FREE TRADE AGREEMENT BETWEEN UKRAINE AND THE REPUBLIC OF MACEDONIA

DATE OF SIGNING: 18.01.2001
DATE OF RATIFICATION: 05.07.2001

PREAMBLE

willing to develop and strengthen friendly relations, particularly in the areas of trade and economic cooperation, with the aim to facilitate economic cooperation between the two countries and to increase the volume of bilateral trade,
THE REPUBLIC OF MACEDONIA AND UKRAINE (hereinafter referred to as "the Contracting Parties "),
reaffirming their commitment to the principles of market economy, which constitute the basis for their relations,
taking into account their common desire to participate actively in the process of international economic integration,
confirming their intention to take an active part in the process of economic integration in Europe ,
expressing their willingness to co-operate in seeking the means and ways to strengthen this process,
adhering to the stated above, and aiming to eliminate expeditiously the obstacles to their bilateral trade in accordance with provisions of the General Agreement on Tariffs and Trade (GATT, 1994) and the Marrakech Agreement establishing the World Trade Organization (WTO),
expressing their readiness to implement measures that will facilitate harmonious development of trade between these countries, as well as expand and diversify their bilateral co-operation in areas of common interest, including areas not covered by this Agreement, thus creating a basis for cooperation and a facilitating environment based on equality,
non-discrimination and balanced rights and obligations,
being confident that this Agreement will help strengthen the mutually beneficial trade between them and the process of integration in Europe,
maintaining that no provision of this Agreement may be interpreted as exempting the Contracting Parties from their obligations under other international agreements, particularly under the General Agreement on Tariffs and Trade of 1994 and the Marrakech Agreement
establishing the World Trade Organization,
have decided, in pursuance of these objectives, to conclude the following Agreement (hereinafter referred to as "this Agreement")

Article 1
Goals

1. The Contracting Parties shall be gradually establishing a free trade area during a transitional period of more than 10 years, starting from the entry into force of this Agreement, in accordance with the provisions of this Agreement and in conformity

with the definition set forth in Article XXIV of the General Agreement on Tariffs and Trade (GATT) of 1994, and the Marrakech Agreement establishing the WTO**.**
2. The Goals of this Agreement are:
a) to deepen the economic co-operation between the two countries and to raise the standards of living of population of these countries,
b) to gradually eliminate restrictions on trade in goods,
c) to ensure conditions for fair competition in the trade between the Contracting Parties,
d) to facilitate this process by removing barriers to trade and thus facilitating harmonious development and expansion of the world trade,
e) to enhance co-operation between the Contracting Parties,
f) to create conditions furthering investments, particularly joint investment projects in the Contracting Parties,
g) to promote trade and co-operation of the Contracting Parties in the third countries' markets.

CHAPTER I
INDUSTRIAL GOODS

Article 2
Scope

Provisions of this Chapter shall apply to industrial products, originating in one of the Contracting Parties. For purposes of this Agreement, the term "industrial products" means products falling within Chapters 25 to 97 of Harmonized Commodity Description and Coding System with the exception of the products listed in Annex I.

Article 3
Basic duties

1. For commercial exchanges covered by this Agreement, the Customs Tariffs of the Republic of Macedonia shall apply to the classification of goods imported to the Republic of Macedonia. The Customs Tariffs of Ukraine shall apply to the goods imported in Ukraine.
2. For each product the basic duty, the rate of which is subject to the gradual reductions under this Agreement, shall be the most-favored-nation duty applied by the Contracting Parties on 1 January 2001.
3. If after this date, any reduced tariff rate is applied erga omnes, in particular, a rate reduced as a result of tariff agreements made in conformity with the Uruguay Round of the GATT 1994 and the Marrakech Agreement Establishing the WTO, the reduced duty shall replace the basic duty set forth in Paragraph 2 from the date of application of the reduced tariff rate.
4. The reduced duties, calculated in accordance with Paragraph 2, shall be rounded off to the first digit after the decimal point.
5. The Contracting Parties shall exchange information on their basic duties.

