

# **FREE TRADE AGREEMENT BETWEEN THE EFTA STATES AND THE REPUBLIC OF MOLDOVA**

## **PREAMBLE**

Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (EFTA States),

and the Republic of Moldova, hereinafter each individually referred to as a "Party" or collectively as the "Parties",

RECOGNISING the common wish to strengthen the links between the Parties by establishing close and lasting relations;

DESIRING to create favourable conditions for the development and diversification of trade between the Parties and for the promotion of commercial and economic cooperation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law;

DETERMINED to promote and further strengthen the multilateral trading system, building on their respective rights and obligations under the Marrakesh Agreement establishing the World Trade Organization (WTO Agreement) and the other agreements negotiated thereunder, thereby contributing to the harmonious development and expansion of world trade;

REAFFIRMING their commitment to democracy, the rule of law, human rights and fundamental freedoms in accordance with their obligations under international law, including as set out in the United Nations Charter and the Universal Declaration of Human Rights;

AIMING to create new employment opportunities, improve living standards and ensure high levels of protection of health and safety and of the environment;

REAFFIRMING their commitment to pursue the objective of sustainable development and recognising the importance of coherent and mutually supportive trade, environmental and labour policies in this respect;

DETERMINED to implement this Agreement in line with the objectives to preserve and protect the environment through sound environmental management and to promote an optimal use of the world's resources in accordance with the objective of sustainable development;

RECALLING their rights and obligations under multilateral environmental agreements to which they are a party, and the respect for the fundamental principles and rights at work, including the principles set out in the relevant International Labour Organisation (ILO) Conventions to which they are a party;

RECOGNISING the importance of ensuring predictability for the trading communities of the Parties;

REAFFIRMING their commitment to promote inclusive economic growth by ensuring equal opportunities for all;

AFFIRMING their commitment to prevent and combat corruption in international trade and investment and to promote the principles of transparency and good public governance;

ACKNOWLEDGING the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, such as the OECD Guidelines for Multinational Enterprises, the OECD Principles of Corporate Governance and the UN Global Compact;

CONVINCED that this Agreement will enhance the competitiveness of their firms in global markets and create conditions encouraging economic, trade and investment relations between the Parties;

HAVE AGREED, in pursuit of the above, to conclude the following Free Trade Agreement (Agreement):

## **Chapter 1. GENERAL PROVISIONS**

## **Article 1.1. Objectives**

1. The Parties hereby establish a free trade area in accordance with the provisions of this Agreement, based on trade relations between market economies and on the respect for democratic principles and human rights, with a view to spurring prosperity and sustainable development.

2. The objectives of this Agreement are:

- (a) to liberalise trade in goods, in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994);
- (b) to liberalise trade in services, in conformity with Article V of the General Agreement on Trade in Services (GATS);
- (c) to mutually enhance investment opportunities;
- (d) to prevent, eliminate or reduce unnecessary technical barriers to trade and unnecessary sanitary and phytosanitary measures;
- (e) to promote competition in their economies, particularly as it relates to the economic relations between the Parties;
- (f) to achieve further liberalisation on a mutual basis of the government procurement markets of the Parties;
- (g) to ensure adequate and effective protection of intellectual property rights, in accordance with international standards;
- (h) to develop international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties' trade relations; and
- (i) to contribute to the harmonious development and expansion of world trade.

## **Article 1.2. Geographical Scope**

1. Except as otherwise specified in Annex I (Rules of Origin and Administrative Cooperation), this Agreement applies to:

- (a) the land territory, internal waters and the territorial sea of a Party, and the air-space above the territory of a Party, in accordance with international law; and
- (b) the exclusive economic zone and the continental shelf of a Party, in accordance with international law.

2. This Agreement shall not apply to the Norwegian territory of Svalbard, with the exception of trade in goods.

## **Article 1.3. Trade and Economic Relations Governed by this Agreement**

1. This Agreement applies to the trade and economic relations between, on the one side, the individual EFTA States and, on the other side, the Republic of Moldova. This Agreement shall not apply to the trade and economic relations between individual EFTA States, unless otherwise provided in this Agreement.

2. In accordance with the Customs Treaty of 29 March 1923 between Switzerland and Liechtenstein, Switzerland shall represent Liechtenstein in matters covered thereby.

## **Article 1.4. Relation to other International Agreements**

1. The Parties confirm their rights and obligations under the WTO Agreement and the other agreements negotiated thereunder to which they are a party, and any other international agreement to which they are a party.

2. If a Party considers that the maintenance or establishment of a customs union, free trade area, arrangement for frontier trade or another preferential agreement by another Party has the effect of altering the trade regime provided for by this Agreement, it may request consultations. The Party concluding such agreement shall afford adequate opportunity for consultations with the requesting Party.

## **Article 1.5. Fulfilment of Obligations**

1. Each Party shall take any general or specific measures required to fulfil its obligations under this Agreement.

2. Each Party shall ensure the observance of all obligations and commitments under this Agreement by its respective central, regional and local governments and authorities, and by non-governmental bodies in the exercise of governmental powers delegated to them by central, regional and local governments or authorities.

## **Article 1.6. Transparency**

1. Each Party shall publish, or otherwise make publicly available, their laws, regulations, judicial decisions, administrative rulings of general application as well as their respective international agreements, that may affect the operation of this Agreement.

2. Each Party shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

3. Nothing in this Agreement shall require any Party to disclose confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of any economic operator.

4. In case of any inconsistency between this Article and provisions relating to transparency in other parts of this Agreement, the latter shall prevail to the extent of the inconsistency.

## **Chapter 2. TRADE IN GOODS**

### **Article 2.1. Scope and Coverage**

This Chapter applies to trade in goods between the Parties.

### **Article 2.2. Import Duties**

1. Unless otherwise provided for in this Agreement, the Parties shall apply import duties on goods originating in another Party in accordance with Annex I (Rules of Origin and Administrative Cooperation) and Annexes II to V (Schedules of Tariff Commitments).

2. Unless otherwise provided for in this Agreement, no Party shall introduce new import duties, or increase those already applied on goods originating in another Party in accordance with its Schedule of Tariff Commitments.

3. For the purposes of this Agreement, "import duties" means any duties, taxes or charges imposed in connection with the importation of goods, except those imposed in conformity with:

(a) Article II of the GATT 1994, including the interpretative notes thereon;

(b) Articles 2.14 (Subsidies and Countervailing Measures), 2.15 (Anti-dumping), 2.16 (Global Safeguard Measures) or 2.17 (Bilateral Safeguard Measures);

(c) Article VID of the GATT 1994, including the interpretative notes thereon.

### **Article 2.3. Classification of Goods**

The classification of goods in trade between the Parties shall be that set out in accordance with the Harmonized Commodity Description and Coding System hereinafter referred to as "Harmonised System" or "HS". The Parties shall, as a result of amendments to the HS nomenclature or other technical amendments to a Party's customs tariff, amend Annex I (Rules of Origin and Administrative Cooperation) and Annexes II to V (Schedule of Tariff Commitments).

### **Article 2.4. Export Duties**

No Party shall adopt or maintain any duties, taxes or charges other than internal charges applied in conformity with Article 2.10 (National Treatment), in connection with the exportation of goods to another Party.

### **Article 2.5.**

Rules of Origin and Administrative Cooperation The rules of origin and administrative cooperation are set out in Annex I (Rules of Origin and Administrative Cooperation).

## **Article 2.6. Customs Valuation (1)**

Article VII of the GATT 1994 and Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

(1) Switzerland applies customs duties based on weight and quantity rather than *ad valorem* duties.

## **Article 2.7. Import Licensing**

The Parties confirm their rights and obligations under the WTO Agreement on Import Licensing unless otherwise specified in this Agreement.

## **Article 2.8. Quantitative Restrictions**

1. Article XI of the GATT 1994 applies and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. A Party introducing a measure in accordance with paragraph 2 of Article XI of the GATT 1994 shall promptly notify the Joint Committee. A notification by a Party in accordance with Article XI of the GATT 1994 shall be deemed equivalent to a notification under this Agreement.
3. Any measure applied in accordance with this Article shall be of limited duration, non-discriminatory, transparent and may not go beyond what is necessary to remedy circumstances described in paragraph 2 of Article XI of the GATT 1994 and may not create unnecessary obstacles to trade between the Parties.

## **Article 2.9. Fees and Formalities**

Article VIII of the GATT 1994, including the interpretative notes thereon, apply and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*, subject to Article 7 (Fees and Charges) of Annex VI (Trade Facilitation).

## **Article 2.10. National Treatment**

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

## **Article 2.11. Technical Regulations**

1. With respect to technical regulations, standards and conformity assessments, the WTO Agreement on Technical Barriers to Trade (TBT Agreement) applies and is hereby incorporated and made part of this Agreement, *mutatis mutandis*.
2. The Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessments, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.
3. Upon request of a Party, which considers that a technical regulation, standard or conformity assessment procedure of another Party is likely to create, or has created, an obstacle to trade, consultations shall be held with the objective of finding a mutually acceptable solution. Consultations shall take place within 30 days from the receipt of the request and may be conducted by any method agreed by the consulting Parties. The Joint Committee shall be informed thereof.
4. Upon request of a Party, the Parties shall without undue delay agree on an arrangement extending to each other treatment related to technical regulations, standards and conformity assessments which all Parties have agreed with the European Union (EU).
5. The Parties shall exchange names and addresses of contact points for this Article in order to facilitate communication and the exchange of information.

## **Article 2. Sanitary and Phytosanitary Measures**

1. With respect to sanitary and phytosanitary measures, the WTO Agreement on the Application of Sanitary and

Phytosanitary Measures (SPS Agreement) applies and is hereby incorporated into and made part of this Agreement, mutatis mutandis.

