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Agreement between the Government of the Republic of Moldova and the Government of the Republic of Azerbaijan on Free Trade

from 26.05.1995

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* Signed in Minsk, on May 26, 1995.

In force since April 16, 1996.

The Government of the Republic of Moldova and the Government of the Republic of Azerbaijan,

hereinafter referred to as the "Contracting Parties",

considering the sovereign right of each state to promote an independent foreign economic policy,

confirming their commitment to the free development of economic cooperation and taking into account the interest of the Contracting Parties in integrating economic relations,

aiming to develop trade and economic cooperation between the Republic of Moldova and the Republic of Azerbaijan on the basis of equality and mutual advantage,

recognizing that the free movement of goods and services requires the implementation of mutually coordinated measures,

have agreed as follows:

Article 1

1) The Contracting Parties shall not apply customs duties, taxes, and charges having equivalent effect to the export and/or import of goods originating from the customs territory of one of the Contracting Parties and intended for the customs territory of the other Contracting Party.

The respective exception from the trade regime, according to the coordinated goods nomenclature, shall be legalized by documents that constitute an integral part of this Agreement, if the Contracting Parties deem it necessary.

2) For the purposes of implementing this Agreement and during its period of validity, the notion of goods originating from the territory of the Contracting Party shall be understood to mean the goods specified in the Rules for the Determination of the Country of Origin of Goods, dated September 24, 1993, approved by the Decision of the Council of the Heads of Governments of the member states of the Commonwealth of Independent States.

Article 2

Each of the Contracting Parties:

- shall not impose, directly or indirectly, on goods originating from the territory of the other Contracting Party that fall within the scope of this Agreement, taxes or charges in excess of those imposed on similar domestic products or on goods originating from third countries;

- shall not introduce, with regard to the import or export of goods, which fall within the scope of this Agreement, any restrictions or special requirements that, in a similar situation, are not applied to similar domestic products or goods originating from third countries;

- shall not apply to the storage, unloading, keeping, transportation of goods originating from the territory of the other Contracting Party, as well as to payments and transfers of payments, any rules other than those applied in similar cases to goods originating from third countries.

Article 3

The Contracting Parties shall refrain from applying discriminatory measures in bilateral trade, the introduction of quantitative restrictions or equivalent measures, with regard to the export or import of goods under this Agreement.

The quantitative restrictions mentioned in this article may be established unilaterally and for a strictly determined period only in the following cases:

- of the acute shortage of the respective goods on the domestic market - until the stabilization of the market situation, or;
- of the acute shortage of the balance of payments - until the stabilization of the balance of payments situation; or
- in the case where a good is imported into the territory of one of the Contracting Parties in such large quantities or under such conditions that it causes or may cause injury to domestic producers of similar goods or directly competitive goods; or
- for the purpose of implementing the measures provided for in the article regulating the issues of carrying out re-export operations.

The Contracting Party applying quantitative restrictions in accordance with this article must provide the other Contracting Party in advance with complete information on the main reasons for their introduction, the forms and possible periods of application of the said restrictions, and subsequently initiate consultations on the basis of which a separate Protocol shall be drawn up.

Article 4

The Contracting Parties shall not permit the unauthorized re-export of goods, in accordance with the lists to be exchanged between the Contracting Parties within one month from the signing of this Agreement. The re-export of these goods to third countries may be carried out only with the written consent and under the conditions determined by the authorized bodies of the state from whose territory the goods originate. In case of non-compliance with this provision, the Contracting Party whose interests have been harmed shall have the right to unilaterally introduce measures to regulate the export of goods to the territory of the state that permitted the unauthorized re-export. At the same time, the latter shall pay the full profit obtained from such re-export to the country from which the respective goods originate.

Article 5

For the purpose of maintaining established relations and conducting the trade-economic relations necessary for both countries, by mutual agreement, the Parties may draw up indicative lists of goods and services that are the subject of mutual export and have primary importance.

These indicative lists shall be coordinated by the competent authorities of the Contracting Parties within the terms and validity periods established by mutual agreement and legalized by a separate protocol, usually every year.

Article 6

All settlements and payments within the framework of trade-economic cooperation between the Republic of Moldova and the Republic of Azerbaijan shall be carried out in accordance with the agreement between the national banks of both states.

Article 7

The Contracting Parties shall regularly exchange information on laws and other normative acts related to economic activity, including trade issues, investments, taxation, banking and insurance activities, other financial services, transport, customs (including customs statistics). The Contracting Parties shall promptly inform each other of changes in national legislation that may affect the implementation of this Agreement.

The authorized bodies of the Contracting Parties shall agree on the manner of exchanging such information.

