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COUNCIL REGULATION (EC) No 55/2008

of 21 January 2008

introducing autonomous trade preferences for the Republic of Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC

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introducing autonomous trade preferences for the Republic of Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The relationship between the European Union (EU) and the Republic of Moldova (hereinafter referred to as Moldova) builds on the Partnership and Cooperation Agreement ([1]) that entered into force on 1 July 1998. One of its main objectives is to promote trade and investment and harmonious economic relations between the Parties and so to foster their sustainable economic development.

(2) In the European Neighbourhood Policy Action Plan (ENP Action Plan) for Moldova, which was agreed in 2005, the EU committed itself to consider the possibility of granting Moldova additional Autonomous Trade Preferences (ATPs), provided that Moldova substantially improved its system of controls and certification of origin of goods. In 2006 Moldova reformed its customs legislation and a satisfactory level of implementation of the new legislation was reached at the beginning of 2007.

(3) Until Romania's accession to the EU on 1 January 2007, Moldova had a free trade regime with Romania. On the whole, the effect of the 2007 enlargement was negligible for Moldova, but it had a negative impact on a few key export products of Moldova.

(4) Pursuant to Commission Decision 2005/924/EC ([2]), Moldova already benefits from the special incentive arrangement for sustainable development and good governance (the GSP+) provided for in Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences ([3]) (GSPs).

(5) The general level of imports from Moldova is merely 0,03 % of all Community imports. Further market opening is expected to support the development of Moldova's economy through increased export performance while not creating negative effects for the Community.

(6) It is therefore appropriate to extend autonomous trade preferences to Moldova by removing all remaining tariff ceilings for industrial products and by improving access to the Community market for agricultural products.

(7) In accordance with ENP Action Plan, the level of ambition of the EU-Moldova relationship will depend on the degree of Moldova's commitment to common values as well as its capacity to implement jointly agreed priorities, including the readiness to engage in effective economic reforms. Furthermore, to benefit from the additional tariff preferences under the GSP+ regime, Moldova has fulfilled the conditions of ratifying and effectively implementing core international conventions on

([1]) OJ L 181, 24.6.1998, p. 3.
([2]) OJ L 337, 22.12.2005, p. 50.
([3]) OJ L 169, 30.6.2005, p. 1. Regulation as amended by Commission Regulation (EC) No 606/2007 (OJ L 141, 2.6.2007, p. 4).

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human and labour rights, environmental protection and good governance. To ensure Moldova maintains the level of progress it has achieved, the granting of additional autonomous trade preferences will be subject to continued implementation of, and compliance with, the priorities and conditions set in the ENP Action Plan and the GSP+.

(8) In addition, entitlement to benefit from autonomous trade preferences is conditional on Moldova's compliance with the relevant rules of origin of products and the procedures related thereto as well as involvement in effective administrative cooperation with the Community in order to prevent any risk of fraud.

(9) The reasons for temporary suspension of preferences should include serious and systematic violations of the conditions for the entitlement to the preferential arrangements, fraud or failure to provide administrative cooperation for the verification of origin of goods and failure of Moldova to show continued engagement in the implementation of the priorities set in the ENP Action Plan and the covenants, conventions and protocols listed in Annex II.

(10) It is necessary to provide for the reintroduction of Common Customs Tariff duties for any products causing, or threatening to cause, serious difficulties to a Community producer of like or directly competing products, subject to an investigation by the Commission.

(11) For the purposes of defining the concept of originating products, certification of origin and administrative cooperation procedures, Title IV, Chapter 2, section 2 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ([1]) will apply.

(12) For the sake of rationalisation and simplification, it is appropriate to provide that the Commission may, having consulted the Customs Code Committee and without prejudice to the specific procedures provided for in this Regulation, make any necessary changes and technical amendments to this Regulation.

(13) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([2]).

(14) The introduction of the proposed measures for products originating in Moldova will make the inclusion of Moldova in the Community's scheme of generalised tariff preferences superfluous. It is therefore appropriate to remove Moldova from the list of beneficiaries of Regulation (EC) No 980/2005 and from the list of the beneficiary countries which qualify for the GSP+ in Decision 2005/924/EC.

(15) The import arrangements adopted by this Regulation should be renewed on the basis of the conditions established by the Council and in the light of the experience gained in granting them. It is therefore appropriate to limit their duration to 31 December 2012,

HAS ADOPTED THIS REGULATION:

([1]) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).
([2]) OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 1).

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Article 1

Preferential arrangements

1. Products originating in Moldova, other than those included in tables 1 and 2 in Annex I, shall be admitted for import into the Community without quantitative restrictions or measures having equivalent effect and with exemption of customs duties and charges having equivalent effect.

