

FREE TRADE AGREEMENT BETWEEN HUNGARY AND LATVIA

PREAMBLE

The Republic of Hungary and the Republic of Latvia, hereinafter called respectively "Hungary", "Latvia" or "the Parties",

Reaffirming their firm commitment to pluralistic democracy based on the rule of law, respect of human rights and fundamental freedoms,

Recalling their intention to participate actively in the process of economic integration as an important dimension of the stability on the European continent and expressing their preparedness to co-operate in seeking ways and means to strengthen this process,

Reaffirming their firm commitment to the principles of a market economy, which constitutes the basis for their relations,

Recalling their firm commitment to the Final Act of the Conference on Security and Co-operation in Europe, the Paris Charter, and, in particular, the principles contained in the final document of the Bonn Conference on Economic Co-operation in Europe,

Resolved to this end to eliminate progressively the obstacles to substantially all their mutual trade, in accordance with the provisions of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the Agreement Establishing the World Trade Organization (WTO),

Firmly convinced that this Agreement will foster the intensification of mutually beneficial trade relations between them and contribute to the process of integration in Europe,

Determined to implement this Free Trade Agreement with the objective to preserve and protect the environment and to ensure an optimal use of natural resources in accordance with the principle of sustainable growth,

Considering that no provision of this Agreement may be interpreted as exempting the Parties from their obligations under other international agreements, especially the Agreement Establishing the World Trade Organization (WTO).

Hereby agreed as follows:

Article 1 Objectives

1. The Parties shall gradually establish during a transitional period ending on 31 December 2000 at the latest, a free-trade area in accordance with the provisions of this Agreement and in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 and with the Understanding on the Interpretation of Article XXIV of the GATT (1994) created by the Agreement Establishing the World Trade Organization.

2. The objectives of this Agreement are:

- (a) to promote through the expansion of mutual trade the harmonious development of the economic relations between the Parties,
- (b) to provide fair conditions of competition for trade between the Parties,
- (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade,
- (d) to enhance co-operation between the Parties.

CHAPTER 1

Industrial Products

Article 2

Scope

The provisions for this Chapter shall apply to industrial products originating in the Parties. For the purpose of this Agreement the term "industrial products" means the products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System excluding the products listed in Annex I.

Article 3

Customs Duties on Imports and Charges Having Equivalent Effect

- 1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between the Parties.
- 2. All existing customs duties on imports and any charges having equivalent effect shall be abolished on the date of entry into force of this Agreement except as provided for in Protocol 1.

Article 4

Basic Duties

- 1. For each product the basic duty to which successive reductions set out in this Agreement are to be applied shall be the MFN rate of duty that was applied on 11 February 1999.
- 2. If after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, such reduced duties shall replace the basic duties referred to in paragraph 1 as from that date when such reductions are applied.
- 3. The reduced duties, calculated in accordance with paragraph 2, shall be applied rounded to the first decimal place.
- 4. The Parties shall communicate to each other their respective customs duties.

Article 5
Fiscal Duties

The provisions of Article 3 shall also apply to customs duties of a fiscal nature.

Article 6
Customs Duties on Exports and Charges Having Equivalent Effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the Parties.
2. All existing customs duties on exports and any charges having equivalent effect shall be abolished on the date of entry into force of this Agreement.

Article 7
Quantitative Restrictions on Imports and Measures Having Equivalent Effect

1. No new quantitative restrictions on imports or measures having equivalent effect shall be introduced in trade between the Parties from the date of entry into force of this Agreement.
2. All quantitative restrictions and measures having equivalent effect on imports of products originating in the Parties shall be abolished on the date of entry into force of this Agreement, except as provided for in Annex II.

Article 8
Quantitative Restrictions on Exports and Measures Having Equivalent Effect

1. No new quantitative restrictions on exports or measures having equivalent effect shall be introduced in trade between the Parties.
2. All quantitative restrictions and measures having equivalent effect on exports of products originating in the Parties shall be abolished on the date of entry into force of this Agreement except those that might be required for the administration of international obligations.

CHAPTER II
Agricultural Products

Article 9
Scope

The provisions of this Chapter shall apply to agricultural products originating in the Parties. The term "agricultural products" for the purpose of this Agreement means the products falling within Chapters 1 to 24 of the Harmonized Commodity Description and Coding System and the products listed in Annex I.

Article 10
Customs Duties on Imports and Charges Having Equivalent Effect

1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between the Parties.
2. The level of existing customs duties on imports and charges having equivalent effect shall not be increased from the date of entry into force of this Agreement.

