

## **CHAPTER II COMMON PROVISIONS**

### **ARTICLE 5 Customs Duty**

For the purpose of this Agreement, a customs duty includes any duty or charge of any kind imposed on, or in connection with, the importation or exportation of a good, including any form of surtax or surcharge imposed on, or in connection with, such importation or exportation, but does not include any:

- a) internal taxes or other charges equivalent to internal taxes imposed consistently with Article 10 (National Treatment);
- b) anti-dumping or countervailing duties imposed consistently with Article 20 (Anti-Dumping and Countervailing Measures);
- c) safeguard duties or levies imposed consistently with Article 19 (General Safeguards)
- d) fees or other charges imposed consistently with Article 11 (Fees and Other Charges).

### **ARTICLE 6 Classification and Valuation of Goods**

1. The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the Combined Nomenclature (CN) of the European Union.
2. A Party may introduce new tariff splits, provided that the preferential conditions applied in the new tariff splits are not less preferential than those applied originally.
3. For the purposes of determining the customs value of goods traded between the Parties, provisions of Article VII of the GATT 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994, as may be amended, shall apply *mutatis mutandis*.

### **ARTICLE 7 Base Rate**

1. For each good, the base rate to which successive reductions or eliminations set out in this Agreement is to be applied shall be the Most Favoured Nation (MFN) customs duty that was in force on the date of entry into force of this Agreement.
2. If, after the date of entry into force of this Agreement, any tariff reduction is applied by the Parties on MFN basis, such reduced duties shall replace the base rates referred to in paragraph 1 of this Article as from the date when such reductions are applied.
3. The Parties shall communicate to each other their respective base rates.

**ARTICLE 8**  
**Customs Duties on Exports and Charges Having Equivalent Effect**

1. Customs duties on exports and charges having equivalent effect shall be abolished in trade between the Parties upon the entry into force of this Agreement.
2. From the date of the entry into force of this Agreement no new customs duties on exports and charges having equivalent effect shall be introduced in trade between the Parties.

**ARTICLE 9**  
**Quantitative Restrictions on Imports and Exports**

Neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes. To this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

**ARTICLE 10**  
**National Treatment**

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes. To this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

**ARTICLE 11**  
**Fees and Other Charges**

Each Party shall ensure, in accordance with Article VIII of the GATT 1994 and its interpretative notes, that all fees and charges of whatever character (other than customs duties and other duties and charges that are excluded from the definition of a customs duty under Article 5 (Customs Duty)) imposed on, or in connection with, importation or exportation are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or taxation of imports or exports for fiscal purposes.

**ARTICLE 12**  
**Sanitary and Phytosanitary Measures**

1. The Parties affirm their rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.
2. The Parties shall not apply their regulations in sanitary and phytosanitary matters as an arbitrary or unjustifiable discrimination or a disguised restriction on trade between them.

**ARTICLE 13**  
**Technical Regulations**

1. The Parties confirm their rights and obligations with respect to each other under the WTO Agreement on Technical Barriers to Trade.
2. The Parties shall co-operate and exchange information within the Joint Committee in the fields of technical regulations, standards, metrology, and conformity assessment procedures, with the aim of eliminating technical barriers to trade.
3. The Parties agree to enter where appropriate into negotiations for the mutual recognition in the field of conformity assessment, with the consideration of international rights and obligations of both Parties.

**ARTICLE 14**  
**Government Procurement**

The Parties shall grant each other's suppliers access to contract award procedures a treatment no less favourable than that accorded to suppliers of any other country.

**ARTICLE 15**  
**Intellectual Property Rights**

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "TRIPS Agreement") and any other multilateral intellectual property agreements by which both Parties are bound.
2. The Parties shall ensure adequate, effective and non-discriminatory protection of intellectual property rights, including measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article and the TRIPS Agreement and any other multilateral intellectual property agreements by which both Parties are bound.
3. The Parties shall cooperate on intellectual property matters, and each of them shall provide the legal means for interested parties to prevent the commercial use of the other Party's country name, where such use is likely to mislead consumers with regard to the geographical origin of the good.

## **ARTICLE 16**

### **Rules of Origin and Co-operation between the Customs Administrations**

1. The rules of origin applicable between the Parties to goods covered under this Agreement and related methods of administrative co-operation are set out in Annex I.
2. Annex I of this Agreement on rules of origin shall be applied temporarily and it shall be replaced by the rules of origin in the preferential trade arrangement and its related annexes between Moldova and the EU. In case these rules of origin are to be amended, the Joint Committee shall initiate the procedure of amending those rules of origin.

## **ARTICLE 17**

### **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 of one Party and like products originating in the other Party.
2. Products exported to the territory of the Parties may not benefit from repayment of internal indirect taxation in excess of the amount of indirect taxation imposed on them.

## **ARTICLE 18**

### **Structural Adjustment**

1. Exceptional measures of limited duration which derogate from the provisions of Article 23 (Elimination of Customs Duties on Imports and Charges Having Equivalent Effect) 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. Customs duties on imports applicable in the Parties to products originating in the other Party introduced by these measures may not exceed 25 % ad valorem and shall maintain an element of preference for products originating in the other Party. The total value of imports of the products which are subject to these measures may not exceed 15% of total imports of industrial products from the other Party as defined in Article 22 (Scope) during the last year for which statistics are available.
4. These measures shall be applied for a period not exceeding five years unless a longer duration is authorized by the Joint Committee. They shall cease to apply at the latest on the expiry of the transitional period.
5. No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.

6. The Parties shall inform the Joint Committee of any exceptional measures they intend to take and, at the request of either Party, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are applied. When taking such measures the Parties shall provide the Joint Committee with a schedule for the elimination of the 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 on a different schedule.

## **ARTICLE 19**

### **General Safeguards**

1. The Parties retain their rights and obligations to apply safeguard measures consistent with Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.
2. This Agreement shall not confer any additional rights or obligations on the Parties with regard to the application of safeguard measures, referred to in paragraph 1 of this Article.

## **ARTICLE 20**

### **Anti-dumping and Countervailing Measures**

1. The rights and obligations of the Parties with respect to anti-dumping and countervailing measures shall be governed by Article VI and Article XVI of the GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.
2. This Agreement shall not confer any additional rights or obligations on the Parties with regard to the application of anti-dumping and countervailing measures, referred to in paragraph 1 of this Article.

## **ARTICLE 21**

### **Re-export and Serious Shortage**

1. Where compliance with the provisions of Articles 8 (Customs Duties on Exports and Charges Having Equivalent Effect) and 9 (Quantitative Restrictions on Imports and Exports) leads to:
  - a) re-export towards a third country against which the exporting Party to this Agreement maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
  - b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are 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 procedures laid down in Article 31 (Fulfilment of Obligations and Dispute Settlement).

2. Measures taken as a result of the situation referred to in paragraph 1 shall be applied in a non-discriminatory manner and be eliminated when conditions no longer justify their maintenance.