PROTOCOL
LA CONVENȚIA PRIVIND IMPORTUL DE PUBLICAȚII CU CARACTER INSTRUCTIV, ȘTIINȚIFIC ȘI CULTURAL*

ADOPTATĂ LA NAIROBI LA 26 NOIEMBRIE 1976

PROTOCOL TO THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

ADOPTED AT NAIROBI, ON 26 NOVEMBER 1976

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* *În vigoare pentru Republica Moldova din 3 martie 1999.*

THE CONTRACTING STATES PARTIES to the Agreement on the Importation of Educational, Scientific and Cultural Materials, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its fifth session held in Florence in 1950,

REAFFIRMING the principles on which the Agreement, hereinafter called "the Agreement", is based,

CONSIDERING that this Agreement has proved to be an effective instrument in lowering customs barriers and reducing other economic restrictions that impede the exchange of ideas and knowledge,

CONSIDERING, nevertheless, that in the quarter of a century following the adoption of the Agreement, technical progress has changed the ways and means of transmitting information and knowledge, which is the fundamental objective of that Agreement,

CONSIDERING, further, that the developments that have taken place in the field of international trade during this period have, in general, been reflected in greater freedom of exchanges,

CONSIDERING that since the adoption of the Agreement, the international situation has changed radically owing to the development of the international community, in particular through the accession of many States to independence,

CONSIDERING that the needs and concerns of the developing countries should be taken into consideration, with a view to giving them easier and less costly access to education, science, technology and culture,

RECALLING the provisions of the Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, adopted by the General Conference of UNESCO in 1970, and those of the Convention concerning the protection of the world cultural and natural heritage, adopted by the General Conference in 1972,

RECALLING, moreover, the customs conventions concluded under the auspices of the Customs Co-operation Council, in consultation with the United Nations Educational, Scientific and Cultural Organization, concerning the temporary importation of educational, scientific and cultural materials,

CONVINCED that new arrangements should be made and that such arrangements will contribute even more effectively to the development of education, science and culture which constitute the essential bases of economic and social progress,

RECALLING resolution 4.112 adopted by the General Conference of UNESCO at its eighteenth session,

HAVE AGREED as follows:

I

1. The contracting States undertake to extend to the materials listed in annexes A, B, D and E and also, where the annexes in question have not been the subject of a declaration under paragraph 16(a) below, annexes C.1, F, G and H, to the present Protocol exemption from customs duties and other charges on, or in connexion with, their importation, as set out in article I, paragraph 1, of the Agreement, provided such materials fulfil the conditions laid down in these annexes and are the products of another contracting State.

2. The provisions of paragraph 1 of this Protocol shall not prevent any contracting State from levying on imported materials:

(a) internal taxes or any other internal charges of any kind, imposed at the time of importation or subsequently, not exceeding those applied directly or indirectly to like domestic products;

(b) fees and charges, other than customs duties, imposed by governmental or administrative authorities on, or in connexion with, importation, limited in amount to the approximate cost of the services rendered, and representing neither an indirect protection to domestic products nor a taxation of imports for revenue purposes.

II

3. Notwithstanding paragraph 2(a) of this Protocol, the contracting States undertake not to levy on the materials listed below any internal taxes or other internal charges of any kind, imposed at the time of importation or subsequently:

(a) books and publications consigned to the libraries referred to in paragraph 5 of this Protocol;

(b) official, parliamentary and administrative documents published in their country of origin;

(c) books and publications of the United Nations or any of its specialized agencies;

(d) books and publications received by the United Nations Educational, Scientific and Cultural Organization and distributed free of charge by it or under its supervision;

(e) publications intended to promote tourist travel outside the country of importation, sent and distributed free of charge;

(f) articles for the blind and other physically and mentally handicapped persons:

(i) books, publications and documents of all kinds in raised characters for the blind;

(ii) other articles specially designed for the educational, scientific or cultural advancement of the blind and other physically or mentally handicapped persons which are imported directly by institutions or organizations concerned with the education of, or assistance to the blind and other physically or mentally handicapped persons approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

III

4. The contracting States undertake not to levy on the articles and materials referred to in the annexes to this Protocol any customs duties, export duties or duties levied on goods leaving the country, or other internal taxes of any kind, levied on such articles and materials when they are intended for export to other contracting States.