Article 11

Exchange of Concessions

The Parties grant each other the concessions specified in Protocol 2, in accordance with the provisions of this Chapter and those laid down in this Protocol.

Article 12

Basic Duties

1. For each product the basic duty shall be the MFN rate of duty that was applied on 11 February 1999.
2. If, after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, such reduced duties shall replace the basic duties referred to in paragraph 1 as from that date when such reductions are applied.
3. The reduced duties calculated in accordance with paragraph 2 shall be applied rounded to the first decimal place.

Article 13

Concessions and Agricultural Policies

1. Without prejudice to the concessions granted under Protocol 2 to this Agreement, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of the respective provisions of the Agreement on Agriculture within the framework of the World Trade Organization.
2. The Parties shall notify each other through the Joint Committee of changes in their respective agricultural policies pursued or measures applied which may affect the conditions of agricultural trade between them as provided for in this Agreement. Prompt consultation shall be held, upon request of any Party, to examine the situation

Article 14

Specific Safeguards

Notwithstanding other provisions of this Agreement and, in particular, Article 27 (General safeguards), if, given the particular sensitivity of the agricultural markets, imports of products originating in a Party, which are subject to concessions granted under this Agreement, cause serious disturbance to the markets of the other Party, the Party concerned shall enter into consultations

immediately to find the appropriate solution. Pending such solution, the Party concerned may take the measures it deems necessary.

Article 15

Veterinary, Sanitary and Phytosanitary Measures

1. The Parties shall apply their regulations in sanitary and phytosanitary matters in a non-discriminatory fashion and shall not introduce any new measure that has the effect of unduly obstructing trade.
2. The veterino-sanitary measures and the work of the veterinary services will be in accordance with international conventions in this field.
3. The phytosanitary measures and the work of the plant protection service will be in accordance with international conventions in this field.

CHAPTER III

General Provisions

Article 16

Rules of Origin and Co-operation in Customs Administration

1. Protocol 3 to this Agreement lays down the rules of origin and related methods of administrative co-operation.
2. The Parties shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Protocols 1 and 2 to this Agreement and Articles 3 (Customs duties on imports and charges having equivalent effect), 4 (Basic duties), 5 (Fiscal duties), 6 (Customs duties on exports and charges having equivalent effect), 7 (Quantitative restrictions on imports and measures having equivalent effect), 8 (Quantitative restrictions on exports and measures having equivalent effect), 10 (Customs duties on imports and charges having equivalent effect), 12 (Basic duties), 17 (Internal taxation), and 28 (Structural adjustments) of this Agreement are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

Article 17

Internal Taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in the Parties.
2. Exporters may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on products exported to the territory of one of the Parties.

Article 18

General Exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on the grounds of: public morality, public policy or public security; the protection of human, animal or plant life or health; the protection of environment; the protection of national treasures possessing artistic, historic or archaeological value; the protection of intellectual property; the rules relating to gold or silver; the conservation of exhaustible natural resources if this measure is made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 19

Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any appropriate measure which it considers necessary:

- (a) to prevent this disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies;
 - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
 - (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
 - (iii) taken in time of war or other serious international tension.

Article 20

State Monopolies

1. The Parties shall adjust progressively any State monopoly of commercial character so as to ensure that by the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties.
2. The Provisions of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. These provisions shall likewise apply to monopolies delegated by a Party to other bodies.

Article 21

Payments

1. Payments in freely convertible currencies relating to trade in goods between the Parties and transfer of such payments to the territory of the Party to this Agreement, where the creditor resides, shall be free from any restrictions.
2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short or medium term credits related to trade in goods in which a resident of a Party participates.
3. Notwithstanding the provisions of paragraph 2, any measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Agreement of the International Monetary Fund.

Article 22

Rules and Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement is so far as they may affect trade between the Parties:
 - (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
 - (b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in substantial part thereof.
2. The provisions of paragraph 1 of this Article shall apply to the activities of all undertakings, including public undertakings and undertakings to which the Parties grant special or exclusive rights. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, shall be subject to provisions of paragraph 1 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. With regard to products referred to in Chapter II the provisions stipulated in paragraph 1(a) of this Article shall not apply to such agreements, decisions and practices which form an integral part of a national market organization.
4. If a Party considers that a given practice is incompatible with paragraphs 1, 2 and 3 of this Article and if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 31 (Procedure for the application of safeguard measures).

Article 23

State Aid

1. Any aid granted by a Party to this Agreement or through state resources in any form whatever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it may affect trade between the Parties, be incompatible with the proper functioning of this Agreement.