Article 4
Customs Duties on Imports

1. No new customs duties on imports or charges having equivalent effect shall be introduced in trade between the Contracting Parties.
2. The Contracting Parties shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect on products originating in Republic of Macedonia or Ukraine, except for those specified in

Protocol A.

Article 5
Charges Equivalent to Duties

1. No new charges, having effect equivalent to customs duties on imports, shall be introduced in trade between the Contracting Parties.
2. All charges having effect equivalent to customs duties on imports shall be abolished as of the date of entry into force of this Agreement in accordance with Article 38.

Article 6
Fiscal Duties

1. The provisions of Article 4 shall also apply to customs duties of a fiscal nature, except for the fee charged for the customs documents processing and preparation.
2. Notwithstanding Paragraph 1 of this Article the Contracting Parties shall implement their national regulations on Value Added Tax and Excise Tax.

Article 7
Customs Duties on Exports and Charges Having Equivalent Effect

1. No new customs duties on exports or charges, having equivalent effect, shall be introduced in trade between the Contracting Parties.
2. On the date of entry into force of this Agreement in accordance with Article 38, the Contracting Parties shall abolish all customs duties on exports and charges having equivalent effect, in their relations between themselves.

Article 8
Quantitative Restrictions on Imports or Exports and Measures Having Equivalent Effect

1. No new quantitative restrictions on imports and exports or measures having equivalent effect shall be introduced in trade between the Republic of Macedonia and Ukraine.
2. All quantitative restrictions on imports and exports of the Contracting Parties and measures, having equivalent effect, shall be abolished on the date of entry into force of this Agreement in accordance with Article 38, except for those that may be necessary to fulfill obligations assumed under international agreements of both Contracting Parties.

Article 9
Technical Barriers to Trade

1. The Contracting Parties shall cooperate and share information in the field of standardization, metrology, conformity assessment and accreditation, for the purpose of elimination of technical barriers to trade and unification of domestic procedures in conformity with the WTO rules relating to trade barriers when carrying out trade transactions.
2. A Contracting Party, upon a request from another Contracting Party, shall submit information concerning relevant individual cases that concern standards, technical rules or similar measures.
3. The Contracting Parties will, where appropriate, enter into negotiations for the conclusion of agreements on mutual recognition of conformity assessment, following the

recommendations of the WTO Agreement on Technical Barriers to Trade relating to technical barriers issues when carrying out trade transactions.

CHAPTER II
AGRICULTURE, AGRICULTURAL AND FISHERY PRODUCTS

Article 10
Scope

Provisions of this Chapter shall apply to agricultural products originating in one of the Contracting Parties. The term "agricultural products" for purposes of this Chapter will refer to products falling within Chapters 1 to 24 of the Harmonized Commodity Description and Coding System., as well as to products listed in Annex 1 to this Agreement.

Article 11
Exchange of concessions

The Contracting Parties declare their readiness to develop trade in agricultural products in conformity with provisions of this Chapter and requirements of the World Trade Organization (WTO).

Article 12
Concessions and Agricultural Policy

The Contracting Parties shall grant each other concessions listed in Protocol B, while applying measures facilitating trade in agricultural products in conformity with provisions of this Chapter and provisions of the Protocol.

Article 13
Special Safeguards

Notwithstanding other provisions of this Agreement, and, in particular, Article 19, in case of particularly sensitive agricultural products, in instances where import of products originating in one of the Contracting Parties, and to which under this Agreement concessions apply, seriously disrupts operation of the market of the other Party, the former Party shall immediately enter into consultations to resolve this problem. Pending such a decision such Contracting Party may take measures it deems necessary in conformity with national legislation.

Article 14
Sanitary and Phytosanitary Measures

1. The Contracting Parties shall apply their national veterinary, sanitary and phytosanitary regulations on the nondiscriminatory basis and shall not introduce any new measures leading to unjustifiable barriers to trade.
2. Veterinary, sanitary and phytosanitary measures will be applied in accordance with international conventions to which both Contracting Parties are parties.