2. Products originating in Moldova and included in Annex I shall be admitted for import into the Community subject to the special provisions laid down in Article 3.

Article 2

Conditions for entitlement to the preferential arrangements

1. Entitlement to benefit from the preferential arrangements introduced by Article 1 shall be subject to:

(a) compliance with the rules of origin of products and the procedures related thereto as provided for in Title IV, Chapter 2, section 2 of Regulation (EEC) No 2454/93;

(b) compliance with the methods of administrative cooperation as provided for in Articles 121 and 122 of Regulation (EEC) No 2454/93;

(c) Moldova's involvement in effective administrative cooperation with the Community in order to prevent any risk of fraud;

(d) Moldova's abstention from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Community or from increasing existing levels of duties or charges or from introducing any other restrictions from the day of the entry into force of this Regulation;

(e) Moldova's continued engagement in the implementation of the priorities set in the ENP Action Plan for Moldova of 2005, in particular as regards effective economic reform; and

(f) Moldova's maintaining the ratification and effective implementation of the covenants, conventions and protocols listed in Annex II and accepting regular monitoring and review of its implementation record in accordance with the implementation provisions of the covenants, conventions and protocols it has ratified.

2. The Commission shall keep under review the status of ratification and effective implementation of the relevant covenants, conventions and protocols referred to in paragraph 1(f).

3. In the event of non-compliance with the conditions set in paragraph 1, the Commission may, in accordance with Article 10, take measures to suspend the preferential arrangements provided for in Article 1.

Article 3

Tariff quotas and price thresholds for certain agricultural products

1. Products listed in Table 1 of Annex I shall be admitted for import into the Community with exemption of customs duties within the limits of Community tariff quotas as set out in that table.

2. Products listed in Table 2 of Annex I shall be admitted for import into the Community with exemption of the ad valorem component of the import duty.

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3. Notwithstanding other provisions of this Regulation, in particular Article 10, if imports of agricultural products cause serious disturbance to the Community markets and their regulatory mechanisms, the Commission may take the appropriate measures in accordance with the procedure laid down in the applicable Community law to the products in question.

Article 4

Implementation of tariff quotas for dairy products

The detailed rules for implementing the tariff quotas for headings 0401 to 0406 shall be determined by the Commission in accordance with the procedure referred to in Article 42 of Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ([1]).

Article 5

Administration of tariff quotas

The tariff quotas referred to in Article 3(1) and listed in Annex I, except tariff quotas for dairy products referred to in Article 4, shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 6

Access to tariff quotas

Member States shall ensure that importers have equal and uninterrupted access to the tariff quotas for as long as the balance of the relevant quota volume so permits.

Article 7

Conferment of powers

The Commission shall, in accordance with the procedure referred to in Article 8(2), adopt the provisions necessary for the application of this Regulation, other than those referred to in Article 4, notably:

(a) amendments and technical adjustments necessary following amendments to the Combined Nomenclature codes and to the TARIC subdivisions;

(b) necessary adjustments following the conclusion of other agreements between the Community and Moldova.

Article 8

Committee procedure

1. The Commission shall be assisted by the Customs Code Committee instituted by Article 248a of Regulation (EEC) No 2913/92 ([2]), hereinafter referred to as ‘the Committee’.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

([1]) OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1152/2007 (OJ L 258, 4.10.2007, p. 3).

([2]) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

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Article 9

Cooperation

Member States and the Commission shall cooperate closely to ensure that this Regulation, and in particular the provisions set out in Article 10(1), are complied with.

Article 10

Temporary suspension

1. Where the Commission finds that there is sufficient evidence of fraud, irregularities or systematic failure by Moldova to comply, or to ensure compliance, with the rules of origin of products and the procedures related thereto and to provide administrative cooperation as referred to in Article 2(1), or a failure to comply with any of the other the conditions defined in Article 2(1), it may take measures to suspend in whole or in part the preferential arrangements provided for in this Regulation for a period of not more than six months, provided that it has first:

(a) informed the Committee;

(b) called on the Member States to take such precautionary measures as are necessary in order to safeguard the Community's financial interests and/or to secure compliance by Moldova with Article 2(1);

(c) published a notice in the *Official Journal of the European Union* stating that there are grounds for reasonable doubts concerning the application of the preferential arrangements and/or compliance with Article 2(1) by Moldova which may call into question its right to continue enjoying the benefits granted by this Regulation;

(d) informed Moldova of any decision taken in accordance with this paragraph, before it becomes effective.

2. A Member State may refer the Commission's Decision to the Council within 10 days. The Council, acting by qualified majority, may take a different decision within 30 days.