2. The Parties shall strengthen their cooperation in the field of sanitary and phytosanitary measures, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

3. Upon request of a Party, which considers that a sanitary or phytosanitary measure of another Party is likely to create, or has created, an obstacle to trade, or that the other Party has not fulfilled its obligations under this Article, consultations shall be held with the objective of finding a mutually acceptable solution. The consultations shall take place within 30 days from the receipt of the request and may be conducted by any method agreed by the consulting Parties. In case of perishable goods or emergencies in animal and plant health, consultations between the competent authorities shall be held without undue delay. The Joint Committee shall be informed thereof.

4. The application of control, inspection and approval procedures for the import of animals, animal products, products of animal origin and animal by-products shall be carried out in accordance with the SPS Agreement and the standards, guidelines and recommendations laid down by the relevant international organisations of the SPS Agreement.

5. The model for the official certificate or official document, where required by the importing Party, shall be mutually agreed between the Parties and be in line with international standards.

6. The importing Party has the right to carry out an assessment of all or part of the control system of the competent authority of the exporting Party to allow imports of a specific category of products of animal origin. The Parties agree to use system audits as their preferred assessment method which relies on the examination of a sample of system procedures, documents or records and, where required, on-site inspections of facilities within the scope of the audit. The costs incurred in carrying out the audit shall be borne by the importing Party.

7. If the importing Party maintains a list of authorised establishments for the import of animal products, the exporting Party shall provide the importing Party with satisfactory sanitary guarantees that the establishments meet the relevant requirements of the importing Party, and draw up and make available to the importing Party the lists of approved establishments.

8. Upon request of a Party, the Parties shall without undue delay extend to each other treatment related to sanitary and phytosanitary measures each Party has granted to or agreed with the EU.

9. 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 2.13. Trade Facilitation**

The provisions on trade facilitation are set out in Annex VI (Trade Facilitation).

## **Article 2.14. Subsidies and Countervailing Measures**

1. The rights and obligations of the Parties with respect 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 a Party initiates an investigation to determine the existence, degree and effect of any alleged subsidy in another Party, 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 products are subject to an investigation and allow for a 45-day period for consultations with a view to finding a mutually acceptable solution. Consultations shall take place in the Joint Committee, unless the Parties making and receiving the request for consultations agree otherwise.

## **Article 2.15. Anti-dumping**

1. No Party shall 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 goods originating in another Party.

2. Five years from the date of entry into force of this Agreement, the Parties may in the Joint Committee review the operation of paragraph 1. Thereafter the Parties may conduct biennial reviews of this matter in the Joint Committee.

## **Article 2.16. Global Safeguard Measures**

1. The rights and obligations of the Parties with respect to global safeguards shall be governed by Article XIX of the GATT 1994 and the WTO Agreement on Safeguards. In taking measures under these WTO provisions, a Party shall, consistent with its obligations under the WTO Agreements, 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.
2. A Party intending to adopt definitive global safeguard measures against one or several Parties shall inform them and offer consultations. It shall allow for a 45-day period from the date of the offer to hold consultations before adopting any definitive global safeguard measures.
3. A Party adopting global safeguard measures shall impose them in a way that least affects bilateral trade.

## **Article 2.17. 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 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 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 pursuant to this Article shall immediately, and in any case before taking a measure, notify the other Parties. The notification shall contain all pertinent information, including evidence of serious injury or threat thereof caused by increased imports, a precise description of the product concerned, 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 bilateral safeguard 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 bilateral safeguard measure is taken; or
  - (b) the MEN 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 bilateral safeguard measures 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 receipt of the notification, examine the information provided under paragraph 3 in order to facilitate a mutually acceptable solution. In the absence of such solution, the importing Party may adopt a bilateral safeguard measure pursuant to paragraph 4 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the bilateral safeguard measure is taken may take compensatory action. The bilateral safeguard measure and the compensatory action shall be immediately notified to the other Parties. In the selection of the bilateral safeguard measure and the compensatory action, priority must be given to the action or measure which least disturbs the functioning of this Agreement. 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 bilateral safeguard measure under paragraph 4 is being applied.
7. Upon the termination of the bilateral safeguard 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 bilateral safeguard 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 thereof. Within 30 days from the receipt 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 bilateral safeguard measure and of the bilateral safeguard measure.

9. Any provisional bilateral safeguard measure shall be terminated within 200 days at the latest. The period of application of any such provisional bilateral safeguard measure shall be counted as part of the duration, and any extension thereof, of the bilateral safeguard measure, set out in paragraphs 4 and 5 respectively. 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 from the date of entry into force of this Agreement, the Parties shall review whether there is a need to maintain the possibility to take safeguard measures between them. Following the review, the Parties may decide whether they want to apply this Article any longer. If the Parties decide after the first review to maintain this possibility, biennial reviews shall thereafter be conducted by the Joint Committee.

## **Article 2.18. WTO Agreement on Agriculture**

The Parties confirm their rights and obligations under the WTO Agreement on Agriculture unless otherwise specified in this Agreement.

## **Article 2.19. State Trading Enterprises**

Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994 apply and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

## **Article 2.20. General Exceptions**

For the purposes of this Chapter, Article XX of the GATT 1994 and its interpretative notes apply and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

## **Article 2.21. Security Exceptions**

For the purposes of this Chapter, Article XXI of the GATT 1994 and its interpretative notes apply and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

## **Article 2.22. Balance-of-Payments**

1. A Party in serious balance of payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under the GATT 1994 and the WTO Understanding on the Balance of Payments Provisions of the GATT 1994, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation.

2. A Party introducing a measure under this Article shall promptly notify the Joint Committee.

## **Article 2.23. Preference Utilisation**

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics and preferential tariff rates under this Agreement as well as applied most-favoured-nation (MFN) tariff rates.

2. Import statistics exchanged shall pertain to the three most recent years available and comprise all imports from the Party concerned, including trade values and volumes listed at the level of national subheadings. The Parties shall exchange separate statistics for imports benefitting from preferential treatment under this Agreement, for imports benefitting from other preferential treatment than under this Agreement as well as those that did not receive preferential treatment (MFN treatment). The preferential tariff rates and applied MFN tariff rates exchanged shall pertain to the same year as the import statistics. Upon request, the Parties shall exchange additional information and explanations in English.

3. The exchange of import statistics, preferential tariff rates and applied MFN tariff rates shall start one year after the entry into force of this Agreement.

4. Notwithstanding paragraph 2, no Party shall be obliged to exchange data that is confidential in accordance with its domestic laws and regulations.

## **Article 2.24. Sub-Committee on Trade In Goods**

1. A Sub-Committee on Trade in Goods (Sub-Committee) is hereby established.
2. The mandate of the Sub-Committee is set out in Annex VII (Mandate of the Sub-Committee on Trade in Goods).

## **Chapter 3. TRADE IN SERVICES**

### **Article 3.1. Scope and Coverage**

1. This Chapter applies to measures by the Parties affecting trade in services and taken by central, regional or local governments and authorities as well as by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities. It applies to all services sectors.
2. With respect to air transport services, this Chapter shall not apply to measures affecting air traffic rights or measures affecting services directly related to the exercise of air traffic rights, except as provided for in paragraph 3 of the GATS Annex on Air Transport Services. The definitions of paragraph 6 of the GATS Annex on Air Transport Services are hereby incorporated and made part of this Chapter.
3. Articles 3.4 (Most-Favoured-Nation Treatment), 3.5 (Market Access) and 3.6 (National Treatment) shall not apply to domestic laws and regulations governing the procurement by governmental agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale.

### **Article 3.2. Incorporation of Provisions from the GATS**

Where a provision of this Chapter provides that a provision of the GATS is incorporated into and made part of this Chapter, the meaning of the terms used in the GATS provision shall be understood as follows:

- (a) "Member" means Party;
- (b) "Schedule" means a Schedule referred to in Article 3.18 (Schedules of Specific Commitments) and contained in Annex VIII (Schedules of Specific Commitments); and
- (c) "specific commitment" means a specific commitment in a Schedule referred to in Article 3.18 (Schedules of Specific Commitments).

### **Article 3.3. Definitions**

1. The following definitions of Article I of the GATS are hereby incorporated into and made part of this Chapter:

- (a) "trade in services";
- (b) "services"; and
- (c) "a service supplied in the exercise of governmental authority".

2. For the purposes of this Chapter:

- (a) "service supplier" means any person that supplies, or seeks to supply, a service; (2)
- (b) "natural person of another Party" means a natural person who, under the legislation of that other Party, is:
  - (i) a national of that other Party who resides in the territory of any Member of the WTO; or
  - (ii) a permanent resident of that other Party who resides in the territory of a Party, if that other Party accords substantially the same treatment to its permanent residents as to its nationals in respect of measures affecting trade in services. For the purpose of the supply of a service through presence of natural persons (Mode 4), this definition covers a permanent resident of that other Party who resides in the territory of a Party or in the territory of any Member of the WTO;
- (c) "juridical person of another Party" means a juridical person which is either:
  - (i) constituted or otherwise organised under the law of that other Party, and is engaged in substantive business operations in the territory of:
    - (aa) a Party; or



(bb) any Member of the WTO and is owned or controlled by natural persons of that other Party or by juridical persons that meet all the conditions of subparagraph (c)(i)(aa); or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(aa) natural persons of that other Party; or

(bb) juridical persons of that other Party identified under subparagraph (c)(i).

3. The following definitions of Article XX VII of the GATS are hereby incorporated into and made part of this Chapter:

(a) "measure";

(b) "supply of a service";

(c) "measures by Members affecting trade in services";

(d) "commercial presence";

(e) "sector" of a service;

(f) "service of another Member";

(g) "monopoly supplier of a service";

(h) "service consumer";

(i) "person";

(j) "juridical person";

(k) "owned", "controlled" and "affiliated"; and

(l) "direct taxes".