Article 8

The Contracting Parties recognize the incompatibility of the purposes of this Agreement with unfair and unconstructive participation and undertake not to permit, in particular, the following methods:

- contracts between enterprises, decisions adopted by associations of enterprises, and common methods of constructive practice that are aimed at preventing or restricting competition or derogating from the conditions for ensuring it on the territories of the Contracting Parties;
- actions through which one or more enterprises use their dominant position, limiting competition on the entire territory or on a significant part of the territory of the Contracting Parties.

Article 9

In the application of tariff and non-tariff regulatory measures for bilateral economic relations, for the purpose of exchanging statistical information and carrying out customs procedures, the Contracting Parties have agreed to use the nine-digit Uniform Commodity Nomenclature in the field of foreign economic activity, based on the Harmonized System of Description and Coding of Goods and the Combined Nomenclature of Tariffs and Statistics of the European Economic Community. At the same time, for their own needs, the Contracting Parties shall, where appropriate, extend the Commodity Nomenclature beyond the nine-digit limits.

The maintenance of the standard copy of the Commodity Nomenclature shall be carried out on a mutually coordinated basis through representations in the respective international organizations.

Article 10

The Contracting Parties agree that compliance with the principle of free transit constitutes the main condition for achieving the purpose of this Agreement and an essential element of their integration process into the international system of division of labor and cooperation.

In this regard, each of the Contracting Parties, in accordance with its national legislation and except in cases where national security interests are affected, shall ensure the free transit through its territory of goods originating from the customs territory of the other Contracting Party and/or third countries and intended for the customs territory of the other Contracting Party or to any third country, with the exception of goods whose import is totally prohibited or requires special permission in accordance with the national legislation of each of the Contracting Parties, and shall grant exporters, importers, and carriers all available and necessary means and services to ensure transit under conditions no less favorable than those offered for the same services and means provided to their own exporters, importers, or carriers or to exporters, importers, and carriers of any third state.

The manner and conditions of passage of cargoes through the territory of the states shall be regulated in accordance with international traffic rules.

Article 11

This Agreement shall not prejudice the right of either Contracting Party to take measures accepted in international practice which it considers necessary for the protection of its vital interests or which are indisputably necessary for compliance with international agreements to which it is or seeks to become a party, if such measures relate to:

- issues concerning national defense interests;
- trade in arms, weaponry and military equipment;
- research or production branches related to defense needs;
- deliveries of materials and equipment used in the nuclear industry;
- protection of morality and public order;
- protection of industrial or intellectual property;
- gold, silver or other metals and precious stones;
- protection of public health and the environment.

Article 12

For the purpose of promoting a coordinated policy in the field of export control to third countries, the Contracting Parties shall organize regular consultations and take mutually coordinated measures to create an efficient export control system.

Article 13

The provisions of this Agreement shall supersede the provisions of other bilateral agreements previously concluded by the Contracting Parties, to the extent that the latter are incompatible with the former or identical thereto.

Article 14

The provisions of this Agreement shall not prevent the Contracting Parties from establishing relations with states that are not parties to this Agreement, with their associations, as well as with international organizations, under conditions that do not contradict this Agreement.

Article 15

Disputes between the Contracting Parties regarding the interpretation and application of the provisions of this Agreement shall be settled through negotiations.

The Contracting Parties shall seek to avoid conflict situations in their reciprocal commercial relations.

The Contracting Parties stipulate that claims and disputes between economic agents of both countries arising from the interpretation or performance of commercial contracts or transactions, if they cannot be settled amicably through negotiations and consultations and unless otherwise agreed, shall be subject exclusively to the jurisdiction of arbitration (permanent or "ad-hoc"), established on the territory of the Contracting Parties or on the territory of third states, at the decision of the parties that signed the contracts.

The latter may establish the applicable substantive law, the norms and procedure, as well as the place for hearing the case.

Each of the Contracting Parties shall ensure on its territory effective conditions for the recognition and enforcement of arbitration awards.

Article 16

For the purpose of achieving the objectives of this Agreement and developing recommendations aimed at improving economic and commercial cooperation between the two countries, the Contracting Parties have agreed to establish a Moldovan-Azerbaijani commission, which, at the request of one of the Contracting Parties, shall meet in the Republic of Moldova and the Republic of Azerbaijan.

Article 17

The Contracting Parties have agreed that the Republic of Moldova may open a Commercial Representation in the Republic of Azerbaijan, and the Republic of Azerbaijan - a Commercial Representation in the Republic of Moldova. The legal status of these commercial representations, their functions, and location shall be additionally coordinated by the Contracting Parties.

Article 18

This Agreement shall enter into force on the date of exchange of written notifications whereby the Contracting Parties notify each other of the completion of all necessary formalities.

The Agreement shall cease to be valid upon the expiration of twelve months from the date of the written notification by one of the Contracting Parties of its intention to denounce this Agreement.

Concluded in Minsk, on 26 May 1995, in two copies, each in the Romanian, Azerbaijani, and Russian languages, all texts having equal legal force.

In case of differences in the interpretation of the articles of this Agreement, the reference text shall be the one in Russian.