3. On conclusion of the period of suspension, the Commission shall decide either to terminate the provisional suspension measure following consultation of the Committee or to extend the suspension measure in accordance with the procedure provided for in paragraph 1.

4. Member States shall communicate to the Commission all relevant information that may justify the suspension of preferences or its extension.

Article 11

Safeguard clause

1. Where a product originating in Moldova is imported on terms which cause, or threaten to cause, serious difficulties to a Community producer of like or directly competing products, Common Customs Tariff duties on that product may be reintroduced at any time by the Council acting by qualified majority on a proposal from the Commission.

2. At the request of a Member State or on the Commission's initiative, the Commission shall take a formal decision to initiate an investigation within a reasonable period of time. Where the Commission decides to initiate an investigation, it shall publish a notice in the *Official Journal of the European Union* announcing the investigation. The notice shall provide a summary of the information received and state that any relevant information should be sent to the Commission. It shall specify the period, which shall not exceed four months from the

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date of publication of the notice, within which interested parties may make their views known in writing.

3. The Commission shall seek all information it deems necessary and may verify the information received with Moldova and any other relevant source. It may be assisted by officials of the Member States on whose territory verification might be sought, if that Member State so requests.

4. In examining whether there are serious difficulties, the Commission shall take account, *inter alia*, of the following factors concerning Community producers where the information is available:

— market share,

— production,

— stocks,

— production capacity,

— capacity utilisation,

— employment,

— imports,

— prices.

5. The investigation shall be completed within six months after the publication of the notice referred to in paragraph 2. The Commission may, in the case of exceptional circumstances, extend this period in accordance with the procedure referred to in Article 8(2).

6. The Commission shall take a decision within three months, in accordance with the procedure referred to in Article 8(2). Such decision shall enter into force within one month as from its publication.

7. Where exceptional circumstances requiring immediate action make an investigation impossible, the Commission may, after informing the Committee, take any preventive measure which is strictly necessary.

Article 12

Surveillance measures in the agricultural sector

Products in Chapters 17, 18, 19 and 21 of the Harmonised System, originating in Moldova, shall be subject to a special surveillance measure in order to avoid disturbances in the Community market.

If Moldova does not comply with the rules of origin or does not provide administrative cooperation, as required in Article 2, for the aforementioned Chapters 17, 18, 19 and 21, or if imports of products under these Chapters subject to the preferential arrangements granted under this Regulation significantly exceed the usual levels of exports of Moldova, appropriate measures shall be taken in accordance with the procedures in Article 3(3), Article 10 or Article 11.

Article 13

Amendments to Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC

1. In Annex I to Regulation (EC) No 980/2005, the entry ‘MD Moldova, Republic of’ shall be deleted.

2. In the Sole Article of Decision 2005/924/EC, the entry ‘(MD) Republic of Moldova’ shall be deleted.

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Article 14

Transitional measures

1. The benefit of the generalised tariff preferences established by Regulation (EC) No 980/2005 shall continue to be granted in respect of goods originating in Moldova which are put into free circulation in the Community before the first day of the third month following ►M1 the date of application ◄ of this Regulation, provided that:

(a) the goods concerned are covered by a purchase contract concluded before ►M1 the date of application ◄ of this Regulation; and

(b) it can be shown to the satisfaction of the customs authorities that those goods left the country of origin no later than ►M1 the date of application ◄ of this Regulation.

2. The customs authorities may regard paragraph 1(b) as having been satisfied if one of the following documents is submitted to them:

(a) in the case of transport by sea or waterway, the bill of loading showing that loading took place before ►M1 the date of application ◄ of this Regulation;

(b) in the case of transport by rail, the consignment note accepted by the railways of the expediting country before ►M1 the date of application ◄ of this Regulation;

(c) in the case of transport by road, the international road transport TIR carnet issued before ►M1 the date of application ◄ of this Regulation by the customs office in the country of origin or any other appropriate document authenticated by the relevant customs authorities of the country of origin before that date;

(d) in the case of transport by air, the air consignment note showing that the airline received the goods before ►M1 the date of application ◄ of this Regulation.

Article 15

Application of Community veterinary legislation

The provisions of this Regulation shall not affect any restrictions or import rules which are included in Community veterinary legislation.