2. The provisions of paragraph 1 of this Article shall not apply to products referred to in Chapter II.

3. The Parties shall ensure transparency in the area of state aid, inter alia, by reporting annually to the Joint Committee on the total amount and the distribution of the aid given and by providing to the other Party, upon request, information on aid schemes and on particular individual cases of state aid.

4. If a Party considers that a particular practice:

(a) is incompatible with the terms of paragraph 1, or

(b) causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry,

it may take appropriate measures under the conditions of and in accordance with the provisions of Article 31 (Procedure for the application of safeguard measures). Such appropriate measures may only be taken in conformity with the procedures and under the conditions laid down by the General Agreement on Tariffs and Trade 1994 and by the Agreement establishing the World Trade Organization and any other relevant instruments negotiated under their auspices which are applicable between the Parties.

Article 24

Public Procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.

2. The Parties shall progressively develop their respective regulations for public procurement with a view to grant suppliers of the other Party, access to contract award procedures on their respective public procurement markets.

3. The Joint Committee shall examine developments related to the achievement of the objectives of this Article and may recommend practical modalities of implementing the provisions of paragraph 2, so as to ensure free access, transparency and full balance of rights and obligations.

4. During the examination referred to in paragraph 3, the Joint Committee may consider, especially in the light of international developments and regulations in this area, the possibility of extending the coverage and/or the degree of the market opening provided for in paragraph 2.

5. The Parties shall endeavour to accede to the relevant Agreement negotiated under the auspices of the World Trade Organization.

Article 25

Protection of Intellectual Property

1. The Parties shall grant and ensure the protection of intellectual property rights on a non-discriminatory basis, including measures for granting and enforcing such rights. The protection shall be gradually improved on a level corresponding to the substantive standards of the multilateral agreements which are specified in Annex III to this Agreement by the entry into force of this Agreement.

2. For the purposes of this Agreement "intellectual property protection" includes, in particular, protection of copyright, comprising computer programs and databases, and neighbouring rights, trademarks for goods and services, geographical indications including appellation of origin, industrial designs, patents, topographies of integrated circuits, as well as undisclosed information on know-how.

3. The Parties shall co-operate in matters of intellectual property. They shall hold, upon request of any Party, expert consultations on these matters, in particular, on activities relating to the existing or to future international conventions on harmonization, administration and enforcement of intellectual property and on activities in international organizations, such as the World Trade Organization and the World Intellectual Property Organization, as well as relations of the Parties with any third country on matters concerning intellectual property.

4. The Parties may conclude further agreements exceeding the requirements of this Agreement which are not contrary to TRIPS Agreement.

Article 26

Dumping

If a Party finds that dumping within the meaning of Article VI of the General Agreement of Tariffs and Trade 1994 is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with Article VI of the General Agreement on Tariffs and Trade 1994 under the conditions and in accordance with the procedure laid down in Article 31 (Procedure for the application of safeguard measures).

Article 27

General Safeguards

1. Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause:

(a) serious injury to domestic producers of like or directly competitive products in the territory of the importing Party, or

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

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 31 (Procedure for the application of safeguard measures).

Article 28

Structural Adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 3 (Customs duties on imports and charges having equivalent effect) may be taken by any of the Parties in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in the Party concerned to products origination in the other Party introduced by these measures may not exceed 25 per cent ad valorem and shall maintain an element of preference for products originating in the other Party. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the other Party as defined in Chapter I during the last year for which statistics are available.
4. These measures shall be applied for a period not exceeding three years, and they shall cease to apply at the latest by the end of the third year from the date of entry into force of this Agreement.
5. No such measures can be introduced in respect of a product if more than three years have elapsed since the entry into force of this Agreement or elimination of all customs duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.
6. The Party concerned shall inform the other Party through the Joint Committee of any exceptional measures it intends to take and, upon request of the other Party, consultations shall be held within the Joint Committee on such measures and the sectors to which they apply prior to their introduction. When taking such measures the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these customs duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

Article 29

Re-export and Serious Shortage

1. Where compliance with the provisions of Articles 6 (Customs duties on exports and charges having equivalent effect) and 8 (Quantitative restrictions on exports and measures having equivalent effect) leads to:
 - (a) re-export towards a third country against which the exporting Party maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or

(b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 31 (Procedure for the application of safeguard measures).

Article 30

Fulfilment of Obligations

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are achieved.

2. If a Party considers that the other Party has failed to fulfil an obligation under this Agreement, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 31 (Procedure for the application of safeguard measures).

