

**AGREEMENT
BETWEEN UKRAINE
AND THE REPUBLIC OF LITHUANIA
ON FREE TRADE**

Ukraine and the Republic of Lithuania (hereinafter referred to as "the Contracting Parties"),

Desiring to develop trade and economic cooperation between the Contracting Parties on a basis of equality, mutual benefit and international law principles,

Proceeding from the sovereign right of each State to pursue independent foreign economic policy,

Intending to contribute to the development of economic activity, full employment, increase of efficiency and effective utilization of resources,

Desiring to contribute to the sustainable development and growth of the world trade, elimination of the barriers to its development taking into consideration the principles of the General Agreement on Tariffs and Trade (GATT),

Have agreed as follows:

ARTICLE 1

Provisions of this Agreement shall cover goods produced in Ukraine or in the Republic of Lithuania, provided by the Harmonized Commodity Description and Coding System. Exceptions to this trade regime may be made according to an agreed commodity nomenclature, provided for by a separate Protocol being an integral part to this Agreement.

ARTICLE 2

1. The Parties shall not apply duties, taxes and charges having equivalent effect on export and/or import of goods originating from the customs territory of one of the Contracting Party and intended for the customs territory of the other Contracting Party.

2. For the purpose of this Agreement and during the period of its implementation the following goods shall be considered as goods originating in the territories of both states:

- a) fully produced on the territory of the state, or
- b) processed on the territory of the state with the use of raw materials, materials and spare parts originating in third countries and which changes in connection therewith at least one out of six first digits of the classification of the harmonized system of goods codes and descriptions;
- c) produced with the use of raw materials, materials and spare parts specified in paragraph b), provided that their total value does not exceed the fixed part of the export price of the distributed goods.

More detailed rules of origin of the goods will be agreed upon by the Parties in a separate document which will be an integral part of this Agreement.

ARTICLE 3

The Contracting Parties shall not:

- directly or indirectly impose internal taxes and fees on products, subject to this Agreement, in excess of the amount of corresponding taxes and fees to be imposed on similar domestically produced goods or products originating in the third countries;

- introduce with respect to imports or exports of products subject to this Agreement any special restrictions and requirements which in a similar situation are not applied to similar domestically produced goods or products originating in third countries;

- apply in respect of warehousing, reshipment, storage, transportation of products originating in the other Party, and payments and transfer of payments, the rules other than those to be applied under similar circumstances with respect to own products or products originating in third countries.

ARTICLE 4

1. The Parties shall not apply quantitative restrictions or equivalent measures on import and/or export of goods within the framework of this Agreement framework.

2. Quantitative restrictions mentioned in paragraph 1 of this Article can be established unilaterally within reasonable limits and for a definite period only in the following case:

when any goods are imported into the territory of either of the state in such a big quantity or under such conditions which cause or threaten to cause losses to the domestic producers of similar or directly competitive products.

3. If necessary, quantitative restrictions mentioned in the paragraph 1 of this Article can be established by the decision of a bilateral Committee provided for by Article 14 of this Agreement.

4. Before applying quantitative restrictions mentioned in the paragraph 2 of this Article the Contracting Party is required to present in a timely manner necessary information regarding the reasons for impositions of such restrictions, forms and expected periods of their application

5. The Contracting Parties shall strive to resolve all issues related to the application of quantitative restrictions described in the paragraph 2 of this Article by consultations of the bilateral Committee.

6. When choosing measures according this Article, the Contracting Parties shall give the priority to those measures which have the least negative effect on the achievement of the purposes of this Agreement.

ARTICLE 5

Under mutual consent, the Parties can limit re-export of specific goods on volumes and nomenclature that are determined by a special Agreement.

Such products can be re-exported to third countries only provided there is a written consent and conditions set forth by the authorized bodies of the country of origin of these goods. If this provision is not fulfilled the Party which interests were violated has the right to unilaterally take measures to regulate export of goods to the territory of the state which allowed nonsunctioned reexport. In the case of re-export of such goods the state where they were produced has the right to claim compensation of losses.

