

FREE TRADE AGREEMENT BETWEEN THE EFTA STATES AND MONTENEGRO

SUMMARY

The Free Trade Agreement between the EFTA States and Montenegro was signed in Geneva on 14 November 2011.

The main focus of the Agreement is on the liberalisation of trade in goods. EFTA and Montenegro abolish all customs duties on industrial products as of the entry into force of the Agreement with only a few exceptions for fish and other marine products on the part of Montenegro. Additional agricultural agreements between the individual EFTA States and Montenegro form an integral part of the instruments establishing the free trade area.

THE FREE TRADE AGREEMENT

The Agreement consists of a total of 52 Articles and seven Annexes. The Agreement covers the following main subjects:

- **Trade in Goods**
- **Intellectual Property**
- **Investment, Services and Government Procurement**
- **Trade and Sustainable Development**
- **Administration and Dispute Settlement**

TRADE IN GOODS

With the entry into force of the Agreement, EFTA abolishes all customs duties on imports of industrial products, including fish and other marine products, originating in Montenegro. Montenegro likewise abolishes all customs duties on industrial products originating in an EFTA State, apart from a few sensitive fish and other marine products (Annex III). For most of those products a gradual dismantling by Montenegro is foreseen to take place until 2018. For ten tariff lines of fish and other marine products, the Agreement does not foresee total dismantling of duties, but a review is to be undertaken within three years of the entry into force of the Agreement. (Article 9).

The Agreement also provides for tariff concessions on processed agricultural products (Annex II). Trade in basic agricultural products is covered by three bilateral agricultural agreements between the respective EFTA State and Montenegro. These agreements provide for substantial concessions on both sides while taking into account the respective sensitivities of the Parties.

The rules of origin and the methods of administrative co-operation between customs authorities are governed by the Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin. This will allow for cumulation of materials originating in the EFTA States, Montenegro and the other “Pan-Euro-Med” member countries once the respective agreements are in place between the parties concerned.

The Agreement contains detailed provisions on trade facilitation (Annex IV). Sanitary and phytosanitary measures and technical regulations are dealt with in Chapter 2 and refer to WTO law. Furthermore, the Agreement includes provisions on state trading enterprises, subsidies, anti-dumping, anti-competitive practices affecting trade relations between the Parties, and disciplines on safeguard measures.

INTELLECTUAL PROPERTY

The provisions on protection of intellectual property rights (Article 23 and Annex VI) cover, *inter alia*, patents, trademarks, copyrights and geographical indications. They are based on the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and provide for a high level of protection, taking into account the principles of “most favoured nation” treatment and of national treatment.

INVESTMENT, SERVICES AND GOVERNMENT PROCUREMENT

The provision on investment (Article 24) mainly refers to investment promotion and contains a review clause (5 years). The Agreement also ensures the free transfer of payments for current transactions and capital movements, subject to a provision on balance of payment difficulties, which is based on the respective WTO provisions (Chapter 5).

Regarding services, the Agreement refers to the WTO General Agreement on Trade in Services (GATS), containing in particular a “most favoured nation” provision and a review clause in accordance with GATS (Article 25).

The Agreement also includes a provision on public procurement aiming in particular at ensuring transparency and avoiding discrimination (Article 26).

TRADE AND SUSTAINABLE DEVELOPMENT

The Parties recognise that economic development, social development and environmental protection are interdependent and underline that their closer economic partnership can play an important role in promoting sustainable development. In Chapter 6 the EFTA States and Montenegro reaffirm their commitment to multilateral environmental and labour agreements and principles

and undertake to uphold levels of protection while recognising the right of each Party to establish its own level of environmental and labour protection.

ADMINISTRATION AND DISPUTE SETTLEMENT

In Chapter 7, the Agreement establishes a Joint Committee, which supervises and administers the Agreement and oversees its further development. The Joint Committee may take decisions in cases provided for by the Agreement and make recommendations in other matters.

Chapter 7 contains rules and procedures for the settlement of disputes arising under the Agreement between one or more of the EFTA States and Montenegro.