Article 31

Procedure for the Application of Safeguard Measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs of this Article, the Parties shall endeavour to solve any differences between them through direct consultations.

2. In the event of a Party subjecting imports of products liable to give rise to the situation referred to in Article 27 (General safeguards) to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.

3. Without prejudice to paragraph 7 of this Article, a Party which considers resorting to safeguard measures shall promptly notify the other Party thereof and supply all relevant information. Consultations between the Parties shall take place without delay but not later than thirty days after requesting such consultations in the Joint Committee with a view to finding a solution.

4. (a) With regard to Articles 26 (Dumping), 27 (General safeguards) and 29 (Re-export and serious shortage), the Joint Committee shall examine the case of the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the case of the absence of such decision within 30 days of the matter being referred to the Joint Committee the Party concerned may adopt the measures necessary in order to remedy the situation.

(b) With regard to Article 30 (Fulfilment of obligations), the Party concerned may take appropriate measures after the consultations have been concluded or a period of three months has elapsed from the date of the first notification to the other Party.

(c) With regard to Articles 22 (Rules of competition concerning undertakings) and 23 (State aid) the Party concerned shall give the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement within sixty days of the matter being referred to it, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.

5. The safeguard measures taken shall be immediately notified to the other Party. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures which will least disturb the functioning of this Agreement.

6. The safeguard measures taken shall be the subject of periodic consultations within the Joint Committee with a view to their relaxation as soon as possible, or abolition when conditions no longer justify their maintenance.

7. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 22 (Rules of competition concerning undertakings), 23 (State aid) and 32 (Balance-of-payments difficulties) apply forthwith the provisional measures strictly necessary to remedy the situation. The measures shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee.

Article 32

Balance-of-Payments Difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance-of-payments purposes.

2. Where one of the Parties is in a serious balance-of-payments difficulties, or under imminent threat thereof, the Party concerned may, in accordance with the relevant provisions of the General Agreement on Tariffs and Trade 1994 and with Article VIII of the Agreement of International Monetary Fund adopt restrictive measures, including measures related to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance-of-payments situation. The measures shall be progressively relaxed as balance-of-payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Party concerned shall inform the other Party forthwith of their introduction and, whenever practicable, of a schedule for their removal.

Article 33

Evolutionary Clause

1. Where a Party considers that it would be useful in the interests of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a

reasonable request to the other Party. The Parties may instruct the Joint Committee to examine such a request and, where appropriate, to make recommendations, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to the ratification of the approval by the Parties in accordance with their internal legal procedures.

CHAPTER IV

Institutional and Final Provisions

Article 34

The Joint Committee

1. A Joint Committee is hereby established in which each Party shall be represented.

2. The implementation of this Agreement shall be supervised and administered by the Joint Committee.

3. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and upon the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.

4. The Joint Committee may take decisions in cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 35

Procedures of the Joint Committee

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary but at least once a year. Each Party may request that a meeting be held.

2. The Joint Committee shall act by consensus.

3. If a representative of a Party in the Joint Committee has accepted a decision subject to the fulfilment of internal legal requirements, the decision shall enter into force, if no later date is contained therein, on the day of the notification that such requirements have been fulfilled.

4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure which shall, inter alia contain provisions for convening meetings and for the designation of the Chairman and the term of office.

5. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its task.

Article 36
Customs Unions, Free-Trade Areas and Frontier Trade

This Agreement shall not prevent the maintenance or establishment of customs union, free-trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade between the Parties and in particular the provisions concerning rules of origin provided for by this Agreement.

Article 37
Annexes, Protocols and Amendments

1. Annexes and Protocols to this Agreement are an integral part of it.
2. The Joint Committee may decide to amend the Annexes and Protocols to this Agreement. In the case the amendments shall enter into force on the first day of the second month following the receipt of the latter diplomatic note confirming that their internal requirements for the entry into force of the amendments have been fulfilled.

Article 38
Entry into Force

This Agreement shall enter into force on the first day of the second month following the date on which the Parties have notified each other through diplomatic channels that their internal legal requirements for the entry into force of this Agreement have been fulfilled.

Article 39
Validity and Termination

1. This Agreement is concluded for an unlimited period of time
2. Either Party may terminate this Agreement by a written notification to the other Party. The termination shall take effect on the first day of the seventh month following the date on which the notification was received by the other Party.

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

DONE at Budapest this tenth day of June, one thousand nine hundred and ninety nine in two authentic originals, each in the English language.

For the Republic of Hungary

For the Republic of Latvia
