

necessary. The type and duration of the measure should not go beyond what is strictly necessary to remedy the situation.

Article 14

Sanitary and phytosanitary measures

1. The Contracting Parties shall apply their regulations in 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 veterino-sanitary measures and the work of the veterinary services will be in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.
3. The phytosanitary measures and the work of the plant protection service will be in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.
4. The measures related to the veterinary and phytosanitary control between the Contracting Parties shall be harmonised in accordance with the legislation of the EU.
5. The Contracting Parties undertake the obligation to exchange regularly the information on the level of sanitary and phytosanitary protection of animals, plants and products.

CHAPTER III – GENERAL PROVISIONS

Article 15

Rules of origin and co-operation in customs administration

1. The Contracting Parties agree to apply the harmonized Pan European preferential rules of origin in the mutual trade, including all existing and further amendments thereto. In case the Pan European rules of origin are amended, the Joint Committee shall make a decision on amending rules of origin.
2. Protocol 1 to this Agreement lays down the rules of origin and related methods of administrative co-operation.
3. The Contracting Parties shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative co-operation, to ensure effective and harmonised application of the European rules of origin and Articles 2, 4 to 7, 9 to 12, 16, 26 to 28 of this Agreement, 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.

Article 16

Internal taxation

1. The Contracting 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 Contracting Parties.

2. Products exported to the territory of one of the Contracting Parties may not benefit from repayment of internal taxation in excess of the amount of indirect taxation imposed on them.

Article 17 **General exceptions**

This Agreement shall not preclude prohibitions or restrictions on imports, exports or traffic of goods in transit justified on grounds of public morality, public order or public security; the protection of health and life of humans, animals or plants; the protection of national treasures of artistic, historic or archaeological value; the protection of intellectual property or the rules relating to gold and silver, the protection of environment or the conservation of exhaustible natural resources, if such measures are applied in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a mean of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

Article 18 **Security exceptions**

Nothing in this Agreement shall prevent a Contracting Party from taking any appropriate measure 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) taken in time of war or other serious international tension.

Article 19 **State monopolies**

1. The Contracting Parties shall adjust progressively any state monopoly of a commercial character so as to ensure that by the date of entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Contracting Parties.
2. The Joint Committee shall be informed about the measures adopted to implement this objective.
3. The provisions of this Article shall apply to any body through which the competent authorities of the Contracting Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the

Contracting 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 Contracting Parties and the transfer of such payments to the territory of the Contracting Party where the creditor resides shall be free from any restrictions.
2. The Contracting Parties shall refrain from any foreign exchange or administrative restrictions on the grant, repayment or acceptance of short or medium term credits to trade in goods in which person residing in one of the Contracting Parties participates.
3. Notwithstanding the provisions of paragraph 2 of this Article, all measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Agreement of the International Monetary Fund and shall be applied on a non-discriminatory basis.

Article 21

Rules of competition concerning undertakings

1. The following are incompatible with the proper functioning of this Agreement insofar as they may negatively affect trade between the Contracting Parties:
 - a) all agreements between undertakings, decisions by associations of undertakings or concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
 - b) abuse by one or more undertakings of a dominant position in the whole territory of one of the Contracting Parties or in a substantial part thereof.
2. The provisions of paragraph 1 of this Article shall apply to the activities of all undertakings including public undertakings and undertakings to which the Contracting Parties grant special or exclusive rights. Undertakings entrusted with the operation of services of general economic interest or those having the character of a revenue-producing monopoly, shall be subject to provisions of paragraph 1 of this Article insofar 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. With regard to products referred to in Chapter II of this Agreement the provisions of paragraph 1 a) of this Article shall not apply to such agreements, decisions and practices which form an integral part of a national market organisation.
4. If either Contracting Party considers that a given practice is incompatible with paragraphs 1, 2 and 3 of this Article and if such practice causes or threatens to cause serious prejudice to the interest of that Contracting Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 30 of this Agreement.

Article 22

State aid

1. Any aid granted by a Contracting Party or through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it may affect trade between the Contracting Parties, be incompatible with the proper functioning of this Agreement.
2. For agricultural products the provisions of paragraph 1 of this Article shall comply with the relevant WTO Agreements.
3. The Contracting Parties shall ensure transparency in the area of state aid, *inter alia*, by reporting annually to the Joint Committee on the total amount and the distribution of the aid given and by providing to the other Contracting Party, upon request, information on aid schemes and on particular individual cases of state aid.
4. If a Contracting Party considers that a particular practice:
 - is incompatible with the terms of paragraph 1 of this Article, or
 - causes or threatens to cause serious prejudice to the interest of that Contracting Party or material injury to its domestic industry,it may take appropriate measures under the conditions of and in accordance with the provisions laid down in Article 30 of this Agreement.
5. Such appropriate measures may only be taken in conformity with the procedures and under the conditions laid down by the Agreement establishing WTO, particularly the GATT 1994 and any other relevant instrument negotiated under their auspices, which are applicable between the Contracting Parties.

