

**FREE TRADE AGREEMENTS BETWEEN
THE KYRGYZ REPUBLIC AND MOLDOVA**

Communication from the Kyrgyz Republic

I. BACKGROUND INFORMATION ON THE AGREEMENT

1. Membership and Dates of Signature, Ratification and Entry into Force

The Parties to the Agreement are the Government of the Republic of Moldova on one side and the Government of the Kyrgyz Republic on the other.

The Agreement was signed on 26 May 1995.

Afterwards, on 31 May 1996, the Kyrgyz Republic notified the Government of Moldova that no internal procedures were required by the Kyrgyz Republic for the Agreement to become effective. The Agreement became effective on 21 November 1996, when a note on the completion of internal procedures was received by the Kyrgyz Republic from the Government of Moldova.

2. Type of Agreement

The Agreement creates a free-trade area. It provides for the elimination of customs duties, taxes and charges which have an equivalent effect, and quantitative restrictions on substantially all the trade between the Parties.

3. Scope

Although the bilateral Free Trade Agreement of the Kyrgyz Republic with Moldova provides for exceptions to be set under a separate protocol, such a protocol has not yet been signed. Thus, currently there are no exceptions to the free trade regime in trade with these countries.

Furthermore, according to the Protocol, of 2 April 1999, on Amendments and Supplements to the Commonwealth of Independent States (CIS) Agreement on the Creation of a Free-Trade Area (FTA), the Parties to the CIS Agreement have agreed not to introduce new quantitative and tariff restrictions on imports and/or exports in trade between them. Therefore, Kyrgyzstan and Moldova as the Parties to the CIS FTA Agreement will maintain a free-trade area with no exceptions.

4. Trade Data

Data on intra-trade is represented in the Annex.

II. TRADE PROVISIONS

1. Import Restrictions

Currently, the Kyrgyz Republic applies no customs duties or tariff quotas and charges having an equivalent effect to customs and fiscal duties to imports from the territory of Moldova. Neither there are quantitative restrictions on imports from the territory of Moldova applied by the Kyrgyz Republic. According to the changes to the CIS FTA Agreement introduced by the Protocol of 2 April 1999, no restrictions will remain in effect after this Protocol is fully implemented.

2. Export Restrictions

Currently, the Kyrgyz Republic applies no customs duties or tariff quotas and charges having an equivalent effect to customs and fiscal duties to exports to the territory of Moldova. Neither there are quantitative restrictions on exports to the territory of Moldova applied by the Kyrgyz Republic. According to the changes to the CIS FTA Agreement introduced by the Protocol of 2 April 1999, no restrictions will remain in effect after this Protocol is fully implemented.

3. Rules of Origin

The country of origin of a product shall be a state in which the product was wholly produced or substantially transformed. The substantial transformation criterion can be determined by change in tariff classification at the level of one of the first four digits or by *ad valorem* percentages. The Agreement does not contain provisions on any type of cumulation of origin.

The Agreement does not contain extensive provisions related to determining rules of origin. It referred to a separate agreement to be developed for the detailed provisions regarding the rules of origin. Under the CIS Free-Trade Area Agreement, of 15 April 1994, the country of origin of goods in trade between the Parties to the Agreement is determined in accordance with the CIS Rules of Determining a Country of Origin of Goods (hereinafter referred to as the Rules).¹ The CIS countries signed the Rules on 24 September 1993. The country of origin of a product is considered a CIS country in which the product was wholly produced or subject to substantial transformation. The Rules provide for a list of goods, which are considered wholly produced. Substantial transformation may be manifested through (i) an *ad valorem* portion, (ii) a list of production or technological processes and (iii) changes of tariff headings. The list of production or technological processes is still being negotiated among the Parties to the Agreement. In cases where there are no criteria specified with respect to a particular product, the general criterion of changes in tariff heading is applied. A product is considered substantially transformed if its tariff classification has changed at any of the first four digits with a list of exceptions. Such exceptions are being developed and may contain a list of production or technological operations which, though cause a change in tariff line, are not considered a sign of substantial transformation, or are considered such only if certain conditions are followed. It may also contain a list of production or technological operations, which though do not cause a change in tariff line, are considered a sign of substantial transformation, provided that certain conditions are followed.

The Rules provide for a possibility of using a cumulative principle of origin while applying the criterion of substantial transformation. The cumulative principle can be used with respect to the CIS countries. However, the Rules do not contain detailed provisions regarding cumulation.

¹ The text of the Rules was circulated in document WT/REG82/1.