IV

5. The contracting States undertake to extend the granting of the necessary licences and/or foreign exchange provided for in article II, paragraph 1, of the Agreement, to the importation of the following materials:

(a) books and publications consigned to libraries serving the public interest, including the following:

(i) national libraries and other major research libraries;

(ii) general and specialized academic libraries, including university libraries, college libraries, institute libraries and university extra-mural libraries;

(iii) public libraries;

(iv) school libraries;

(v) special libraries serving a group of readers who form an entity, having particular and identifiable subjects of interest, such as government libraries, public authority libraries, industrial libraries and libraries of professional bodies;

(vi) libraries for the handicapped and for readers who are unable to move around, such as libraries for the blind, hospital libraries and prison libraries;

(vii) music libraries, including record libraries;

(b) books adopted or recommended as textbooks in higher educational establishments and imported by such establishments;

(c) books in foreign languages, with the exception of books in the principal native language or languages of the importing country;

(d) films, slides, video-tapes and sound recordings of an educational, scientific or cultural nature, imported by organizations approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

V

6. The contracting States undertake to extend the granting of the facilities provided for in article III of the Agreement to materials and furniture imported exclusively for showing at a public exhibition of objects of an educational, scientific or cultural nature approved by the competent authorities of the importing country and for subsequent re-exportation.

7. Nothing in the foregoing paragraph shall prevent the authorities of an importing country from taking such steps as may be necessary to ensure that the materials and furniture in question will in fact be re-exported at the close of the exhibition.

VI

8. The contracting States undertake:

(a) to extend to the importation of the articles covered by the present Protocol the provisions of article IV of the Agreement;

(b) to encourage through appropriate measures the free flow and distribution of educational, scientific and cultural objects and materials produced in the developing countries.

VII

9. Nothing in this Protocol shall affect the right of contracting States to take measures, in conformity with their legislation, to prohibit or limit the importation of articles, or their circulation after importation, on grounds relating directly to national security, public order or public morals.

10. Notwithstanding other provisions of this Protocol, a developing country, which is defined as such by the practice established by the General Assembly of the United Nations and which is a party to the Protocol, may suspend or limit the obligations under this Protocol relating to importation of any object or material if such importation causes or threatens to cause serious injury to the nascent indigenous industry in that developing country. The country concerned shall implement such action in a non-discriminatory manner. It

shall notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of any such action, as far as practicable in advance of implementation, and the Director-General of the United Nations Educational, Scientific and Cultural Organization shall notify all Parties to the Protocol.

11. This Protocol shall not modify or affect the laws and regulations of any contracting State or any of its international treaties, conventions, agreements or proclamations, with respect to copyright, trade marks or patents.

12. Subject to the provisions of any previous conventions to which they may have subscribed for the settlement of disputes, the contracting States undertake to have recourse to negotiation or conciliation with a view to settlement of any disputes regarding the interpretation or the application of this Protocol.

13. In case of a dispute between contracting States relating to the educational, scientific or cultural character of imported materials, the interested parties may, by common agreement refer it to the Director-General of the United Nations Educational, Scientific and Cultural Organization for an advisory opinion.

VIII

14. (a) This Protocol, of which the English and French texts are equally authentic, shall bear today's date and shall be open to signature by all States Parties to the Agreement, as well as by customs or economic unions, provided that all the member States constituting them are also Parties to the Protocol.

The term "State" or "Country" as used in this Protocol, or in the Protocol referred to in paragraph 18, shall be taken to refer also, as the context may require, to the customs or economic unions and, in all matters which fall within their competence with regard to the scope of this Protocol, to the whole of the territories of the member States which constitute them, and not to the territory of each of those States.

It is understood that, in becoming a contracting Party to this Protocol, such customs or economic unions will also apply the provisions of the Agreement on the same basis as is provided in the preceding paragraph with respect to the Protocol.

(b) This Protocol shall be subject to ratification or acceptance by the signatory States in accordance with their respective constitutional procedures.

(c) The instruments of ratification or acceptance shall be deposited with the Secretary-General of the United Nations.

15. (a) The States referred to in paragraph 14(a) which are not signatories of this Protocol may accede to this Protocol.

(b) Accession shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations.

16. (a) The States referred to in paragraph 14(a) of this Protocol may, at the time of signature, ratification, acceptance or accession, declare that they will not be bound by part II, part IV, annex C.1, annex F, annex G and annex H, or by any of those parts or annexes. They may also declare that they will be bound by annex C.1 only in respect of contracting States which have themselves accepted that annex.

(b) Any contracting State which has made such a declaration may withdraw it, in whole or in part, at any time by notification to the Secretary-General of the United Nations, specifying the date on which such withdrawal takes effect.

(c) States which have declared, in accordance with subparagraph (a) of this paragraph, that they will not be bound by annex C.1 shall necessarily be bound by annex C.2. Those which have declared that they will be bound by annex C.1 only in respect of contracting States which have themselves accepted that annex shall necessarily be bound by annex C.2 in respect of contracting States which have not accepted annex C.1.

17. (a) This Protocol shall come into force six months after the date of deposit of the fifth instrument of ratification, acceptance or accession with the Secretary-General of the United Nations.

(b) It shall come into force for every other State six months after the date of the deposit of its instrument of ratification, acceptance or accession.

