

AGREEMENT ON FREE TRADE BETWEEN THE CABINET OF MINISTERS OF THE KYRGYZ REPUBLIC AND THE GOVERNMENT OF UKRAINE, AS OF 26 MAY 1995

The Cabinet of Ministers of the Kyrgyz Republic and the Government of Ukraine hereinafter referred to as Contracting Parties, confirming their adherence to free development of mutual economic cooperation, taking into account the formed integration economic relations of the Kyrgyz Republic and Ukraine, interdependency and mutual support of economies of two countries, aspiring to the development of trade economic cooperation between the Kyrgyz Republic and Ukraine on the basis of equality and mutual advantage, considering that free transference of goods and services require carrying out mutually coordinated measures, confirming the intentions of the Kyrgyz Republic and Ukraine to become the Contracting Parties of the General Agreement on Tariffs and Trade (GATT), sharing the objectives and principles of the GATT and taking into account the results of the agreements and arrangements made within the framework of the Uruguay Round of multilateral trade negotiations, hereby agreed as follows:

Article 1

1. The Contracting Parties shall not apply customs duties, taxes and levies, which have equivalent effect, with respect to exportation and /or importation of goods originated from the customs territory of one of the Contracting Parties and intended for the customs territory of the other Contracting Party. Exclusion from this trade regime according to the coordinated Goods Nomenclature shall be in the form of documents which are integral part of this Agreement, if the Contracting Parties consider this necessary.
2. For the purposes of this Agreement and for the period it is effective, goods originated from the territories of the Contracting Parties shall be goods determined by Regulations on Establishing a Country of Origin as of 24 September, 1993 approved by Decision of the Governments Heads' Council of the Independent States.

Article 2

Each Contracting Party shall not:

- directly or indirectly impose on goods, subject to this Agreement, domestic taxes or levies exceeding relevant taxes or levies which are imposed on similar goods of domestic production or goods originated from third countries;
- with regard to warehousing, transshipping, storing and transporting goods originated from the other Contracting Party, and with regard to payments and transfer of payments, apply rules other than those which are similarly applied with regard to its own goods or goods originated from third countries.

Article 3

Under this Agreement in mutual trade the Contracting Parties will refrain from applying discriminatory measures or introducing quantitative restrictions or measures, equivalent with them, with respect to exportation and/or importation of goods.

The Parties may unilaterally establish quantitative or other special restrictions, but only in reasonable limits and for a strictly appointed time in cases:

- of acute deficit of this product in the domestic market until the market situation is stabilized;

- of acute deficit of balance of payments until the situation with the balance of payments is stabilized;
- where a product is imported to the territory of one of the Parties in such increased amounts or on such terms which damage or threaten to damage local manufacturers of similar or directly competitive goods;
- with a view to carrying out the measures stipulated by Article 4 hereof.

These restrictions must be of exclusive nature.

A Contracting Party which applies quantitative restrictions in compliance with this Article must, as far as possible, in advance, provide the other Party with full information concerning the basic reasons for the introduction, forms and expected terms of applying the mentioned restrictions. After this consultations shall be scheduled.

#### Article 4

The Contracting Parties have agreed that issues concerning re-exportation of goods shall be regulated by the Agreement on Re-exportation of Goods and Procedure for Granting a Permission for Re-exportation, as of 15 April 1994.

#### Article 5

The Contracting Parties shall exchange, on a regular basis, information:

- concerning laws and other normative [legislative] acts on economic activity, as well as concerning issues of trade, investments, taxation, banking and insurance activity and other financial services, concerning transport and customs issues, including customs statistics.

The Contracting Parties shall, in proper time, inform each other of changes in the national legislation which may affect implementation of this Agreement.

The authorized bodies of the Contracting Parties shall coordinate the procedure for exchanging such information.