(2) Where the service is not supplied or sought to be supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such commercial presence be accorded the treatment provided for service suppliers under this Chapter. Such treatment shall be extended to the commercial presence through which the service is supplied or sought to be supplied and need not be extended to any other parts of the service supplier located outside the territory where the service is supplied or sought to be supplied.

## **Article 3.4. Most-Favoured-Nation Treatment**

1. Without prejudice to measures taken in accordance with Article VII of the GATS, and except as provided for in its List of MFN Exemptions contained in Annex IX (Lists of MFN-Exemptions), each Party shall accord immediately and unconditionally, in respect of all measures affecting the supply of services, to services and service suppliers of another Party treatment no less favourable than the treatment it accords to like services and service suppliers of any non-Party.

2. Treatment granted under other existing or future agreements concluded by a Party and notified under Article V or Article Vbis of the GATS shall not be subject to paragraph 1.

3. If a Party concludes or amends an agreement notified under Article V or Article Vbis of the GATS, it shall, upon the request from another Party, afford adequate opportunity to that Party to negotiate the benefits granted therein.

4. Nothing in this Chapter shall be so construed as to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous zones of services that are both locally produced and consumed.

## **Article 3.5. Market Access**

Article XVI of the GATS applies to this Chapter and is hereby incorporated into and made part of this Agreement, mutatis mutandis.

## **Article 3.6. National Treatment**

Article XVI of the GATS applies to this Chapter and is hereby incorporated into and made part of this Agreement, mutatis mutandis.

### **Article 3.7. Additional Commitments**

Article XVII of the GATS applies to this Chapter and is hereby incorporated into and made part of this Agreement, mutatis mutandis.

### **Article 3.8. Domestic Regulation**

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.
2. Each Party shall maintain or institute, as soon as practicable, judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of another Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.
3. Where authorisation is required by a Party for the supply of a service, the competent authorities of that Party shall, within a reasonable period of time after the submission of an application is considered complete under that Party's domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of that Party shall provide, without undue delay, information concerning the status of the application.
4. Each Party shall ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures, in all services sectors, are based on objective and transparent criteria, such as competence and the ability to supply the service.
5. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures do not constitute unnecessary barriers to trade in services, the Joint Committee shall take a decision aiming at incorporating into the Agreement any disciplines developed in the WTO in accordance with paragraph 4 of Article VI of the GATS. The Parties may also, jointly or bilaterally, decide to develop further disciplines.
6. In sectors in which a Party has undertaken specific commitments, pending the entry into force of a decision incorporating WTO disciplines for these sectors pursuant to paragraph 5, and, if agreed between Parties, disciplines developed jointly or bilaterally under this Agreement pursuant to paragraph 5, the Party shall not apply qualification requirements and procedures, technical standards and licensing requirements and procedures that nullify or impair such specific commitments in a manner which is:
  - (a) more burdensome than necessary to ensure the quality of the service; or
  - (b) in the case of licensing procedures, in itself a restriction on the supply of the service.
7. In determining whether a Party is in conformity with the obligation under paragraph 6, account shall be taken of international standards of relevant international organisations (3) applied by that Party.
8. Each Party shall provide for adequate procedures to verify the competence of professionals of any other Party.

(3) "relevant international organisations" means international bodies whose membership is open to the relevant bodies of at least all Parties.

### **Article 3.9. Recognition**

1. For the purposes of the fulfilment of its relevant standards or criteria for the authorisation, licensing or certification of service suppliers, each Party shall give due consideration to any requests by another Party to recognise the education or experience obtained, requirements met, or licences or certifications granted in that other Party. Such recognition may be based upon an agreement or arrangement with that other Party, or otherwise be accorded autonomously.
2. Where a Party recognises, by agreement or arrangement, the education or experience obtained, requirements met, or licences or certifications granted, in the territory of a non-party, that Party shall afford another Party adequate opportunity to negotiate its accession to such an agreement or arrangement, whether existing or future, or to negotiate a comparable

agreement or arrangement with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for another Party to demonstrate that the education or experience obtained, requirements met, or licences or certifications granted, in the territory of that other Party should also be recognised.

3. Any such agreement or arrangement or autonomous recognition shall be in conformity with the relevant provisions of the WTO Agreement, in particular paragraph 3 of Article VII of the GATS.

### **Article 3.10. Movement of Natural Persons**

1. This Article applies to measures affecting natural persons who are service suppliers of a Party, and natural persons of a Party who are employed by a service supplier of a Party, with respect to the supply of a service.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding nationality, residence or employment on a permanent basis.

3. Natural persons covered by a specific commitment shall be allowed to supply the service in accordance with the terms of that commitment.

4. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment. (4)

(4) The sole fact of requiring a visa for natural persons shall not be regarded as nullifying or impairing benefits under a specific commitment.

### **Article 3.11. Transparency**

Paragraphs 1 and 2 of Article II and Article Ibis of the GATS apply to this Chapter and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

### **Article 3.12. Monopolies and Exclusive Service Suppliers**

Paragraphs 1, 2 and 5 of Article VIII of the GATS apply to this Chapter and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

### **Article 3.13. Business Practices**

Article IX of the GATS applies to this Chapter and is hereby incorporated into and made part of this Agreement, mutatis mutandis.

### **Article 3.14. Payments and Transfers**

1. Except under the circumstances envisaged in Article 3.15 (Restrictions to Safeguard the Balance of Payments), no Party shall apply restrictions on international transfers and payments for current transactions with another Party.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties under the Articles of Agreement of the International Monetary Fund (IMF), including the use of exchange actions which are in conformity with the Articles of Agreement of the IMF, provided that a Party shall not impose restrictions on capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 3.15 (Restrictions to Safeguard the Balance of Payments) or at the request of the IMF.

### **Article 3.15. Restrictions to Safeguard the Balance of Payments**

1. The Parties shall endeavour to avoid the imposition of restrictions to safeguard the balance of payments.

2. Paragraphs 1 to 3 of Article XII of the GATS apply to this Chapter and are hereby incorporated into and made part of this Agreement, mutatis mutandis .

3. A Party adopting or maintaining such restrictions shall promptly notify the Joint Committee thereof.

## **Article 3.16. Subsidies**

1. A Party which considers that it is adversely affected by a subsidy of another Party may request ad hoc consultations with that Party on such matters. The requested Party shall enter into such consultations.
2. The Parties shall review any disciplines agreed under Article XV of the GATS with a view to incorporating them into this Agreement.

## **Article 3.17. Exceptions**

Article XIV and paragraph 1 of Article XIVbis of the GATS apply to this Chapter and are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

## **Article 3.18. Schedules of Specific Commitments**

1. Each Party shall set out in a Schedule the specific commitments it undertakes under Articles 3.5 (Market Access), 3.6 (National Treatment) and 3.7 (Additional Commitments). With respect to sectors where such commitments are undertaken, each Schedule shall specify:
  - (a) terms, limitations and conditions on market access;
  - (b) conditions and qualifications on national treatment;
  - (c) undertakings relating to additional commitments referred to in Article 3.7 (Additional Commitments); and
  - (d) where appropriate, the time-frame for implementation of such commitments and the date of entry into force of such commitments.
2. Measures inconsistent with both Articles 3.5 (Market Access) and 3.6 (National Treatment) shall be subject to paragraph 2 of Article XX of the GATS.
3. The Parties' Schedules of Specific Commitments are set out in Annex VIII (Schedules of Specific Commitments).

## **Article 3.19. Modification of Schedules**

The Parties shall, upon written request by a Party, hold consultations to consider any modification or withdrawal of a specific commitment in the requesting Party's Schedule of Specific Commitments. The consultations shall be held within three months from the receipt of the request. In the consultations, the Parties shall aim to ensure that a general level of mutually advantageous commitments no less favourable to trade than that provided for in the Schedule of Specific Commitments prior to such consultations is maintained. Modifications of Schedules are subject to the procedures set out in Articles 10.1 (Joint Committee) and 12.2 (Amendments).

## **Article 3.20. Review**

With the objective of further liberalising trade in services between them, the Parties shall periodically review their Schedules of Specific Commitments and their Lists of MFN Exemptions, taking into account in particular any autonomous liberalisation and on-going work under the auspices of the WTO. The first such review shall take place no later than three years from the entry into force of this Agreement.

## **Article 3.21. Annexes**

The following Annexes form an integral part of this Chapter:

- (a) Annex VIII (Schedules of Specific Commitments);
- (b) Annex IX (List of MFN Exemptions);
- (c) Annex X (Financial Services);
- (d) Annex XI (Telecommunication Services); and
- (e) Annex XII (Movement of Natural Persons); and Annex XIII (Maritime Transport and Related Services).

# Chapter 4. ESTABLISHMENT

## Article 4.1. Scope and Coverage

1. This Chapter applies to commercial presence in all sectors, with the exception of services sectors as set out in Article 3.1 (Scope and Coverage). (5)
2. This Chapter shall be without prejudice to the interpretation or application of other international agreements relating to investment or taxation to which one or several EFTA States and the Republic of Moldova are parties.

(5) It is understood that services specifically exempted from the scope of Chapter 3 (Trade in Services) do not fall within the scope of this Chapter.

## Article 4.2. Definitions

For the purposes of this Chapter:

- (a) "juridical person" means any legal entity duly constituted or otherwise organised under the domestic laws and regulations of a Party, whether for profit or otherwise, and whether privately owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;
- (b) "juridical person of a Party" means a juridical person constituted or otherwise organised under the domestic laws and regulations of a Party and engaged in substantive business operations in that Party;
- (c) "natural person" means a person who has the nationality, or is a permanent resident, of a Party in accordance with its domestic laws and regulations;
- (d) "commercial presence" means any type of business establishment, including through:
  - (i) the constitution, acquisition or maintenance of a juridical person; or
  - (ii) the creation or maintenance of a branch or a representative office, in the territory of another Party for the purpose of performing an economic activity.