CHAPTER III
GENERAL PROVISIONS

Article 15

Internal Taxation

1. The Contracting Parties shall not take any measures or actions of internal fiscal nature, which may, directly or indirectly, cause discrimination against products originating in the Contracting Parties.
2. Products, exported to one of the Contracting Parties, shall not have advantages from the refunding of internal taxes in the amount exceeding the amount of direct or indirect taxes imposed on these products.

Article 16
Customs Unions, Free Trade Areas and Cross-border Trade

1. This Agreement shall not prohibit creation or administration of customs unions, free trade areas or cross-border trade agreements, provided that such unions do not negatively affect the trading regimes of the Contracting Parties and, in particular, this Agreement does not contain provisions concerning rules of origin.
2. The Contracting Parties shall immediately inform each other of any agreement establishing a customs union or a free trade area, as well as of accession to the European Union.

Article 17
Structural Adjustment

1. Any of the Contracting Parties may take emergency measures of limited duration in the form of higher customs duties.
2. These measures may only concern new industry sectors or certain sectors undergoing restructuring or facing serious difficulties, particularly where such difficulties cause significant social problems.
3. Customs duties on imports applied by the Contracting Party to products originating in the other Party, introduced as part of such measures, may not exceed 25% of the value; certain preferences shall be maintained in such a case for products, originating in the other Party. The total volume of imports of products subject to these measures may not exceed 15% of total imports of industrial products from the other Contracting Party, under Article 4, during the last year for which statistical data are available.
4. These measures shall be applied for a period not exceeding five consecutive years, unless a longer period is authorized by the Joint Committee.
5. No such measures can be introduced in respect of a product, if more than three years have passed since the elimination of duties and quantitative limitations, tariffs or measures, having equivalent effect, concerning the product in question.
6. The Contracting Party concerned shall inform the Joint Committee of any emergency measures it intends to take and, prior to the application of such measures, upon request of the other Party, consultations shall be held at the Joint Committee concerning such measures and relevant sectors. When taking such measures, the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties carried out under this Article. This schedule shall provide information on the phasing out of these duties, starting not later than two years after their introduction, at equal annual rates. The Joint Committee may approve a different schedule.

Article 18
Antidumping and Countervailing Measures

Nothing in this Agreement shall prejudice or affect in any way the taking, by either

Party of anti-dumping or countervailing measures in accordance with Article VI of the GATT 1994 , the Agreement on Implementation of Article VI of the GATT 1994 and the Agreement on Subsides and Countervailing Measures.

Article 19
General safeguards

Where a product is being imported into any of the Contracting Parties in such quantities and under such conditions that may cause or threaten to cause:

a) serious injuries to domestic producers of like or the same products in the territory of the importing Party, or
b) serious disruptions to any related sector of the economy or difficulties which could bring about serious deterioration of the economic situation in the region of the Contracting Parties.

the Contracting Party concerned may take appropriate measures in conformity with conditions and the procedure set forth in Article 22.

Article 20
Re-export and acute shortage

1. Where compliance with provisions of Articles 7 and 8 causes:
(a) re-export to a third country against which the exporting Contracting Party maintains for the product concerned quantitative export restrictions, export duties or measures having equivalent effect; or
(b) an acute shortage, or a threat thereof, of a product essential to the exporting Contracting Party; and in cases where the situation referred to above causes or is likely to cause, major difficulties for the exporting Party,
this Contracting Party may take appropriate measures following conditions and procedure set forth in Article 22.
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 the existing conditions no longer justify their application.

Article 21
State Monopolies

1. The Contracting Parties shall carry out gradual adjustment of any state monopoly of a commercial nature to ensure that no discrimination regarding the conditions under which goods are produced and sold exists between nationals of the Contracting Parties.
2. The Joint Committee shall be informed about the measures taken to achieve this objective.