(c) Within one month following the expiration of the periods mentioned in subparagraphs (a) and (b) of this paragraph, the contracting States to this Protocol shall submit a report to the United Nations Educational, Scientific and Cultural Organization on the measures which they have taken to give full effect to the Protocol.

(d) The United Nations Educational, Scientific and Cultural Organization shall transmit these reports to all States Parties to this Protocol.

18. The Protocol annexed to the Agreement, and made an integral part thereof, as provided for in article XVII of the Agreement, is hereby made an integral part of this Protocol and shall apply to obligations incurred under this Protocol and to products covered by this Protocol.

19. (a) Two years after the date of the coming into force of this Protocol, any contracting State may denounce this Protocol by an instrument in writing deposited with the Secretary-General of the United Nations.

(b) The denunciation shall take effect one year after the receipt of the instrument of denunciation.

(c) Denunciation of the Agreement pursuant to article XIV thereof shall automatically imply denunciation of this Protocol.

20. The Secretary-General of the United Nations shall inform the States referred to in paragraph 14(a), as well as the United Nations Educational, Scientific and Cultural Organization, of the deposit of all the instruments of ratification, acceptance or accession referred to in paragraphs 14 and 15; of declarations made and withdrawn under paragraph 16 of the dates of entry into force of this Protocol in accordance with paragraph 17(a) and (b); and of the denunciations provided for in paragraph 19.

21. (a) This Protocol may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision, however, shall be binding only upon States that become parties to the revising Protocol.

(b) Should the General Conference adopt a new protocol revising this Protocol either totally or in part, and unless the new protocol provides otherwise, the present Protocol shall cease to be open to signature, ratification, acceptance or accession as from the date of the coming into force of the new revising protocol.

22. This Protocol shall not change or modify the Agreement.

23. Annexes A, B, C.1, C.2, D, E, F, G and H are hereby made an integral part of this Protocol.

24. In accordance with Article 102 of the Charter of the United Nations, this Protocol shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Protocol on behalf of their respective Governments.

DONE at United Nations Headquarters, New York, this first day of March one thousand nine hundred and seventy-seven, in a single copy.

ANNEX A

BOOKS, PUBLICATIONS AND DOCUMENTS

(i) Printed books, irrespective of the language in which they are printed and whatever the amount of space given over to illustrations, including the following:

(a) luxury editions;

(b) books printed abroad from the manuscript of an author resident in the importing country;

(c) children's drawing and painting books;

(d) school exercise books (workbooks) with printed texts and blank spaces to be filled in by the pupils;

(e) crossword puzzle books containing printed texts;

(f) loose illustrations and printed pages in the form of loose or bound sheets and reproduction proofs or reproduction films to be used for the production of books.

(ii) Printed documents or reports of a non-commercial character.

(iii) Microforms of the articles listed under items *(i)* and *(ii)* of this annex, as well as of those listed under items *(i)* to *(vi)* of annex A to the Agreement.

(iv) Catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character.

(v) Maps and charts of interest in scientific fields such as geology, zoology, botany, mineralogy, palaeontology, archaeology, ethnology, meteorology, climatology and geophysics, and also meteorological and geophysical diagrams.

(vi) Architectural, industrial or engineering plans and designs and reproductions thereof.

(vii) Bibliographical information material for distribution free of charge.

ANNEX B

WORKS OF ART AND COLLECTORS' PIECES OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

(i) Paintings and drawings, whatever the nature of the materials on which they have been executed entirely by hand, including copies executed by hand, but excluding manufactured decorated wares.

(ii) Ceramics and mosaics on wood, being original works of art.

(iii) Collectors' pieces and objects of art consigned to galleries, museums and other institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of those types of materials, on condition they are not resold.

VISUAL AND AUDITORY MATERIALS

(i) Films,* filmstrips, microforms and slides.

(ii) Sound recordings.

(iii) Patterns, models and wall charts of an educational, scientific or cultural character, except toy models.

(iv) Other visual and auditory materials, such as:

(a) video-tapes, kinescopes, video-discs, videograms and other forms of visual and sound recordings;

(b) microcards, microfiches and magnetic or other information storage media required in computerized information and documentation services;

(c) materials for programmed instruction, which may be presented in kit form, with the corresponding printed materials, including video-cassettes and audio-cassettes;

(d) transparencies, including those intended for direct projection or for viewing through optical devices;

(e) holograms for laser projection;

(f) mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae;

(g) multi-media kits;

(h) materials for the promotion of tourism, including those produced by private concerns, designed to encourage the public to travel outside the country of importation.