## Article 4.3. National Treatment

Each Party shall, subject to Article 4.4 (Reservations) and the reservations set out in Annex XIV (List of Reservations), accord to juridical and natural persons of another Party, and to the commercial presence of such persons, treatment no less favourable than that it accords, in like situations, to its own juridical and natural persons, and to the commercial presence of such persons.

## Article 4.4. Reservations

1. Article 4.3 (National Treatment) shall not apply to:
  - (a) any reservation in Annex XIV (List of Reservations);
  - (b) an amendment to a reservation referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the reservation with Article 4.3 (National Treatment); and
  - (c) any new reservation adopted by a Party, and incorporated into Annex XIV (List of Reservations) which does not affect the overall level of commitments of that Party under this Agreement; to the extent that such reservations are inconsistent with Article 4.3 (National Treatment).
2. As part of the review provided for in Article 4.12 (Review), the Parties undertake to review the reservations set out in Annex XIV (List of Reservations) at least every three years with a view to reducing or removing such reservations.
3. A Party may, at any time, either upon request of another Party or unilaterally, remove in whole or in part its reservations set out in Annex XIV (List of Reservations) by written notification to the other Parties.
4. A Party may, at any time, incorporate a new reservation into Annex XIV (List of Reservations) in accordance with

subparagraph 1(c), by written notification to the other Parties. On receiving such written notification, another Party may request consultations regarding the reservation. On receiving the request for consultations, the Party incorporating the new reservation shall enter into consultations with the requesting Party.

## **Article 4.5. Key Personnel**

1. Each Party shall, subject to its domestic laws and regulations, grant natural persons of another Party, and key personnel who are employed by natural or juridical persons of another Party, entry and temporary stay in its territory in order to engage in activities connected with commercial presence, including the provision of advice or key technical services.
2. Each Party shall, subject to its domestic laws and regulations, permit natural or juridical persons of another Party, and their commercial presence, to employ, in connection with commercial presence, any key personnel of the natural or juridical person's choice regardless of nationality and citizenship provided that such key personnel has been permitted to enter, stay and work in its territory and that the employment concerned conforms to the terms, conditions and time limits of the permission granted to such key personnel.
3. Each Party shall, subject to its domestic laws and regulations, grant entry and temporary stay and provide any necessary confirming documentation to the spouse and minor children of a natural person who has been granted entry, temporary stay and authorisation to work in accordance with paragraphs 1 and 2. The spouse and minor children shall be admitted for the period of the stay of that person.

## **Article 4.6. Right to Regulate**

1. Subject to this Chapter, a Party may, on a non-discriminatory basis, adopt, maintain or enforce any measure that is in the public interest, such as measures to meet health, safety or environmental concerns or reasonable measures for prudential purposes.
2. No Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, measures to meet health, safety or environmental concerns as an encouragement for the establishment, acquisition, expansion or retention in its territory of a commercial presence of persons of another Party or a non-Party.

## **Article 4.7. Transparency**

1. Laws, regulations, judicial decisions and administrative rulings of general application made effective by a Party, and agreements in force between the Parties, which affect matters covered by this Chapter shall be published promptly, or otherwise made publicly available, in such a manner as to enable the Parties and their juridical and natural persons to become acquainted with them.
2. Nothing in this Article shall require any Party to disclose confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of any juridical or natural person.

## **Article 4.8. Payments and Transfers**

1. Except under the circumstances envisaged in Article 4.9 (Restrictions to Safeguard the Balance of Payments), no Party shall apply restrictions on current payments and capital movements relating to commercial presence activities in non-services sectors.
2. Nothing in this Chapter shall affect the rights and obligations of the Parties under the Articles of Agreement of the IMF, including the use of exchange actions which are in conformity with the Articles of Agreement of the IMF, provided that no Party shall impose restrictions on capital transactions inconsistent with its obligations under this Chapter.

## **Article 4.9. Restrictions to Safeguard the Balance of Payments**

1. The Parties shall endeavour to avoid the imposition of restrictions to safeguard the balance of payments.
2. For the purposes of this Chapter, paragraphs 1 to 3 of Article XII of the GATS apply and are hereby incorporated into and made part of this Agreement, mutatis mutandis.
3. A Party adopting or maintaining such restrictions shall promptly notify the Joint Committee.

## **Article 4.10. General Exceptions**

For the purposes of this Chapter, Article XIV of the GATS applies and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

## **Article 4.11. Security Exceptions**

For the purposes of this Chapter, paragraph 1 of Article XIVbis of the GATS applies and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

## **Article 4.12. Review**

This Chapter shall be subject to periodic review by the Joint Committee regarding the possibility to further develop the Parties' commitments.

# **Chapter 5. ELECTRONIC COMMERCE**

## **Article 5.1. Definitions**

1. For the purposes of this Chapter, Article 3.3 (Definitions) applies.
2. For the purposes of this Chapter:
  - (a) "electronic signature" means data in electronic which is attached to or logically associated with other data in electronic form and used for authentication of the signatory;
  - (b) "electronic transmissions" means transmissions of electronic data through the Internet;
  - (c) "electronic trust service" means an electronic service consisting of:
    - (i) the creation, verification and validation of electronic signatures, electronic seals, electronic time stamps, electronic registered delivery services and certificates related to those services;
    - (ii) the creation, verification and validation of certificates for website authentication; or
    - (iii) the preservation of electronic signatures, electronic seals or certificates related to those services;
  - (d) "end-user" means a user not providing public communications networks or publicly available electronic communications services;
  - (e) "market surveillance" means activities carried out and measures taken by public authorities to ensure that goods and services comply with domestic laws and regulations and do not endanger health, safety or any other aspect of public interest protection;
  - (f) "market surveillance authority" means an authority responsible for carrying out market surveillance;
  - (g) "personal data" means any information relating to an identified or identifiable natural person;
  - (h) "processing" of personal data means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
  - (i) "trade administration documents" means documents, forms or other information, including in electronic formats, as required by a Party's domestic legislation on commercial trade transactions;
  - (j) "unsolicited commercial electronic messages" means electronic messages for commercial purposes without the consent of the recipient or against the explicit rejection of the recipient.

## **Article 5.2. Scope**

1. This Chapter applies to measures of the Parties affecting trade enabled by electronic means.

2. In the event of any inconsistency between this Chapter and Annex X (Financial Services), Annex X (Financial Services) shall prevail to the extent of the inconsistency.

3. This Chapter shall not apply to audio-visual services.

### **Article 5.3. General Provisions**

The Parties recognise:

(a) the economic growth and opportunities that electronic commerce in goods and services provides, in particular for businesses and consumers as well as the potential for enhancing international trade;

(b) the importance of avoiding barriers to the use and development of electronic commerce in goods and services; and

(c) the need to create an environment of trust and confidence in as well as security for electronic commerce, in particular:

(i) protection of privacy of natural persons in relation to the processing of personal data;

(ii) protection of confidentiality of individual records and accounts, and commercial secrets;

(iii) measures to prevent and fight deceptive and fraudulent practices or to deal with the effects of a default on contracts; and

(iv) measures against unsolicited commercial electronic messages.

### **Article 5.4. Right to Regulate**

The Parties reaffirm the right to regulate in the area of electronic commerce in conformity with this Chapter to achieve legitimate policy objectives.

### **Article 5.5. Customs Duties (6)**

1. No Party shall impose customs duties on electronic transmissions.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees, or other charges on electronic transmissions, provided that they are imposed in a manner consistent with this Agreement.

### **Article 5.6. Electronic Authentication, Trust Services and Contracts by Electronic Means**

1. No Party shall deny the legal effect and admissibility as evidence in legal proceedings of an electronic document, electronic signature, electronic seal, electronic time stamp or of data sent and received using an electronic registered delivery service, solely on the ground that it is in electronic form.

2. No Party shall adopt or maintain measures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication methods for their transaction; or

(b) prevent parties to an electronic transaction from being able to prove to judicial or administrative authorities that the use of electronic authentication or an electronic trust service in that transaction complies with the applicable legal requirements.

3. Notwithstanding paragraph 2, each Party may require that for a particular category of transactions, the method of electronic authentication or trust service is either certified by an authority accredited in accordance with its domestic laws and regulations or that the method meets certain performance standards which shall be objective, transparent and non-discriminatory and shall only relate to the specific characteristics of the category of transactions concerned.

4. Except to the extent provided under a Party's domestic laws and regulations in relation to certain types of contracts, a Party shall not deny that contracts may be concluded by electronic means.

5. Each Party shall ensure that its domestic laws and regulations do not deprive electronic contracts of legal effect and validity solely on the ground that contracts have been made by electronic means.

(6) It is understood that "customs duties" means import and export duties.



## **Article 5.7. Paperless Trade Administration**

1. Each Party shall make all trade administration documents publicly available in electronic form.
2. Each Party shall accept electronic versions of trade administration documents as legal equivalents of paper documents except if:
  - (a) there is a domestic or international legal requirement to the contrary; or
  - (b) doing so would reduce the effectiveness of the trade administration process.

## **Article 5.8. Open Internet Access**

Subject to applicable domestic laws and regulations, each Party shall adopt or maintain appropriate measures to ensure that end-users in its territory are able to:

- (a) access, distribute and use services and applications of their choice available through the Internet, subject to reasonable and non-discriminatory network management;
- (b) connect devices of their choice to the Internet, provided that such devices comply with the requirements in the territory where they are used and do not harm the network; and
- (c) have access to information on the network management practices of their Internet access service supplier.

