994 in relation to products originating in another Party.

2. The Parties recognise that the effective implementation of competition rules may address economic causes leading to dumping.

ARTICLE 18

Rules of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between Albania and an EFTA State:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition; and
 - (b) abuse by one or more undertakings of a dominant position in the territory of a Party as a whole or in a substantial part thereof.
2. The provisions of paragraph 1 shall apply to the activities of public undertakings and undertakings for which the Parties grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.
3. The provisions of paragraphs 1 and 2 shall not be construed to create any direct obligations for undertakings.
4. If a Party considers that a given practice is incompatible with the provisions of paragraphs 1 and 2, the Parties concerned shall give to the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party concerned fails to put an end to the practice objected to within the period set by the Joint Committee, or if the Joint Committee fails to reach an agreement after consultations, or after thirty days following referral for such consultations, the other Party may adopt appropriate measures to deal with the difficulties resulting from the practice in question.

ARTICLE 19

General Safeguard Measures

The rights and obligations of the Parties in respect of general safeguards shall be governed by Article XIX of GATT 1994 and the WTO Agreement on Safeguards. In taking measures under these WTO provisions, a Party shall exclude imports of an originating product from one or several Parties if such imports do not in and of themselves cause or threaten to cause serious injury. The Party taking the measure shall demonstrate that such exclusion is in accordance with WTO jurisprudence.

ARTICLE 20

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of another Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious

injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of paragraphs 2 to 10.

2. Bilateral safeguard measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

3. The Party intending to take a bilateral safeguard measure under this Article shall immediately, and in any case before taking a measure, make notification to the other Parties and the Joint Committee. The notification shall contain all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure. A Party that may be affected by the measure shall be offered compensation in the form of substantially equivalent trade liberalisation in relation to the imports from any such Party.

4. If the conditions set out in paragraph 1 are met, the importing Party may take measures consisting in increasing the rate of customs duty for the product to a level not to exceed the lesser of:

- (a) the MFN rate of duty applied at the time the action is taken; or
- (b) the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

5. Bilateral safeguard measures shall be taken for a period not exceeding one year. In very exceptional circumstances, after review by the Joint Committee, measures may be taken up to a total maximum period of three years. No measure shall be applied to the import of a product which has previously been subject to such a measure.

6. The Joint Committee shall within 30 days from the date of notification examine the information provided under paragraph 3 in order to facilitate a mutually acceptable resolution of the matter. In the absence of such resolution, the importing Party may adopt a measure pursuant to paragraph 4 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the measure is taken may take compensatory action. The bilateral safeguard measure and the compensatory action shall be immediately notified to the other Parties and the Joint Committee. In the selection of the bilateral safeguard measure and the compensatory action, priority must be given to the measure which least disturbs the functioning of this Agreement. The compensatory action shall normally consist of suspension of concessions having substantially equivalent trade effects or concessions substantially equivalent to the value of the additional duties expected to result from the bilateral safeguard measure. The Party taking compensatory action shall apply the action only for the minimum period

necessary to achieve the substantially equivalent trade effects and in any event, only while the measure under paragraph 4 is being applied.

7. Upon the termination of the measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

8. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional emergency measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. The Party intending to take such a measure shall immediately notify the other Parties and the Joint Committee thereof. Within 30 days of the date of the notification, the procedures set out in paragraphs 2 to 6, including for compensatory action, shall be initiated. Any compensation shall be based on the total period of application of the provisional emergency measure and of the emergency measure.

9. Any provisional measure shall be terminated within 200 days at the latest. The period of application of any such provisional measure shall be counted as part of the duration of the measure set out in paragraph 5 and any extension thereof. Any tariff increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

10. Five years after the date of entry into force of this Agreement, the Parties shall review in the Joint Committee whether there is need to maintain the possibility to take safeguard measures between them. If the Parties decide, after the first review, to maintain such possibility, they shall thereafter conduct biennial reviews of this matter in the Joint Committee.

ARTICLE 21

General Exceptions

The rights and obligations of the Parties in respect of general exceptions shall be governed by Article XX of the GATT 1994, which is hereby incorporated into and made part of this Agreement.

ARTICLE 22

Security Exceptions

The rights and obligations of the Parties in respect of security exceptions shall be governed by Article XXI of the GATT 1994, which is hereby incorporated into and made part of this Agreement.