(The exemptions provided for in the present annex C.1 shall not apply to:

(a) unused microform stock and unused visual and auditory recording media and their specific packaging such as cassettes, cartridges, reels;

(b) visual and auditory recordings with the exception of materials for the promotion of tourism covered by paragraph *(iv)* (h), produced by or for a private commercial enterprise, essentially for advertising purposes;

* The duty-free entry of exposed and developed cinematographic films for public commercial exhibition or sale may be limited to negatives, it being understood that this limitation shall not apply to films (including newsreels) when admitted duty-free under the provisions of annex C.2 to this Protocol.

(c) visual and auditory recordings in which the advertising matter is in excess of 25 per cent by time. In the case of the materials for the promotion of tourism covered by paragraph *(iv)* (h), this percentage applies only to private commercial publicity.)

ANNEX C.2

VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

Visual and auditory materials of an educational, scientific or cultural character, when imported by organizations (including, at the discretion of the importing country, broadcasting and television organizations) or by any other public or private institution or association, approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of materials or when produced by the United Nations or any of its specialized agencies and including the following:

(i) films, filmstrips, microfilms and slides;

(ii) newsreels (with or without sound track) depicting events of current news value at the time of importation, and imported in either negative form, exposed and developed, or positive form, printed and developed, it being understood that duty-free entry may be limited to two copies of each subject for copying purposes;

(iii) archival film material (with or without sound track) intended for use in connexion with newsreel films;

(iv) recreational films particularly suited for children and youth;

(v) sound recordings;

(vi) video-tapes, kinescopes, video-discs, videograms and other forms of visual and sound recordings;

(vii) microcards, microfiches and magnetic or other information storage media required in computerized information and documentation services;

(viii) materials for programmed instruction, which may be presented in kit form, with thecorresponding printed materials, including video-cassettes and audio-cassettes;

(ix) transparencies, including those intended for direct projection or for viewing through optical devices;

(x) holograms for laser projection;

(xi) mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae;

(xii) multi-media kits.

ANNEX D

SCIENTIFIC INSTRUMENTS OR APPARATUS

(i) Scientific instruments or apparatus, provided:

(a) that they are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used for non-commercial purposes under the control and responsibility of these institutions;

(b) that instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

(ii) Spare parts, components or accessories specifically matching scientific instruments or apparatus, provided these spare parts, components or accessories are imported at the same time as such instruments and apparatus, or if imported subsequently, that they are identifiable as intended for instruments or apparatus previously admitted duty-free or entitled to duty-free entry.

(iii) Tools to be used for the maintenance, checking, gauging or repair of scientific instruments, provided these tools are imported at the same time as such instruments and apparatus or, if imported subsequently, that they are identifiable as intended for the specific instruments or apparatus previously admitted duty-free or entitled to duty-free entry, and further provided that tools of equivalent scientific value are not being manufactured in the country of importation.

ANNEX E

ARTICLES FOR THE BLIND AND OTHER HANDICAPPED PERSONS

(i) All articles specially designed for the educational, scientific or cultural advancement of the blind which are imported directly by institutions or organizations concerned with the education of, or assistance to, the blind,

approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, including:

(a) talking books (discs, cassettes or other sound reproductions) and large-print books;

(b) phonographs and cassette players, specially designed or adapted for the blind and other handicapped persons and required to play the talking books;

(c) equipment for the reading of normal print by the blind and partially sighted, such as electronic reading machines, television-enlargers and optical aids;

(d) equipment for the mechanical or computerized production of braille and recorded material, such as stereo-typing machines, electronic braille, transfer and pressing machines; braille computer terminals and displays;

(e) braille paper, magnetic tapes and cassettes for the production of braille and talking books;

(f) aids for improving the mobility of the blind, such as electronic orientation and obstacle detection appliances and white canes;

(g) technical aids for the education, rehabilitation, vocational training and employment of the blind, such as braille watches, braille typewriters, teaching and learning aids, games and other instruments specifically adapted for the use of the blind.

(ii) All materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons, directly imported by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent objects are not being manufactured in the importing country.

ANNEX F

SPORTS EQUIPMENT

Sports equipment intended exclusively for amateur sports associations or groups approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent materials are not being manufactured in the importing country.

ANNEX G

MUSICAL INSTRUMENTS AND OTHER MUSICAL EQUIPMENT

Musical instruments and other musical equipment intended solely for cultural institutions or music schools approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent instruments and other equipment are not being manufactured in the importing country.

ANNEX H

MATERIAL AND MACHINES USED FOR THE PRODUCTION OF BOOKS, PUBLICATIONS AND DOCUMENTS

(i) Material used for the production of books, publications and documents (paper pulp, recycled paper, newsprint and other types of paper used for printing, printing inks, glue, etc.).

(ii) Machines for the processing of paper pulp and paper and also printing and binding machines, provided that machines of equivalent technical quality are not being manufactured in the importing country.