Article 22
Procedure for application of safeguard measures

1. Before initiating the procedure for the application of safeguard measures set forth in the following Paragraphs of this Article, the Contracting Parties shall seek to settle any disputes between themselves through the Joint Committee.
2. If a Contracting Party subjects imports of products that may give rise to the situation referred to in Article 19, to an administrative procedure aimed to promptly obtain information on the trade dynamics, it shall be required to notify the other Party of this measure.

3. Notwithstanding Paragraph 7 of this Article, a Contracting Party which intends to apply safeguard measures shall be required to immediately notify of that the other Party and provide it with all relevant information. Consultations between the Contracting Parties shall take place without delay in the Joint Committee with a view to finding a mutually acceptable solution.
4. (a) In conformity with Articles 18, 19 and 20, the Joint Committee shall examine the situation and may take any decision needed to eliminate difficulties notified by the Party concerned. If such a decision has not been passed within thirty days after the matter was referred to the Joint Committee, the Contracting Party concerned may implement measures needed to remedy the situation,
(b) Under Article 33, the Contracting Party concerned may take appropriate measures after the consultations have been concluded or after a period of three months has passed from the date of the first notification to the other Party,
(c) Under Article 26, the Contracting Party concerned shall provide the Joint Committee with all the assistance required to examine the situation and, if necessary, shall discontinue the activity that causes that situation. If the other Contracting Party fails to discontinue such activity within the period set forth by the Joint Committee, or if the Joint Committee fails to pass a decision on the matter during thirty working days, the Party concerned may take measures necessary to overcome difficulties resulting from the activity in question.
5. The safeguard measures taken shall be notified immediately to the Joint Committee. The extent and to duration of such measures shall be limited to what is sufficient to remedy the situation so that injuries caused by the application of such measures would not exceed the injury caused by the practice or difficulties that caused application of these measures. Priority shall be given to measures that are the least distorting with respect to the functioning of this Agreement.
6. The safeguard measures taken shall periodically reviewed through the consultations in the Joint Committee with a view to their weakening or elimination when their application is no longer justifiable.
7. Where exceptional circumstances requiring an immediate action make prior examination impossible, the Contracting Party concerned may, in accordance with Articles 18, 19 and 20, apply provisional measures necessary to remedy the situation. The measures shall be notified immediately to the other Party, and consultations between the Contracting Parties shall be carried out as soon as possible through the Joint Committee.

Article 23
General exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit, justified on the grounds of public ethics, public policy or public security, protection of health and life of humans, animals or plants and environment; the protection of national treasures possessing artistic, historic or archeological value; the protection of intellectual property or rules, relating to gold or silver or the conservation of exhaustible natural resources, if such measures are applied in combination with restrictions applied to domestic producers or consumers. Such prohibitions or restrictions shall not, however, constitute a means of discrimination or a disguised restriction on trade between the Contracting Parties.

Article 24
Rules of origin, co-operation and customs administration

1. Protocol C of this Agreement sets forth rules of origin and related methods of administrative cooperation.
2. The Contracting Parties shall take appropriate measures, including regular reviews by the Joint Committee and administrative co-operation arrangements, to ensure effective and coordinated application of provisions of the abovementioned Protocol 2 and Articles 3 to 8, 12, 15 and 17 of this Agreement, and to reduce to the extent possible the formalities relating to trade and to achieve mutually satisfactory solutions to any disputes that may arise as a result of the application of these provisions.

Article 25
Payments

The Contracting Parties, in accordance with their legislation and by mutual consent, will allow making payments in freely convertible currencies to current accounts of the balance of payments, as far as adjustments related to the payments, affect trade.