Article 23

Public procurement

1. The Contracting Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement. The Contracting Parties aim at opening up of the award of public procurement on the basis of non-discrimination and reciprocity.
2. The Contracting Parties will progressively develop their respective rules, conditions and practices on public procurement and shall grant suppliers of the other Contracting Party access to contract award procedures on their respective public procurement markets not less favourable than that accorded to companies of any third country.
3. The Joint Committee shall examine developments related to the achievement of the objectives of this Article and may recommend practical modalities of implementing the provisions of paragraph 2 of this Article so as to ensure free access, transparency and full balance of rights and obligations. During the examination referred to this paragraph from this article, the Joint Committee may consider, especially in the light of international regulations in this area, the possibility of extending the coverage and/or the degree of the market opening provided for in paragraph 2 of this Article.
4. The Contracting Parties shall endeavour to accede to the relevant Agreements negotiated under the auspices of the GATT 1994 and the Agreement establishing the WTO.

Article 24

Intellectual Property Rights

1. The Contracting Parties shall grant and ensure adequate and effective protection of intellectual property rights on a non-discriminatory basis, including effective measures for enforcing such rights against infringement, and particularly against counterfeiting and piracy. The Contracting Parties agree to comply with the substantive standards of the multilateral agreements listed in Annex 4 of this Agreement.
2. For the purpose of this Agreement the term "intellectual property" refers to: protection of copyright and related rights, including computer programs and databases, the rights of inventors, design creators, the patent rights and inventions or utility models, trade marks, industrial designs and topographies of integrated circuits, geographical indications including mark of origin, as well as undisclosed information including "know-how".
3. In fulfilment of their commitments under international agreements and legislation in the field of intellectual property rights, the Contracting Parties to this Agreement shall not grant to nationals of the state of the other Contracting Party treatment less favourable than that accorded to nationals of any third state.
4. The Contracting Parties shall co-operate in matters of intellectual property. Upon request of a Contracting Party, they shall hold expert consultations on these matters, in particular on activities relating to the existing or to future international conventions concerning the harmonisation, administration and enforcement of intellectual property and on activities in international organisations, such as the WTO, World Intellectual Property Organisation, as well as on the relations of the Contracting Parties with any third country on intellectual property matters.
5. The implementation of this article shall be regularly assessed by the Contracting Parties. Upon difficulties in trade in relation with the rights of intellectual property, any of the Contracting Parties may request urgent consultations for finding mutually satisfactory solution.

Article 25

Antidumping and countervailing measures

Nothing in this Agreement shall prejudice or affect in any way the taking, by either Contracting Party of anti-dumping or countervailing measures in accordance with the Agreement on Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures.

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 Contracting Party, or

- b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a certain region;

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

Article 27

Structural adjustment

1. Exceptional measures of limited duration which are not in accordance with the provisions of Article 4 of this Agreement may be taken by any of the Contracting 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 one of the Contracting Parties to products originating in the other Contracting Party introduced in accordance with the paragraphs 1 and 2 of this Article may not exceed 25% ad valorem and shall maintain an element of preference in customs duties for products originating in the other Contracting 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 Contracting Party as defined in Chapter I of this Agreement, during the last year for which statistics are available.
4. Temporary measures may be applied for a period not exceeding the transitional period determined in paragraph 1, Article 1 of this Agreement.
5. The Contracting Party concerned shall inform the other Contracting Party of any exceptional measures it intends to take and, at the request of the other Contracting Party, consultations shall be held immediately within the Joint Committee on such measures and the sectors to which they apply. When taking such measures the Contracting Party concerned 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 annual rates. The Joint Committee may decide on a different schedule.

Article 28

Re-export and serious shortage

Where compliance with the provisions of Articles 5 and 6 of this Agreement leads to:

- a) re-export towards a third country against which the exporting Contracting Party 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 Contracting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Contracting Party, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 30 of this Agreement.

Article 29

Fulfilment of obligations

1. The Contracting Parties shall take any measures required to fulfil their obligations under this Agreement to ensure that the objectives set out in this Agreement are attained.
2. If one Contracting Party considers that the other Contracting Party has failed to fulfil an obligation under this Agreement, the Contracting Party concerned may take 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 this Article, the Contracting Parties shall endeavour to solve any differences between them through direct consultations.
2. In the event of either Contracting 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 provision of information on the trade flows, it shall inform the other Contracting Party.
3.
 - a) With regard to Articles 25, 26 and 28 of this Agreement, 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 Contracting Party concerned. In the case of the absence of such decision within 30 days from the date of the matter being referred to the Joint Committee, the Contracting Party concerned may adopt the necessary measures in order to remedy the situation.
 - b) As regards Article 29 of this Agreement, the Contracting Party concerned may take appropriate measures after the consultations have been concluded or a period of three months has elapsed from the date of the first written notification to the other Contracting Party.
 - c) With regard to Articles 21 and 22 of this Agreement, the Contracting Party concerned shall give the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Contracting Party in question 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 within thirty working days of the matter being referred to it, the Contracting Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.
4. The safeguard measures taken shall be immediately notified to the other Contracting Party. With regard to their extent and to their duration, measures shall be limited 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 measures which will least disturb the functioning of this Agreement. The measures taken by a Contracting Party against an action or an omission of the other Contracting Party may only affect the trade with that Contracting Party.

