

## **Treaty**

### **On Functioning of the Customs Union within the Multilateral Trade System dated May 19, 2011**

**Attention! Comes into force after the date when the Russian Federation joined the World Trade Organization, see the Decision of the Higher Eurasian Economic Council №11 dated December 19, 2011**

**The Treaty is ratified by the Federal Law № 282-FL dated October 19, 2011**

**Adopted by the Decision of EurAsEC Interstate Council № 87 dated May 19, 2011**

The Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, hereinafter referred to as Parties,

BEING members of the customs union they have formed,

CONFIRMING the intention of the Parties to join the World Trade Organization hereinafter referred to as WTO, soon on coordinated terms,

ADMITTING that membership of each Party in WTO shall create favorable conditions for their further integration into the World trade system and effective functioning of the customs union in accordance with the rules and obligations within WTO,

CONFIRMING the necessity and advantages of harmonization and uniform application of trade regimes of the Parties with regard to the third countries aimed at trade development and attracting investments,

TAKING into account the universal nature of WTO in set of its members and scope of regulation issues of international trade,

POINTING out specified high requirements in WTO to its members in accordance with Marrakesh agreement on establishment of WTO (hereinafter referred to as WTO Agreement) and also obligations assumed by each member,

CONFIRMING the necessity of interpretation of trade regimes of Parties of the Customs Union in the context of the WTO Agreement,

Agreed on the following:

#### **Article 1**

1. After the date of accession of the Parties to WTO the provisions of WTO Agreement as set out in the Protocol on accession of these Parties to WTO including obligations assumed as a condition for accession to WTO and related to legal relationship, regulated by authority which delegated the Parties to bodies of the customs union within the customs union and legal relationship adjusted by the international treaties that form the contractual and legal base of the customs union become part of the legal system of the customs union. Herewith the first adhered Party to WTO shall inform other Parties and coordinate actions with them in respect to assuming obligations as a condition for accession requiring introduction of amendments into the legal system of the customs union.

2. After the accession of such Party to WTO the rates of common customs tariff shall not exceed the rates of import tariff as set out in the list of cessions and obligations on market access of goods that is appendix to Protocol on accession of this Party to WTO excluding the cases as set out in WTO Agreement.

3. In the subsequent accession of another Party to WTO its obligations assumed as a condition for accession to WTO related to legal relationship regulated by authority which delegated the Parties to bodies of the customs union within the customs union and legal relationship adjusted by the international treaties that form the contractual and legal base of the customs union become part of the legal system of the customs union. Herewith the first adhered Party to WTO shall inform other Parties and coordinate actions with them in respect to assuming obligations as a condition for accession requiring introduction of amendments into the legal system of the customs union.

4. In case of divergences between consolidated results of the negotiations on rates of import duties of the Parties, reached during accession to WTO, such Parties shall immediately organize counsel among themselves and in undertime shall negotiate with the members of WTO which interests affected by such contradictions aimed at harmonization of the rates of import duties. Herewith every Party shall coordinate positions and intend to follow the corresponding provisions of WTO Agreements applied in case of harmonization of tariffs of the customs union.

The rates of the common customs tariff shall not exceed the rates agreed as a result of harmonization excluding the cases as set out in WTO Agreement.

5. In negotiations on obligations of the system character on issues under the jurisdiction of the bodies of the customs union, each new adhered Party to WTO intends to make such extent of obligations affecting the legal relationship regulated by authority which delegated the Parties to bodies of the customs union within the customs union and legal relationship adjusted by the international treaties that form the contractual and legal base of the customs union become part of the legal system of the customs union, that would fully correspond to the obligations of the Party first adhered to WTO. Fundamental divergences from such obligations that is a result of negotiations of new adhered Party to WTO are subjected to consideration and adaptation by the Parties.

6. Irrespective of provisions of the first and the third paragraphs of this article the Party that is not member of WTO has a right to back out from the provisions of WTO Agreement including obligations assumed by the Party to adhered WTO and become part of the legal system of the customs union, in the part the legal system of the customs union and decision of its bodies require correction in accordance with Article 2, and/or if such legal relationship independently settle regulated within its national legal system. The Party using such divergences, inform the Commission of the customs union about the type and extent of such divergences, and the Commission of the customs union publish these notifications. After accession of such Party to WTO any noted divergences shall be solved if only it is expressly provided for terms of accession of such Party to WTO.

## **Article 2**

1. The Parties shall take measures for resolution the legal system of the customs union and decisions of its bodies in accordance with WTO Agreement, as set out in Protocol on accession of each Party, including the obligations of each Party assumed as one of the conditions for accession to WTO. Before the adoption of these measures, provisions of WTO Agreement, including obligations assumed by the Parties as a condition for accession to WTO have the priority over the corresponding provisions of international treaties framed within the customs union, and decisions taken by its bodies.

2. Rights and obligations of the Parties resulting from WTO Agreement as set out in Protocols on accession of each Party to WTO including obligations assumed as a condition for accession of the Party to WTO which become part of the legal system of the customs union, shall not be subjected to revocation or restriction on decision of the bodies of the customs union including the judiciary of EurAsEC or international treaty concluded between Parties.

3. In case if individual standards of the legal system of the customs union are more liberal in comparison with WTO Agreement but do not contravene it then the Parties provide the application of such norms aimed at effective functioning of the customs union and international trade development.

4. On conclusion of international treaties within the customs union, adoption and application of acts of the customs union by its bodies the Parties provide the concordance of such treaties and acts of WTO Agreement.

5. Provisions of this treaty shall be applied taking into account detergency as set out in paragraph 6 of the Article 1 of this treaty.

## **Article 3**

On application of this treaty provisions of WTO Agreement shall be in use, regulating the establishment of the customs union.

#### **Article 4**

This treaty shall be without reserve.

#### **Article 5**

This treaty shall be subject to ratification

Procedure of this treaty coming into effect, withdrawal from it and accession to it shall be determined by Protocol on procedures for entry into force of international treaties aimed at formation the contractual and legal base of the customs union, withdrawal from it and accession to it from October 6, 2007.

Adopted in Minsk on May 19, 2011 in a single original copy in Russian language.

The original copy of this Treaty shall keep the depositary that is the Commission of the customs union.

The depositary shall submit certified copy of this Treaty to each Party.

For the Republic of Belarus

For the Republic of Kazakhstan

For the Russian Federation