#### Article 6

The Contracting Parties shall acknowledge incompatibility of unfair business practice with the objectives of this Agreement and shall be obliged not to allow in particular, but not exclusively, the following methods:

- agreements between enterprises, decisions made by the enterprises' associations and general methods for business practice aiming at preventing from or restricting competition, or violating conditions for it on the territories of the Contracting Parties;
- actions with the help of which one or several enterprises use their dominant position restricting competition on the whole or considerable part of the territory of the Contracting Parties.

#### Article 7

In carrying out measures of tariff and non-tariff regulation of bilateral economic relations, for exchanging statistical information and carrying out customs procedures, the Contracting Parties shall apply a single nine-digit Goods Nomenclature of Foreign Economic Activity/GN FEA based on the Harmonized Commodity Description and Coding System and the Combined Tariff Statistical Nomenclature of the European Economic Community. The Contracting Parties for the needs of their countries, if necessary, shall carry out the development of Goods Nomenclature beyond nine digits.

Introduction of a standard copy of the Goods Nomenclature shall be carried out on a mutually coordinated basis through the existing representative offices in relevant international organizations.

#### Article 8

1. The Contracting Parties have agreed that the observance of a principle of transit freedom shall be the most important condition for achieving the objectives of this Agreement and shall be an essential element of the process of their attachment to the system of international division of labour and cooperation.

In this connection, each Contracting Party shall provide a free transit, via its territory, of goods originated from the customs territory of the other Contracting Party and/or third countries and intended for the customs territory of the other Contracting Party or a third country. Each Party shall provide exporters, importers or carriers with all existing means and services necessary for ensuring transit on terms not worse than those on which the same means and services are provided to its own exporters, importers or carriers of any third state.

2. The procedure and conditions for the movement of goods over the territory of the states shall be regulated in compliance with international Transportation Rules.

#### Article 9

This Agreement shall not prevent either of the Contracting Parties from the right to take measures generally accepted in the international practice which are considered by the Contracting Party necessary for the protection of its vital interests or which are undoubtedly necessary for the implementation of international agreements of which it is a signatory or intends to become a signatory, if these measures concern:

- information damaging interests of the national defence;
- trade in weapons, ammunition and military equipment;
- investigations or production connected with needs of defence;
- deliveries of materials and equipment used in nuclear industry;
- defence of public moral and public order;
- protection of industrial and intellectual property;
- gold, silver or other precious metals and stones;
- health protection of people, animals and plants.

#### Article 10

For the purposes of carrying out a coordinated policy of export control in respect of third countries, the Contracting Parties shall conduct regular consultations and take mutually coordinated measures for the creation of the effective export control system.

#### Article 11

The provisions of this Agreement shall replace provisions of the bilateral agreements concluded earlier between the Contracting Parties, if the latter is either not compatible with the provisions of this Agreement or identical with them.

This Agreement shall not affect the validity of other agreements earlier concluded by the Contracting Parties with third countries.

#### Article 12

Disputes between the Contracting Parties regarding interpretation or application of the provisions hereof shall be settled by way of negotiations.

The Contracting Parties shall aspire to avoid conflict situations in mutual trade. Each Contracting Party shall ensure that effective means on the acknowledgement and implementation of arbitration decisions be on its territory.

#### Article 13

To implement the objectives of this Agreement and work out recommendations on improving trade economic cooperation between the two countries, the Contracting Parties have agreed to establish a joint Ukraine-Kyrgyz Commission.

#### Article 14

This Agreement shall come into force on the date of exchanging notifications on the fulfilment by the Contracting Parties of inner-state procedures necessary for this and shall be in force before the expiration of 12 months from the date when one of the Contracting Parties sends a written notification to the other Contracting Party of its intention to stop the effect of the Agreement.

The provisions of this Agreement, after its effect is stopped, shall be applied to contracts between enterprises and organizations of both countries concluded but not fulfilled in the period of its effect.

Done in the city of Minsk on 26 May 1995.

In two originals, each is in Kyrgyz, Ukraine and Russian. All the texts shall be equally valid. For the purposes of interpretation of the provisions of this Agreement the text in Russian shall be preferable.

For the Cabinet of Ministers of the Kyrgyz Republic

For the Government of Ukraine

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