5. The safeguard measures taken shall be the 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.
6. Where exceptional circumstances requiring immediate action make prior examination impossible, the Contracting Party concerned may, in the cases of Articles 25, 26 and 28 of this Agreement, apply forthwith the provisional measures necessary to remedy the situation. Those measures taken shall be notified to the other Contracting Party without delay, and consultations between the Contracting Parties shall take place as soon as possible within the Joint Committee.
7. Without prejudice to paragraph 6 of this Article, a Contracting Party which considers resorting to safeguard measures shall promptly notify in writing the other Contracting Party thereof and supply all relevant information. Consultations between the Contracting Parties shall take place without delay within the Joint Committee with a view to finding a solution acceptable to both Contracting Parties.

Article 31 **Balance of payments difficulties**

1. The Contracting Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments difficulties.
2. Where one of the Contracting Parties is in serious balance of payments difficulties, or under imminent threat thereof, the Contracting Party concerned may, in accordance with the conditions established under the GATT 1994 and Article VIII of the Articles of Agreement of the International Monetary Fund, adopt restrictive measures, including measures related to imports, 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 Contracting Party concerned shall inform the other Contracting Party forthwith of their introduction and, whenever practicable, of a time schedule for their removal.

Article 32 **Evolutionary clause**

1. Where one Contracting Party considers that it would be useful in the interests of the economies of the Contracting Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Contracting Party. The Joint Committee shall examine such request and, where appropriate, shall make recommendations, 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 by the Contracting Parties in accordance with their internal legislation.

Article 33
Services and investment

1. The Contracting Parties recognise the growing importance of certain areas, such as services and investments. In their efforts to gradually develop and broaden their co-operation, in particular in the context of the European integration, the Contracting Parties will co-operate with the aim of achieving a progressive liberalisation and mutual opening of markets for investments and trade in services, taking into account relevant provisions of the General Agreement on Trade in Services.
2. The matter related to the opening of markets for investments and trade in services shall be regulated by the specific bilateral agreements.

Article 34
Customs unions, free trade zones and frontier trade

1. This Agreement shall not prevent the maintenance or establishment of customs unions, free trade zones or arrangements for frontier trade to the extent that these do not negatively affect the trade regime between the Contracting Parties and in particular the provisions concerning rules of origin provided for by this Agreement.
2. Upon request the Contracting Parties shall inform each other of any agreement establishing customs union or free trade areas.

Article 35
The Joint Committee

1. A Joint Committee is hereby established and shall be composed of the representatives of the Contracting Parties.
2. The implementation of this Agreement shall be supervised and administered by the Joint Committee.
3. For the purpose of the proper implementation of this Agreement, the Contracting Parties shall exchange information and, at the request of either Contracting Party, shall hold consultations within the Joint Committee. The Committee shall keep under review the possibility of further removal of the obstacles to trade between the Contracting Parties.
4. The Joint Committee may take decisions in the cases provided for in this Agreement. In other cases the Committee may make recommendations.

Article 36
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 Contracting Party may request that a meeting be held.
2. The Joint Committee shall take decisions and recommendations by consensus.
3. If the representative of either Contracting Party in the Joint Committee has accepted, under reservation, a decision subject to the fulfilment of internal legal requirements, that decision shall enter into force, if no later date is contained therein, on the date of the receipt of a written notification as to 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 conveying meeting and for the designation of the Chairman and his term of office.
5. The Joint Committee may decide to set up subcommittees and working groups as it considers necessary to assist it in accomplishing its tasks.

Article 37 **Amendments**

Amendments to this Agreement may be proposed by either Contracting Party and shall enter into force as set out in Article 40 of this Agreement.

Article 38 **Annexes and protocols**

1. Annexes and Protocols to this Agreement are an integral part of it.
2. The Joint Committee may decide to amend the Annexes and Protocols to this Agreement in accordance with the provisions of paragraph 2, Article 36 of this Agreement.
3. In this case the amendments shall enter into force on the date of a receipt of the last written notification through diplomatic channels confirming that the internal legal requirements for the entry into force of the amendments have been fulfilled.

Article 39 **Duration and denunciation**

1. This Agreement is concluded for an indefinite period of time.
2. Each Contracting Party may denounce this Agreement by a written notification through diplomatic channels to the other Contracting Party. The denunciation shall enter into force on the first day of the seventh month after the date of receipt the notification of denunciation.
3. The Contracting Parties agree that in the event of any Contracting Party becoming a member of the European Union, that Contracting Party will withdraw from this Agreement at the latest the day before membership takes effect and without any compensation to the other Contracting Party subject to the altered conditions of trade.

Article 40
Entry into force

This Agreement is subject to ratification. It 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 Contracting 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.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed this Agreement.

Done at _____ this _____ day of _____ 2003, in two originals in the Albanian, Moldavian and English, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

For the Republic of Albania

For The Republic of Moldova