## **Article 5.9. Online Consumer Trust**

1. Each Party shall adopt or maintain measures to ensure the effective protection of consumers engaging in electronic commerce transactions, including but not limited to measures that:
  - (a) proscribe fraudulent and deceptive commercial practices;
  - (b) require suppliers of goods and services to act in good faith and abide by fair commercial practices, including through the prohibition of charging consumers for unsolicited goods and services;
  - (c) require suppliers of goods and services to provide consumers with clear and thorough information regarding their identity and contact details,<sup>(7)</sup> as well as information regarding the goods and services, the transaction and the applicable consumer rights; and
  - (d) grant consumers access to redress to claim their rights, including a right to remedies in cases where goods or services are paid and not delivered or provided as agreed.
2. The Parties recognise the importance of entrusting their consumer protection agencies or other relevant bodies with adequate enforcement powers and the importance of cooperation between their agencies in the enforcement of their respective domestic laws and regulations related to consumer protection and online consumer trust.
3. The Parties recognise the importance of promoting effective policy frameworks relating to consumer product safety.

<sup>(7)</sup> In the case of intermediary service suppliers, this also includes the identity and contact details of the actual supplier of the goods and services.

## **Article 5.10. Unsolicited Commercial Electronic Messages**

1. In order to protect users effectively against unsolicited commercial electronic messages, each Party shall adopt or maintain measures that:
  - (a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to stop the sending of such messages; and
  - (b) require the consent, as specified according to the domestic laws and regulations of each Party, of recipients to receive commercial electronic messages.

2. Each Party shall provide access to recourse against suppliers of unsolicited commercial electronic messages who do not comply with its measures implemented pursuant to paragraph 1.

## **Article 5.11. Cross-border Data Flows**

1. The Parties commit to ensuring cross-border data flows to facilitate digital trade. To that end, cross-border data flows shall not be restricted between the Parties by: (8)

(a) requiring the use of computing facilities or network elements in the Party's territory for processing, including by imposing the use of computing facilities or network elements that are certified or approved in the territory of the Party;

(b) requiring the localisation of data in the Party's territory for storage or processing.

(c) prohibiting storage or processing in the territory of the other Party; or

(d) making the cross-border transfer of data contingent upon use of computing facilities or network elements in the Party's territory or upon localisation requirements in the Party's territory.

2. Between Norway and the Republic of Moldova, nothing in this Article shall be construed to prevent Norway or the Republic of Moldova from taking any action which it considers necessary for the protection of its essential security interests.

3. The Parties shall review the implementation of this Article and assess its functioning in the Joint Committee. The first such review shall take place no later than three years from the entry into force of this Agreement.

## **Article 5.12. Electronic Payments and Invoicing**

1. The Parties recognise the pivotal role of electronic payments in enabling electronic commerce and the rapid growth of electronic payments. The Parties agree to support the development of efficient, safe and secure cross-border electronic payments by fostering the adoption and use of internationally accepted standards, promoting interoperability and the interlinking of payment infrastructures, and encouraging useful innovation and competition in the payments ecosystem.

2. The Parties recognise the importance of e-invoicing which increases the efficiency, accuracy and reliability of commercial transactions and agree to promote the adoption of interoperable systems for e-invoicing.

3. The Parties shall support and facilitate the adoption of e-invoicing by undertakings. To this end, the Parties shall endeavour to:

(a) promote the existence of underlying infrastructure to support e-invoicing; and

(b) generate awareness of and build capacity for e-invoicing.

## **Article 5.13. Protection of Personal Data and Privacy**

1. The Parties recognise that the protection of personal data and privacy is a fundamental right and that high standards in this regard contribute to the development of digital trade and trust therein.

2. Each Party shall adopt or maintain safeguards it deems appropriate to ensure a high level of protection of personal data and privacy, including through the adoption and application of rules for the cross-border transfer of personal data. Nothing in this Agreement shall affect the protection of personal data and privacy afforded by the Parties' respective safeguards.

3. The Parties shall inform each other about any safeguards they adopt or maintain according to paragraph 2.

## **Article 5.14. Transfer of or Access to Source Code**

1. No Party shall require the transfer of, or access to, the source code of software or parts thereof owned by a natural or juridical person of another Party.

2. This Article shall not apply to:

(a) requirements by a court or administrative tribunal;

(b) intellectual property rights and their protection and enforcement;

(c) competition law and its enforcement;

- (d) the right of a Party to take measures in accordance with Chapter 7 (Government Procurement);
- (e) requirements by market surveillance authorities in order to verify the conformity of goods and services with legal requirements; or
- (f) voluntary transfer or granting of access to source code on a commercial basis by a natural or juridical person of a Party.

## **Article 5.15. Cooperation on Electronic Commerce**

1. The Parties may engage in a dialogue on regulatory issues raised in relation to electronic commerce, which could, inter alia, address the following issues:

- (a) the liability of intermediary service providers with respect to the transmission and storage of information;
- (b) the treatment of unsolicited commercial electronic messages;
- (c) interoperability of infrastructures, such as secure electronic authentication and payments;
- (d) consumer protection; and
- (e) other issues relevant for the development of electronic commerce.

2. Such a dialogue may include exchange of information on the Parties' respective domestic laws and regulations on these issues as well as on the implementation of such domestic laws and regulations.

## **Article 5.16. General Exceptions**

For the purposes of this Chapter, Article XX of the GATT 1994 and Article XIV of the GATS apply and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

## **Article 5.17. Security Exceptions**

For the purposes of this Chapter, Article XXI of the GATT 1994 and Article XIVbis of the GATS apply and are hereby incorporated into and made part of this Agreement, mutatis mutandis.

# **Chapter 6. PROTECTION OF INTELLECTUAL PROPERTY**

## **Article 6.1. Protection of Intellectual Property**

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, including counterfeiting and piracy, in accordance with this Chapter and Annex XV (Protection of Intellectual Property), and the international agreements referred to therein.
2. The Parties shall accord to each other's nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Articles 3 and 5 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).
3. The Parties shall grant to each other's nationals treatment no less favourable than that accorded to nationals of a non-party. If a Party concludes a trade agreement containing provisions on the protection of intellectual property rights with a non-Party, notified under Article XXIV of the GATT 1994, it shall notify the other Parties without delay and accord to them treatment no less favourable than that provided under such agreement. The Party concluding such an agreement shall, on request by another Party, negotiate the incorporation of provisions of the agreement granting a treatment no less favourable than that provided under that agreement into this Agreement. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5.
4. On request of a Party, the Joint Committee shall review this Chapter and Annex XV (Protection of Intellectual Property), with a view to further improving the levels of protection and to avoiding or remedying trade distortions caused by actual levels of protection of intellectual property rights.

# **Chapter 7. GOVERNMENT PROCUREMENT**

## **Article 7.1. Scope and Coverage**

1. The WTO Revised Agreement on Government Procurement 2012 (GPA 2012) applies and is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.
2. For the purposes of this Chapter, "covered procurement" means procurement in accordance with Article II of the GPA and, in addition, works concessions as defined in Annex XVI (Government Procurement).
3. The Parties shall cooperate in the Joint Committee with the aim of increasing the understanding of their respective public procurement systems and achieving further liberalisation and mutual opening up of public procurement markets.

## **Article 7.2. Exchange of Information**

To facilitate communication between the Parties on government procurement, Appendix 2 to Annex XVI (Government Procurement) lists contact points which shall, upon request, provide information on the Parties' domestic laws, regulations and practices in the field of government procurement.

## **Article 7.3. Sustainable Public Procurement**

1. The Parties recognise the importance of promoting sustainable public procurement in its economic, environmental and social dimensions to contribute to the proper functioning of competition and sustainable economic growth.
2. Each Party shall allow procuring entities to take into account environmental, labour and social considerations throughout the procurement procedure, provided they are non-discriminatory and are not applied in a discriminatory manner.
3. Each Party shall take appropriate measures to ensure compliance with its obligations under environmental, social and labour laws and regulations, including those established under Chapter 9 (Trade and Sustainable Development).

## **Article 7.4. Facilitation of Participation of Small and Medium-sized Enterprises**

1. The Parties recognise the important contribution of Small and Medium-sized Enterprises (SMEs) to economic growth and employment and the importance of facilitating their participation in government procurement.
2. If available, a Party shall, upon request of another Party, provide information regarding its measures aimed at promoting, encouraging and facilitating the participation of SMEs in government procurement.
3. With a view to facilitating participation by SMEs in government procurement, each Party shall, to the extent possible, and if appropriate:
  - (a) share information and best practices related to the participation of SMEs in government procurement;
  - (b) to make all tender documentation available free of charge; and (c) undertake activities aimed at facilitating the participation of SMEs in government procurement.

## **Article 7.5. Further Negotiations**

If a Party grants after the entry into force of this Agreement, additional benefits with regard to access to its public procurement markets to a non-Party, it shall, upon request of another Party, enter into negotiations with a view to extending these benefits to that Party on a reciprocal basis.

# **Chapter 8. COMPETITION**

## **Article 8.1. Rules of Competition**

1. The following practices of enterprises are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:
  - (a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or effect the prevention, restriction or distortion of competition; and
  - (b) abuse by one or more enterprises of a dominant position in the territory of a Party as a whole or in a substantial part

thereof.

2. Paragraph 1 shall also apply to the activities of public enterprises, and enterprises to 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. This Chapter shall be without prejudice to the autonomy of each Party to develop, maintain and enforce its competition laws and regulations.

4. This Article shall not be construed to create any direct obligations for enterprises.

## **Article 8.2. Cooperation**

1. The Parties shall cooperate and consult in their dealings with anti-competitive practices referred to in paragraph 1 of Article 8.1 (Rules of Competition), with the aim of putting an end to such practices or their adverse effects on trade.