Article 16

Entry into force and application

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from the first day of the second month after its entry into force until 31 December 2012.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

PRODUCTS SUBMITTED TO QUANTITATIVE LIMITS OR PRICE THRESHOLDS REFERRED TO IN ARTICLE 3

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

1. **Products subject to annual duty free tariff quotas**

Order No	CN Code	Description	2008 (1)	2009 (1)	2010 (1)	2011 (1)	2012 (1)
09.0504	0201 to 0204	Fresh, chilled and frozen meat of bovine animals, swine and sheep and goats	3 000 (2)	3 000 (2)	4 000 (2)	4 000 (2)	4 000 (2)
09.0505	ex 0207	Meat and edible offal of the poultry of heading 0105, fresh, chilled or frozen, other than fatty livers of subheading 0207 34	400 (2)	400 (2)	500 (2)	500 (2)	500 (2)
09.0506	ex 0210	Meat and edible meat offal of swine and bovine animals, salted, in brine, dried or smoked; edible flours and meals of meat or meat offals of domestic swine and bovine animals	400 (2)	400 (2)	500 (2)	500 (2)	500 (2)
09.4210	0401 to 0406	Dairy products	1 000 (2)	1 000 (2)	1 500 (2)	1 500 (2)	1 500 (2)
09.0507	0407 00	Birds' eggs, in shell	90 (3)	95 (3)	100 (3)	110 (3)	120 (3)
09.0508	ex 0408	Birds' eggs, not in shell and egg yolks, other than unfit for human consumption	200 (2)	200 (2)	300 (2)	300 (2)	300 (2)
09.0509	1001 90 91 1001 90 99	Other spelt (other than spelt for sowing), common wheat and meslin	25 000 (2)	30 000 (2)	35 000 (2)	40 000 (2)	50 000 (2)
09.0510	1003 00 90	Barley	20 000 (2)	25 000 (2)	30 000 (2)	35 000 (2)	45 000 (2)
09.0511	1005 90	Maize	15 000 (2)	20 000 (2)	25 000 (2)	30 000 (2)	40 000 (2)

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Order No	CN Code	Description	2008 (1)	2009 (1)	2010 (1)	2011 (1)	2012 (1)
09.0512	1601 00 91 and 1601 00 99	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	500 (2)	500 (2)	600 (2)	600 (2)	600 (2)
	ex 1602	Other prepared or preserved meat, meat offal or blood: — of fowls of the species *Gallus domesticus*, uncooked, — of domestic swine, — of bovine animals, uncooked					
09.0513	1701 99 10	White Sugar	15 000 (2)	18 000 (2)	22 000 (2)	26 000 (2)	34 000 (2)
09.0514	2204 21 and 2204 29	Wine of fresh grapes other than sparkling wine	60 000 (4)	70 000 (4)	80 000 (4)	100 000 (4)	120 000 (4)

(1) From 1 January until 31 December, except for 2008 from the first day of application of the Regulation until 31 December.
(2) Tonnes (net weight).
(3) Million units.
(4) Hectolitres.

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2. **Products for which the *ad valorem* component of the import duty is exempted**

CN Code	Description
0702	Tomatoes, fresh or chilled
0703 20	Garlic, fresh or chilled
0707	Cucumbers and gherkins, fresh or chilled
0709 90 70	Courgettes, fresh or chilled
0709 90 80	Globe artichokes
0806	Grapes, fresh or dried
0808 10	Apples, fresh
0808 20	Pears and quinces
0809 10	Apricots
0809 20	Cherries
0809 30	Peaches, including nectarines
0809 40	Plums and sloes

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ANNEX II

COVENANTS, CONVENTIONS AND PROTOCOLS REFERRED TO IN ARTICLE 2(1)(F)

1. International Covenant on Civil and Political Rights
2. International Covenant on Economic, Social and Cultural Rights
3. International Convention on the Elimination of All Forms of Racial Discrimination
4. Convention on the Elimination of All Forms of Discrimination Against Women
5. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
6. Convention on the Rights of the Child
7. Convention on the Prevention and Punishment of the Crime of Genocide
8. Convention concerning Minimum Age for Admission to Employment (No 138)
9. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No 182)
10. Convention concerning the Abolition of Forced Labour (No 105)
11. Convention concerning Forced or Compulsory Labour (No 29)
12. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (No 100)
13. Convention concerning Discrimination in Respect of Employment and Occupation (No 111)
14. Convention concerning Freedom of Association and Protection of the Right to Organise (No 87)
15. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No 98)
16. International Convention on the Suppression and Punishment of the Crime of Apartheid
17. Montreal Protocol on Substances that Deplete the Ozone Layer
18. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
19. Stockholm Convention on Persistent Organic Pollutants
20. Convention on International Trade in Endangered Species of Wild Fauna and Flora
21. Convention on Biological Diversity
22. Cartagena Protocol on Biosafety
23. Kyoto Protocol to the Unites Nations Framework Convention on Climate Change
24. United Nations Single Convention on Narcotic Drugs (1961)
25. United Nations Convention on Psychotropic Substances (1971)
26. United Nations Convention against illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
27. United Nations Convention against Corruption (Mexico)