Article 26
Rules of Competition between Undertakings and State Aid

1. The following are incompatible with the proper operation of this Agreement in so far as they may affect trade between the Contracting Parties.
(a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which are aimed at obstructing, restricting or distorting competition;
(b) abuse by one or more undertakings of a dominant position in the territories of the Contracting Parties as a whole or in the part thereof;
(c) any state aid which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods.
2. If a Contracting Party finds that a given practice is incompatible with the principles of Paragraphs 1(a) and (b) of this Article, or if such practice causes or threatens to cause serious injury to the interests of that Party or material injury to its domestic industry, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure set forth in Article 22.
3. The provisions of Paragraph 1 (c) shall not apply to products referred to in Chapter II.
4. The Joint Committee shall, within three years from the entry into force of this Agreement, develop criteria for determination of practices falling under Paragraph 1 (c), as well as the rules for implementation of such criteria.

5. The Contracting Parties shall ensure transparency of state aid measures, *inter alia* by reporting annually to the Joint Committee on the total amount and the distribution of the aid provided by the state, and by providing, upon request, information on the plan for provision of the state aid in particular cases.
6. If a Contracting Party finds that a particular practice:
- is incompatible with the terms of Paragraph 1 (c), or is not applied consistently with the rules of Paragraph 4, or
- in the absence of rules, referred to in Paragraph 4, causes or threatens to cause serious injury to the interest of that Contracting Party or material injury to its domestic industry, that Contracting Party may take appropriate measures under the conditions and provisions set forth in Article 22.

Such appropriate measures may only be taken in conformity with procedures and under conditions set forth by the GATT 1994 and by the Marrakech Agreement establishing the WTO, and any other relevant instruments used between the Parties, agreements concerning which were adopted by the Parties under the auspices of the WTO.

Article 27
Payment difficulties

Where a Contracting Party faces serious payments difficulties, or where there is an imminent threat thereof, the Party concerned may, in accordance with the conditions established under the GATT 1994 and Article VIII of Articles of Agreement of the International Monetary Fund, apply provisional measures, including measures related to imports, for a limited period that does not exceed the period needed to remedy the balance of payments situation. Such measures shall be gradually relaxed as balance of payments conditions improve and will be eliminated when the conditions no longer justify their application. The Contracting Party implementing such measures shall inform the other Party of that before their application and, whenever practicable, of a time schedule for their elimination.

Article 28
Intellectual Property Rights

1. The Contracting Parties confirm their willingness to cooperate in the area of issues related to the trade-related intellectual property rights, and, if necessary, to apply measures provided for in Annex I C to the Marrakech Agreement establishing the WTO, as well as other multilateral agreements on issues concerning intellectual property protection, to which both Contacting Parties are parties; this list is included in Annex II.
2. For purposes of this Agreement, term "intellectual property" refers to all categories of intellectual property such as copyright and related rights, trademarks, geographical indications, integrated circuit layouts, industrial designs, patents, protected information, including know-how.
3. In fulfillment 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 other Party treatment less favorable than that accorded to nationals of any third state, with the exemption of relations between citizens of CIS countries and Ukraine.
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 with respect to issues relating the existing or future international agreements on coordination, administration and protection of intellectual property rights and on activities in international organizations, such as the WTO, World Intellectual Property Organization, as well as relations of the Parties with third countries with respect to the intellectual property matters.
5. Implementation of provisions of this Article shall be regularly assessed by the Contracting Parties. If difficulties in trade arise due to the rights to intellectual property, including industrial property, either of the Contracting Parties may call for urgent consultations to find a mutually acceptable solution

Article 29
Public Procurement

1. The Contracting Parties consider liberalization of their public procurement markets an objective of this Agreement. The Parties shall seek to open up awarding of public contracts on the basis of non-discrimination and reciprocity.
2. The Contracting Parties shall progressively develop their respective rules and practices of public procurement and shall grant suppliers of the other Contracting Party access to contract award procedures in their respective public procurement Markets, which will be not less favorable than that accorded to companies of any third country.
3. The Joint Committee shall review a list of tasks specified in this Article and may offer practical recommendations concerning implementation of provisions of Paragraph 2 of this Article to ensure free access, transparency and full balance of rights and obligations. During the examination of the situation referred to in Paragraph 2 of 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 openness of the market provided for in Paragraph 2 of this Article.
4. The Contracting Parties shall endeavor to accede to relevant Agreements negotiated under the auspices of the GATT 1994 and the Marrakech Agreement establishing the WTO.