2. Cooperation may include the exchange of pertinent information that is available to the Parties. No Party shall be required to disclose information that is confidential according to its domestic laws and regulations.

## **Article 8.3. Consultations**

1. If a Party considers that a given practice continues to affect trade in the sense of paragraph 1 of Article 8.1 (Rules of Competition), after cooperation or consultations in accordance with Article 8.2 (Cooperation), it may request consultations in the Joint Committee.

2. The Parties concerned shall provide the Joint Committee with all the support and available information in order to examine the case and, where appropriate, eliminate the practice objected to.

3. The Joint Committee shall, within 60 days from the receipt of the request, examine the information provided in order to facilitate a mutually acceptable solution of the matter.

## **Article 8.4. Dispute Settlement**

No Party may have recourse to Chapter 11 (Dispute Settlement) for any matter arising under this Chapter.

# **Chapter 9. TRADE AND SUSTAINABLE DEVELOPMENT**

## **Article 9.1. Context and Objectives**

1. The Parties recall the Stockholm Declaration on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006, the ILO Declaration on Social Justice for a Fair Globalization (2008), as amended in 2022, the ILO Centenary Declaration for the Future of Work of 2019, the Rio+20 Outcome Document "The Future We Want" of 2012 and the UN 2030 Agenda for Sustainable Development of 2015.

2. The Parties shall promote sustainable development which encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing. They underline the benefit of cooperation on trade and investment related labour and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties commit to promote the development of international trade and investment as well as their preferential economic relationship in a manner that is beneficial to all and that contributes to sustainable development.

## **Article 9.2. Right to Regulate and Levels of Protection**

1. Recognising the right of each Party, subject to the provisions of this Agreement, to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws, policies and practices, each Party shall seek to ensure that its laws, policies and practices provide for and encourage high levels of environmental and labour protection, consistent with standards, principles and agreements referred to in this Chapter. Each Party shall strive to

further improve the level of protection provided for in those laws, policies and practices.

2. When preparing and implementing measures related to the environment or labour conditions that affect trade or investment between them, the Parties shall take account of available scientific, technical and other information, and relevant international standards, guidelines and recommendations.

### **Article 9.3. Upholding Levels of Protection In the Application and Enforcement of Laws, Regulations or Standards**

1. No Party shall fail to effectively enforce its environmental and labour laws, regulations or standards in a manner affecting trade or investment between the Parties.

2. No Party shall weaken or reduce the level of environmental or labour protection provided by its laws, regulations or standards with the sole intention to seek a competitive trade advantage of producers or service providers operating in that Party or to otherwise encourage trade or investment.

3. No Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, regulations or standards in order to encourage investment from another Party or to seek a competitive trade advantage of producers or service providers operating in that Party.

### **Article 9.4. International Labour Standards and Agreements**

1. The Parties commit to promote the development of international trade and investment in a way that is conducive to full and productive employment and decent work for all.

2. The Parties recall the obligations deriving from membership of the ILO to respect, promote and realise the principles concerning the fundamental rights as reflected in the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour;

(d) the elimination of discrimination in respect of employment and occupation, and;

(e) a safe and healthy working environment.

3. The Parties recall the obligations deriving from membership of the ILO to effectively implement the ILO Conventions which they have ratified and to make continued and sustained efforts towards ratifying the fundamental ILO Conventions and related protocols, the governance Conventions as well as the other Conventions that are classified as "up-to-date" by the ILO.

4. The Parties recognise the importance of the strategic objectives of the ILO Decent Work Agenda, as reflected in the Declaration on Social Justice for a Fair Globalization (2008), as amended in 2022 (ILO Declaration on Social Justice for a Fair Globalization).

5. The Parties commit to:

(a) respect, promote and realise the fundamental principles and rights at work;

(b) develop and enhance measures for social protection and decent working conditions for all, including with regard to social security, occupational safety and health, wages and earnings, working time and other conditions of work;

(c) promote social dialogue and tripartism; and (d) build and maintain a well-functioning labour inspection system.

6. Each Party shall ensure that administrative and judicial proceedings are accessible and available in order to permit effective action to be taken against infringements of labour rights referred to in this Chapter.

7. The Parties reaffirm, as set out in the ILO Declaration on Social Justice for a Fair Globalization, that the violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage and that labour standards shall not be used for protectionist trade purposes.

### **Article 9.5. Inclusive Economic Development and Equal Opportunities for All**

1. The Parties acknowledge the importance of incorporating a gender perspective in the promotion of inclusive economic development and that gender-responsive policies are key elements to enhance the participation of all in the economy and international trade in order to achieve sustainable economic growth.
2. The Parties reaffirm their commitment to implement in their laws, policies and practices the international agreements pertaining to gender equality or non-discrimination to which they are a party.

## **Article 9.6. Multilateral Environmental Agreements and International Environmental Governance**

1. The Parties recognise the importance of multilateral environmental agreements and international environmental governance as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies.
2. The Parties reaffirm their commitment to the effective implementation in their laws, policies and practices of the multilateral environmental agreements to which they are a party, as well as their adherence to environmental principles reflected in the international instruments referred to in Article 9.1 (Context and Objectives).

## **Article 9.7. Sustainable Forest Management and Associated Trade**

1. The Parties recognise the importance of ensuring conservation and sustainable management of forests and related ecosystems with the objective to reduce greenhouse gas emissions and biodiversity loss resulting from deforestation and forest degradation, including from land use and land-use change for agricultural and mining activities.
2. Pursuant to paragraph 1, the Parties commit to:
  - (a) ensure effective forest law enforcement and governance;
  - (b) promote trade in products that derive from sustainably managed forests and related ecosystems;
  - (c) implement measures to combat illegal logging and promote the development and use of timber legality assurance instruments to ensure that only legally sourced timber is traded between the Parties;
  - (d) promote the effective use of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with particular regard to timber species; and
  - (e) cooperate on issues pertaining to conservation and sustainable management of forests, mangroves and peatlands where relevant through existing bilateral arrangements if applicable and in the relevant multilateral fora in which they participate, in particular through the United Nations collaborative initiative on Reducing Emissions from Deforestation and Forest Degradation (REDD+) as encouraged by the Paris Agreement.

## **Article 9.8. Trade and Climate Change**

1. The Parties recognise the importance of pursuing the objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement in order to address the urgent threat of climate change and the role of trade and investment in pursuing these objectives.
2. Pursuant to paragraph 1, the Parties commit to:
  - (a) effectively implement the UNFCCC and the Paris Agreement;
  - (b) promote the contribution of trade and investment to the transition to a low- carbon-economy and to climate-resilient development; and
  - (c) cooperate bilaterally, regionally and in international fora as appropriate on trade-related climate change issues.

## **Article 9.9. Trade and Biological Diversity**

1. The Parties recognise the importance of the conservation and sustainable use of biological diversity, and the role of trade in pursuing these objectives.
2. Pursuant to paragraph 1, the Parties commit to:

- (a) promote the inclusion of animal and plant species in the appendices to CITES where a species is threatened or may be threatened with extinction;
- (b) implement effective measures to combat transnational organised wildlife crime throughout the entire value chain, including with respect to non-parties;
- (c) enhance efforts to prevent or control the introduction and spread of invasive alien species, in connection with trade activities; and
- (d) cooperate, where applicable, on issues concerning trade and the conservation and sustainable use of biological diversity, including initiatives to reduce demand for illegal wildlife products.

## **Article 9.10. Trade and Sustainable Management of Fisheries and Aquaculture**

1. The Parties recognise the importance of ensuring the conservation and sustainable management of living marine resources and marine ecosystems and the role of trade in pursuing these objectives.
2. Pursuant to paragraph 1, the Parties commit to:
  - (a) implement comprehensive, effective and transparent policies and measures to combat illegal, unreported and unregulated (IUU) fishing and aim to prevent IUU products from trade flows;
  - (b) promote the use of relevant international guidelines and agreements, including FAO's Voluntary Guidelines for Catch Documentation Schemes;
  - (c) cooperate bilaterally and in relevant international fora in the fight against IUU fishing by, inter alia, facilitating the exchange of information on IUU fishing activities;
  - (d) the fulfilment of the objectives set out in the 2030 Agenda for Sustainable Development regarding fisheries subsidies, including by prohibiting certain forms of fisheries subsidies which contribute to overfishing and overcapacity and eliminate subsidies that contribute to IUU fishing; and
  - (e) promote the development of sustainable and responsible aquaculture.

## **Article 9.11. Trade and Sustainable Agriculture and Food Systems**

1. The Parties recognise the importance of sustainable agriculture and food systems and the role of trade in achieving this objective. The Parties reiterate their shared commitment to achieve the 2030 Agenda for Sustainable Development and its Sustainable Development Goals.
2. Pursuant to paragraph 1, the Parties commit to:
  - (a) promote sustainable agriculture and associated trade;
  - (b) promote sustainable food systems; and
  - (c) cooperate, as appropriate, on issues concerning trade and sustainable agriculture and food systems, including through exchanging information, experience and good practices, conducting a dialogue on their respective priorities, and reporting on progress made in achieving sustainable agriculture and food systems.

## **Article 9.12. Promotion of Trade and Investment Favouring Sustainable Development**

1. The Parties recognise the important role of trade and investment in promoting sustainable development in all its dimensions.
2. Pursuant to paragraph 1, the Parties undertake to:
  - (a) promote and facilitate foreign investment, trade in and dissemination of goods and services that contribute to sustainable development, including those subject to ecological, fair or ethical trade schemes;
  - (b) promote the development and use of sustainability certification schemes that enhance transparency and traceability throughout the supply chain;
  - (c) address non-tariff barriers to trade in goods and services that contribute to sustainable development;



- (d) promote the contribution of trade and investment towards a resource efficient and circular economy;
- (e) promote sustainable procurement practices; and
- (f) encourage cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development.