Standards

The Parties to the Agreement may unilaterally introduce measures generally accepted in international practice and necessary to protect life and health of human and environment, and to protect animal and plant life. The Agreement does not provide for common standards or mutual recognition of certificates. However, in accordance with the Agreement on the Uniform Policy on Standardization, Metrology and Certification, which was executed by the CIS countries, the Parties to the Agreement mutually accept certificates issued by accredited institutions of the Parties.

5. Safeguards

The Parties to the Agreement may unilaterally introduce quantitative restrictions on trade in products covered by the Agreement as a safeguard measure only in cases of a critical deficit of the balance-of-payment and acute deficit of a product in the domestic market.

A Party to the Agreement which applies a restriction shall provide, if possible in advance, the other Party with full information on reasons for introductions, forms and estimated terms of applying the measure following which consultations are to be held.

There is no specific safeguard provision related to agriculture.

6. Anti-Dumping and Countervailing Measures

The Agreement does not contain any specific provisions concerning anti-dumping and countervailing measures. Nevertheless, the Parties have acknowledged the incompatibility of unfair business practices with the objectives of the Agreement (Article 8).

7. Subsidies and State-Aid

The Agreement does not contain any specific provisions relating to subsidies and state-aid.

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and Reservations

1.1 General exceptions

The Agreement does not preclude the Parties from using measures generally accepted in international practice and necessary to fulfill international agreements, if they are related to the following:

- protection of life and health of people, animals and plants;
- protection of public moral and order;
- trade in gold, silver or other precious metals and stones;
- protection of industrial and intellectual property;

1.2 Security exceptions

The Agreement does not preclude the Parties from using measures generally accepted in international practice and necessary to fulfill international agreements and to protect its security interests, if they are related to the following:

- information concerning the national security interests;
- trade in arms, ammunition and military equipment;
- research or production related to the needs of defense;
- supplies of materials and equipment used in the nuclear industry.

2. Accession

Any country may join the Agreement if the Parties agreed on it. The Agreement does not provide for the terms and conditions of joining, which are to be agreed between the Parties to the Agreement and an acceding country.

3. Dispute Settlement Procedures

Disputes between the Parties shall be settled through negotiations.

4. Relation with Other Trade Agreements

The Agreement does not establish any specific relation with other bilateral, plurilateral and/or multilateral trade agreements.

5. Institutional Framework

The Parties to the Agreement have agreed to form a Joint Moldavian-Kyrgyz Commission for the implementation of the Agreement and development of recommendations to improve the trade and economic relations between the Parties to the Agreement.

IV. OTHER

Other provisions of the Agreement refer to the following:

- Storage, reloading, warehousing, transportation, payments and transfer of payments: no measures discriminating the products of other Party are applied;
- Customs tariffs: the Parties have agreed to hold regular consultations for the purposes of rapprochement of the levels of customs duties in trade with third countries;
- Obligation not to allow unfair business practices, including but not limited to certain practices of use by certain enterprises of their dominant position intending to limit competition on the territories of the Parties to the Agreement;
- Re-exportation: each Party to the Agreement undertakes not to re-export goods, originating from the territory of the other Party to third countries unless it gets

permission from the latter. This provision applies with respect to the goods to which the Party, where these goods originate from, applies measures of regulation of foreign economic activity or grants privileges upon exportation from its territory;

- Freedom of transit;
- The Parties have agreed to use the CIS Goods Nomenclature of Foreign Economic Activity based on the Harmonized Commodity Description and Coding System and the Combined Tariff-Statistical Nomenclature of the European Union.

ANNEX

Imports into the Kyrgyz Republic from Moldova
(Thousand of US\$)

H.S. Chapter	Year		
	1997	1998	1999
Total	408.5	33.6	181.0
17	43.9	-	-
22	180.3	31.6	102.3
27	-	-	16.3
39	1.8	-	-
49	2.6	-	-
59	3.6	-	-
63	-	2.0	-
69	4.9	-	-
70	1.0	-	-
73	1.9	-	-
82	2.0	-	-
84	165.5	-	62.4
94	1.0	-	-

Source: National Statistics Committee.

Exports from the Kyrgyz Republic into Moldova
(Thousand of US\$)

H.S. Chapter	Year		
	1997	1998	1999
Total	32.4	183.9	475.7
7	1.0	0.4	-
8	-	-	14.8
12	20.2	1.2	-
24	-	161.4	459.6
39	1.0	-	-
49	2.2	-	-
61	1.0	0.2	-
62	5.8	0.5	-
63	1.0	1.3	-
85	1.7	18.9	0.9
87	-	-	0.4

Source: National Statistics Committee.