Article 30
The Joint Committee

1. A Joint Committee is hereby established in which each Contracting Party shall be represented.
2. The Joint Committee shall be responsible for, and shall ensure proper implementation of this Agreement.
3. For the purpose of the proper implementation of this Agreement, the Contracting Parties will share information and, upon request of any 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, in accordance with provisions of Paragraph 3 of Article 31, take decisions in cases provided for in this Agreement. With respect to other Matters, the Committee may make recommendations.

Article 31
Rules of Procedure of the Joint Committee

1. To ensure proper implementation of this Agreement, the Joint Committee shall meet whenever necessary, but at least once a year. Either Party may request such a meeting.
2. If a Contracting Party's representative in the Joint Committee has agreed to a decision that requires implementation of domestic government procedures, such a decision shall enter into force after notification of the adoption of the relevant government decision of the other Party, unless a later date is specified in that decision.
3. The Joint Committee shall adopt its rules of procedure which shall, inter alia, contain provisions concerning conduct of meetings, election of the Chairperson and establishment of his/her term of office.
4. The Joint Committee may decide to set up sub-committees and working groups it deems necessary to help implement particular tasks.

Article 32
Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any measures which it finds necessary:
a) to prevent disclosure of information that will threaten its essential national security interests;
b) for protection of its essential national security interests or for implementation of international obligations or national policies:
I) relating to trade in arms, ammunition and military equipment, provided that such measures do not impair the conditions of competition in respect of products not specifically intended for military purposes; it also applies to trade in other goods, materials and services, which is carried out directly or indirectly for the purpose of supplying a military establishment; or
II) relating to non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
III) taken in time of war or other serious aggravation of the international situation presenting a threat of war.

Article 33
Fulfillment of obligations

1. The Contracting Parties shall take all necessary measures to ensure achievement of the objectives and fulfillment of obligations under this Agreement.
2. If a Contracting Party finds that the other Party has failed to fulfill an obligation under this Agreement, the Party concerned may take appropriate measures under conditions and in accordance with procedures set forth in Article 22.

Article 34
Clause on development of trade relations

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

Article 35
Amendments

Any amendments to this Agreement other than those adopted under Paragraph 3 of Article 31, and those approved by the Joint Committee, shall enter into force on the date of the receipt of the latest diplomatic note confirming completion of all procedures required to enact the amendments in accordance with national legislation of each Contracting Party.

Article 36
Protocols and Annexes

Annexes and Protocols to this Agreement form an integral part of it. The Joint Committee may take a decision to amend the Annexes and Protocols on condition of conformity with domestic government procedures of the Contracting Parties.

Article 37
Effective period and termination

1. The Agreement is made for an indefinite period.
2. Each Contracting Party to this Agreement may withdraw therefrom by means of a written notification of that to the other Party. This Agreement shall be terminated effect sixth months after the date on which the notification was received by the other Party.
3. The Contracting Parties agree that in case of accession of one of the Parties to this Agreement to the European Union, the Agreement will be terminated on the day preceding the date of the accession to the EU.
4. The Contracting Parties will resolve through negotiations all issues concerning relevant compensations provided for under Paragraph 3 of this Article.

Article 38
Entry into force

This Agreement shall enter into force within thirty days after the date of the receipt trough diplomatic channels of the last written notification confirming the fulfillment of all necessary national government procedures required for entry into force of this Agreement.
IN WITNESS WHEREOF, the undersigned authorized officials have made this Agreement.
DONE in two copies on 18 January 2001 in Skopje, each copy presented in Macedonian, Ukrainian and English language, each of these texts being authentic. If differences arise concerning interpretation and application of provisions of this Agreement, the English-language copy shall prevail.

For Republic of Macedonia

For Ukraine