### **Article 9.13. Responsible Business Conduct**

The Parties commit to promote responsible business conduct, including by encouraging relevant practices such as responsible management of supply chains by businesses. In this regard, the Parties acknowledge the importance of internationally recognised principles and guidelines, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.

### **Article 9.14. Cooperation**

1. The Parties shall strive to strengthen their cooperation on trade and investment related labour and environmental issues of mutual interest referred to in this Chapter bilaterally as well as in the international fora in which they participate.
2. Each Party may, as appropriate, invite the participation of social partners or other relevant stakeholders in identifying possible areas of cooperation.

### **Article 9.15. Implementation and Consultations**

1. The Parties shall designate the contact points for the purposes of this Chapter.
2. A Party may, through the contact points referred to in paragraph 1, request consultations with another Party regarding any matter arising under this Chapter. The consultations shall take place in the Joint Committee. The Parties concerned shall make every attempt to reach a mutually satisfactory resolution of the matter and may seek advice from relevant organisations, bodies or experts.
3. The Parties may have recourse to Articles 11.2 (Good Offices, Conciliation or Mediation) and 11.3 (Consultations) of Chapter 11 (Dispute Settlement).
4. The Parties shall not have recourse to arbitration under Chapter 11 (Dispute Settlement) for matters arising under this Chapter.
5. The Parties shall provide their stakeholders with the opportunity to share comments and make recommendations regarding the implementation of this Chapter.

### **Article 9.16. Panel of Experts**

1. If the Parties concerned fail to reach a mutually satisfactory resolution of a matter arising under this Chapter through consultations under Article 11.3 (Consultations), a Party concerned may request the establishment of a panel of experts. Articles 11.4 (Establishment of Arbitration Panel) and 11.5 (Procedures of the Arbitration Panel) shall apply mutatis mutandis, except as otherwise provided for in this Article.
2. The panellists shall have relevant expertise, including in international trade law and international labour law or environmental law. They shall be independent, serve in their individual capacities and shall not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of a Party.
3. The panel of experts should seek information or advice from relevant international organisations or bodies. Any information obtained shall be submitted to the Parties concerned for their comments.
4. The panel of experts shall submit an initial report containing its findings and recommendations to the Parties concerned within 90 days from the date of establishment of the panel of experts. A Party concerned may submit written comments to the panel of experts on its initial report within 14 days from the date of receipt of the report. After considering any such written comments, the panel of experts may modify the initial report and make any further examination it considers appropriate. The panel of experts shall present to the Parties concerned a final report within 30 days from the date of receipt of the initial report. The final report shall be made public.

5. The Parties concerned shall discuss appropriate measures to implement the final report of the panel of experts. Such measures shall be communicated to the other Parties within three months from the date of issuance of the final report and shall be monitored by the Joint Committee.
6. Any time period for the purposes of this Article may be modified by mutual agreement of the Parties concerned.
7. When a panel of experts considers that it cannot comply with a timeframe imposed on it for the purposes of this Article, it shall inform the Parties concerned in writing and provide an estimate of the additional time required. Any additional time should not exceed 30 days.
8. The costs of the panel of experts shall be borne by the Parties concerned in equal shares. Each Party concerned shall bear its own legal and other costs incurred in relation to the panel of experts. The panel of experts may decide that the costs be distributed differently taking into account the particular circumstances of the case.
9. Where a procedural question arises, the panel of experts may, after consultation with the Parties concerned, adopt an appropriate procedure.

## **Article 9.17. Review**

This Chapter shall be subject to periodic review within the framework of the Joint Committee, taking into account the Parties' respective participatory processes and institutions. The Parties shall discuss progress achieved in pursuing the objectives set out in this Chapter and consider relevant international developments in order to identify areas where further action could promote these objectives.

# **Chapter 10. INSTITUTIONAL PROVISIONS**

## **Article 10.1. Joint Committee**

1. The Parties hereby establish the EFTA-Republic of Moldova Joint Committee (Joint Committee) comprising representatives of each Party.
2. The Joint Committee shall:
  - (a) supervise and review the implementation of this Agreement;
  - (b) keep under review the possibility of further removal of barriers to trade and other restrictive measures concerning trade between the Parties;
  - (c) oversee any further elaboration of this Agreement;
  - (d) supervise the work of all sub-committees and working groups established under this Agreement;
  - (e) endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement; and
  - (f) consider any other matter that may affect the operation of this Agreement.
3. The Joint Committee may decide to set up sub-committees and working groups to assist it in accomplishing its tasks. Except where otherwise provided for in this Agreement, the sub-committees and working groups shall work under a mandate established by the Joint Committee.
4. The Joint Committee may take decisions as provided for in this Agreement. On other matters the Joint Committee may make recommendations.
5. The Joint Committee may:
  - (a) consider and recommend to the Parties amendments to this Agreement; and
  - (b) decide to amend any Annexes or Appendices to this Agreement.
6. The Joint Committee shall take decisions and make recommendations by consensus. The Joint Committee may adopt decisions and make recommendations regarding issues related to only one or several EFTA States on the one side and the Republic of Moldova on the other side. Consensus shall only involve, and the decision or recommendation shall only apply to, those Parties.
7. If a representative of a Party in the Joint Committee has accepted a decision subject to the fulfilment of domestic legal

requirements, the decision shall enter into force on the date that the last Party notifies the Depositary that its internal requirements have been fulfilled, unless otherwise agreed. The Joint Committee may decide that the decision enters into force for those Parties that have notified the Depositary that their internal requirements have been fulfilled, provided that the Republic of Moldova is one of those Parties.

8. The Joint Committee shall meet within one year of the entry into force of this Agreement. Thereafter, it shall meet whenever necessary but normally every two years. Its meetings shall be chaired jointly by one of the EFTA States and the Republic of Moldova.

9. Each Party may request at any time, through a notice in writing to the other Parties, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days from the receipt of the request, unless the Parties agree otherwise.

10. The Joint Committee shall establish its rules of procedure.

## **Chapter 11. DISPUTE SETTLEMENT**

### **Article 11.1. Scope and Coverage**

1. This Chapter applies with respect to the settlement of any disputes concerning the interpretation or application of this Agreement.

2. Disputes regarding the same matter arising under both this Agreement and the WTO Agreement may be settled in either forum at the discretion of the complaining Party. (9) The forum thus selected shall be used to the exclusion of the other.

3. For the purpose of paragraph 2, dispute settlement procedures under the WTO Agreement are deemed to be selected by a Party's request for the establishment of a panel under Article 6 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, whereas dispute settlement procedures under this Agreement are deemed to be selected upon a request for arbitration pursuant to paragraph 1 of Article 11.4 (Establishment of Arbitration Panel).

4. Before a Party initiates a dispute settlement procedure under the WTO Agreement against another Party, that Party shall notify all other Parties of its intention.

(9) For the purposes of this Chapter, the terms "Party", "party to the dispute", "complaining Party" and "Party complained against" can denote one or more Parties.

### **Article 11.2. Good Offices, Conciliation or Mediation**

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may begin and, upon request of a party to the dispute, be terminated at any time. They may continue while proceedings of an arbitration panel established in accordance with this Chapter are in progress.

2. Proceedings involving good offices, conciliation and mediation shall be confidential and without prejudice to the rights of the parties to the dispute in any other proceedings.

### **Article 11.3. Consultations**

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to reach a mutually satisfactory solution of any matter raised in accordance with this Article.

2. A Party may request in writing consultations with another Party if it considers that a measure is inconsistent with this Agreement. The Party requesting consultations shall at the same time notify the other Parties in writing of the request. The Party to which the request is made shall reply within ten days from the receipt of the request. Consultations shall take place in the Joint Committee, unless the Parties making and receiving the request for consultations agree otherwise.

3. Consultations shall commence within 30 days from the receipt of the request for consultations. Consultations on urgent matters, including those on perishable goods, shall commence within 15 days from the receipt of the request for consultations. If the Party to which the request is made does not reply within ten days or does not enter into consultations within 30 days from the receipt of the request for consultations, or within 15 days for urgent matters, the Party making the

request is entitled to request the establishment of an arbitration panel in accordance with Article 11.4 (Establishment of Arbitration Panel).

4. The parties to the dispute shall provide sufficient information to enable a full examination of whether the measure is inconsistent with this Agreement or not and treat any confidential information exchanged in the course of consultations in the same manner as the Party providing the information.

5. The consultations shall be confidential and without prejudice to the rights of the parties to the dispute in any other proceedings.

6. The parties to the dispute shall inform the other Parties of any mutually agreed resolution of the matter.

#### **Article 11.4. Establishment of Arbitration Panel**

1. If the consultations referred to in Article 11.3 (Consultations) fail to settle a dispute within 60 days, or 30 days in relation to urgent matters, including those on perishable goods, from the receipt of the request for consultations by the Party complained against, the complaining Party may request the establishment of an arbitration panel by means of a written request to the Party complained against. A copy of this request shall be communicated to the other Parties so that they may determine whether to participate in the arbitration process.

2. The request for the establishment of an arbitration panel shall identify the specific measure at issue and provide a brief summary of the legal and factual basis of the complaint.

3. The arbitration panel shall consist of three members who shall be appointed in accordance with the Permanent Court of Arbitration Rules 2012 (PCA Rules 2012) *mutatis mutandis*. The date of establishment of the arbitration panel shall be the date on which the Chairperson is appointed.

4. Unless the parties to the dispute otherwise agree within 20 days from the receipt of the request for the establishment of the arbitration panel, the terms of reference for the arbitration panel shall be:

"To examine, in light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 11.4 (Establishment of Arbitration Panel) and to make findings of law and fact together with the reasons, as well as recommendations, if any, for the resolution of the dispute and the implementation of the ruling."

5. Where more than one Party requests the establishment of an arbitration panel relating to the same matter or where the request involves more than one party complained against, and whenever feasible, a single arbitration panel should be established to examine complaints relating to the same matter.

6. A Party which is not a party to the dispute shall be entitled, on delivery of a written notice to the parties to the dispute, to make written submissions to the arbitration panel, receive written submissions, including annexes, from the parties to the dispute, attend hearings and make oral statements.

7. Whenever possible, the arbitration panel referred to in Articles 11.8 (Implementation of the Final Panel Report) and 11.9 (Compensation and Suspension of Benefits) shall comprise the same arbitrators who issued the final report. If a member of the original arbitration panel is unavailable, the appointment of a replacement arbitrator shall be conducted in accordance with the selection procedure for the original arbitrator.

#### **Article 11.5. Procedures of the Arbitration Panel**

1. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the procedures of the arbitration panel shall be governed by the PCA Rules 2012, *mutatis mutandis*.

2. The arbitration panel shall examine the matter referred to it in the request for the establishment of an arbitration panel in light of the relevant provisions of this Agreement interpreted in accordance with the rules of interpretation of public international law.

3. The language of any proceedings shall be English. The hearings of the arbitration panel shall take place in The Hague and be open to the public, unless the parties to the dispute agree otherwise.

4. There shall be no *ex parte* communication with the arbitration panel concerning matters under its consideration.

5. All documents or information submitted by a Party to the arbitration panel, shall, at the same time, be transmitted by that

Party to the other party to the dispute. A written submission, request, notice or other document shall be considered received when it has been delivered to the addressee through diplomatic channels.

6. The Parties shall treat as confidential the information submitted to the arbitration panel which has been designated as confidential by the Party submitting the information.

7. Decisions of the arbitration panel shall be taken by a majority of its members. Any member may furnish separate opinions on matters not unanimously agreed. The arbitration panel shall not disclose which members are associated with majority or minority opinions.

## **Article 11.6. Panel Reports**

1. The arbitration panel should submit an initial report containing its findings and rulings to the parties to the dispute no later than 90 days from the date of establishment of the arbitration panel. A party to the dispute may submit written comments to the arbitration panel within 14 days from the receipt of the initial report. The arbitration panel should present to the parties to the dispute a final report within 30 days from the receipt of the initial report.

2. The final report, as well as any report under Articles 11.8 (Implementation of the Final Panel Report) and 11.9 (Compensation and Suspension of Benefits), shall be communicated to the Parties. The reports shall be made public, unless the parties to the dispute decide otherwise.

3. Any ruling of the arbitration panel under any provision of this Chapter shall be final and binding upon the parties to the dispute.

## **Article 11.7. Suspension or Termination of Arbitration Panel Proceedings**

1. Where the parties to the dispute agree, an arbitration panel may suspend its work at any time for a period not exceeding 12 months. If the work of an arbitration panel has been suspended for more than 12 months, the arbitration panel's authority for considering the dispute shall lapse, unless the parties to the dispute agree otherwise.

2. A complaining Party may withdraw its complaint at any time before the initial report has been issued. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same issue at a later point in time.

3. The parties to the dispute may agree at any time to terminate the proceedings of an arbitration panel established under this Agreement by jointly notifying in writing the Chairperson of that arbitration panel.

4. An arbitration panel may, at any stage of the proceedings prior to release of the final report, propose that the parties to the dispute seek to settle the dispute amicably.

## **Article 11.8. Implementation of the Final Panel Report**

1. The Party complained against shall promptly comply with the ruling in the final report. If it is impracticable to comply immediately, the parties to the dispute shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement within 45 days from the issuance of the final report, either party to the dispute may request the original arbitration panel to determine the length of the reasonable period of time, in light of the particular circumstances of the case. The ruling of the arbitration panel should be given within 60 days from the receipt of that request.

2. The Party complained against shall notify the other party to the dispute of the measure adopted in order to comply with the ruling in the final report, as well as provide a detailed description of how the measure ensures compliance sufficient to allow the other party to the dispute to assess the measure.

3. In case of disagreement as to the existence of a measure complying with the ruling in the final report or to the consistency of that measure with the ruling, such disagreement shall be decided by the same arbitration panel upon the request of either party to the dispute before compensation can be sought or suspension of benefits can be applied in accordance with Article 11.9 (Compensation and Suspension of Benefits). The ruling of the arbitration panel should be rendered within 90 days from the receipt of that request.

## **Article 11.9. Compensation and Suspension of Benefits**

1. If the Party complained against does not comply with a ruling of the arbitration panel referred to in Article 11.8 (Implementation of the Final Panel Report), or notifies the complaining Party that it does not intend to comply with the

ruling in the final panel report, that Party shall, if so requested by the complaining Party, enter into consultations with a view to agreeing on mutually acceptable compensation. If such consultations have been requested and no such agreement has been reached within 20 days from the receipt of the request, the complaining Party shall be entitled to suspend the application of benefits granted under this Agreement but only equivalent to those affected by the measure that the arbitration panel has found to be inconsistent with this Agreement.

2. In considering what benefits to suspend, the complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure that the arbitration panel has found to be inconsistent with this Agreement. The complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

3. The complaining Party shall notify the Party complained against of the benefits which it intends to suspend, the grounds for such suspension and when suspension will commence, no later than 30 days before the date on which the suspension is due to take effect. Within 15 days from the receipt of that notification, the Party complained against may request the original arbitration panel to rule on whether the benefits which the complaining Party intends to suspend are equivalent to those affected by the measure found to be inconsistent with this Agreement, and whether the proposed suspension is in accordance with paragraphs 1 and 2. The ruling of the arbitration panel should be given within 45 days from the receipt of that request. Benefits shall not be suspended until the arbitration panel has issued its ruling.

4. Compensation and suspension of benefits shall be temporary measures and shall only be applied by the complaining Party until the measure found to be inconsistent with this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or until the parties to the dispute have resolved the dispute otherwise.

5. Upon request of a party to the dispute, the original arbitration panel shall rule on the conformity with the final report of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel should be given within 30 days from the receipt of that request.

## **Article 11.10. Time Periods**

1. Any time period mentioned in this Chapter may be modified by mutual agreement of the parties to the dispute or, upon request of a party to the dispute, by the arbitration panel.

2. If an arbitration panel considers that it cannot comply with a timeframe imposed on it under this Chapter, it shall inform the parties to the dispute in writing and provide an estimate of the additional time required. Any additional time required should not exceed 30 days.

## **Article 11.11. Costs**

Each party to the dispute shall bear its own legal and other costs incurred in relation to the arbitration. The costs of arbitration shall be borne by the parties to the dispute in equal shares. The arbitration panel may decide that the costs be distributed differently taking into account the particular circumstances of the case.

# **Chapter 12. FINAL PROVISIONS**

## **Article 12.1. Annexes and Appendices**

The Annexes and Appendices to this Agreement constitute an integral part of this Agreement.

## **Article 12.2. Amendments**

1. Any Party may submit proposals for amendments to this Agreement to the Joint Committee for consideration and recommendation.

2. Except as otherwise provided for in Article 10.1 (Joint Committee), amendments to this Agreement shall be subject to ratification, acceptance or approval.

3. Unless otherwise agreed, amendments shall enter into force on the first day of the third month following the date on which at least one EFTA State and the Republic of Moldova have deposited their instrument of ratification, acceptance or approval with the Depositary. In relation to an EFTA State depositing its instrument of ratification, acceptance or approval after the date on which at least one EFTA State and the Republic of Moldova have deposited their instrument of ratification,

acceptance or approval with the Depositary, the amendment shall enter into force on the first day of the third month following the deposit of its instrument.

4. Amendments regarding issues related only to one or several EFTA States and the Republic of Moldova shall be agreed upon by the Parties concerned.

5. The text of the amendments and the instruments of ratification, acceptance or approval shall be deposited with the Depositary.

6. A Party may apply an amendment provisionally, subject to its domestic legal requirements. Provisional application of amendments shall be notified to the Depositary.

### **Article 12.3. Accession**

1. Any State becoming a Member of EFTA may accede to this Agreement on terms and conditions agreed by the Parties and the acceding State.

2. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the date on which the acceding State and the last Party have deposited their instruments of ratification, acceptance or approval of the terms of accession.

### **Article 12.4. Withdrawal and Expiration**

1. Each Party may withdraw from this Agreement by means of a written notification to the Depositary. The withdrawal shall take effect six months from the date on which the notification is received by the Depositary.

2. If the Republic of Moldova withdraws, this Agreement shall expire when its withdrawal becomes effective.

3. Any EFTA State which withdraws from the Convention establishing the European Free Trade Association shall, ipso facto on the same day as the withdrawal takes effect, cease to be a Party to this Agreement.

### **Article 12.5. Entry Into Force**

1. This Agreement shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. This Agreement shall enter into force on the first day of the third month following the date on which at least one EFTA State and the Republic of Moldova have deposited their instrument of ratification, acceptance or approval with the Depositary.

3. In relation to an EFTA State depositing its instrument of ratification, acceptance or approval after the date on which at least one EFTA State and the Republic of Moldova have deposited their instrument of ratification, acceptance or approval with the Depositary, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument.

4. A Party may apply this Agreement provisionally, subject to its domestic legal requirements. Provisional application of this Agreement shall be notified to the Depositary.

### **Article 12.6. Depositary**

The Government of Norway shall act as depositary.

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

Done at Schaan, Liechtenstein, this 27th day of June 2023, in one original in English, which shall be deposited with the Depositary, who shall transmit certified copies to all the Parties.

For Iceland

For the Republic of Moldova

For the Principality of Liechtenstein

For the Kingdom of Norway

For the Swiss Confederation