"Re-export" shall mean the export of goods received from the customs territory of one Contracting Party by the other Contracting Party outside its customs territory with the purpose of exporting to third country.

ARTICLE 6

The Contracting Parties agree that settlements for goods and services supplied within the framework of the intergovernmental agreements shall be made pursuant to the Agreement between the authorized banks.

ARTICLE 7

The Contracting Parties shall on a regular basis exchange information on customs issues including export and import statistics. The appropriate authorized bodies of the Contracting Parties shall agree on the procedure and conditions for exchange of such information.

ARTICLE 8

When applying tariff and non-tariff measures in bilateral economic relations, in order to exchange statistical information and conduct customs procedures, the Parties agree to use a uniform Commodity Nomenclature of the Foreign Economic Activity (CN FEA) based on the Harmonized Commodity Description and Coding System and the Combined Tariff and Statistical Commodity Nomenclature of the European Economic Community.

ARTICLE 9

The Contracting Parties have committed themselves to ensure unimpeded transit of goods through their territories for products originating from the customs territory of either Contracting Party and/or third countries and intended for the customs territory of the other Contracting Party or any third country; and will provide the exporters, importers or carriers with all available and necessary facilities and services for such transit on conditions not worse than facilities and services available to the domestic exporters, importers or to the exporters, importers or carriers of any third country.

The Contracting Parties agree that tariffs for the transit by any means of transport including tariffs for shipment – reshipment activities shall be economically justified.

ARTICLE 10

The present Agreement does not prevent the right of either Party, where deemed necessary, to take measures generally accepted in the international practice to protect its vital interests or where they are clearly necessary to carry out international agreements to which it is party or intends to become party, if such measures relate to:

- information which concerns the interests of national defence;
- trade in weapons, ammunition and military equipment;
- research or production related to the defense needs;
- trade in materials and equipment used in nuclear industry;
- protection of public morals and public order;
- trade in gold, silver or other precious metals and stones; and
- protection of the health of people, animals and plants.

ARTICLE 11

The Contracting Parties conduct cooperation for a gradual improvement of a non-discriminatory system of intellectual property rights protection including application of measures on granting such rights and their implementation.

Bilateral Committee shall develop the rules of intellectual property rights protection.

ARTICLE 12

If either Party concludes that dumping is applied in trade relations covered by this Agreement, it can apply the appropriate measures against it pursuant to the Article 6 of the General Agreement on Tariffs and Trade and in accordance with agreements related to this Article.

ARTICLE 13

The Contracting Parties recognize unfair business practice to be incompatible with the purposes of this Agreement and undertake not to allow and eliminate the following methods thereof:

- agreements between enterprises, decisions taken by associations of enterprises, and common methods of business practice interfere with or restrict competition or which adversely affect the conditions for it on the territories of the Contracting Parties;

- actions by which one or several enterprises use their predominant position to restrict competition on the whole or considerable part of the territories of the Contracting Parties.

ARTICLE 14

The Contracting Parties have agreed to establish Bilateral Committee in order to fulfill the purposes of this Agreement and develop recommendations on improvement of trade and economic cooperation and resolving all disputable issues.

The following shall be the main tasks of Bilateral Committee:

- consideration of issues related to interpretation and application of this Agreement;
- analysis of bilateral trade and economic relations development;
- development of proposals regarding the improvement of conditions for trade and economic cooperation between the Contracting Parties and prospects of its further progress;
- consideration of the export control issues including lists of goods under control, control methods and forms of goods export and facts of export control requirements violations; and
- consideration and implementation of this Agreement and development of the appropriate recommendations.

Meetings of the Committee shall be held upon proposal of either Contracting Party, but not less than once per year in Ukraine and the Republic of Lithuania in turn.

ARTICLE 15

The provisions of the present Agreement replace the provisions of bilateral agreements concluded earlier between the Contracting Parties to the extent they are incompatible or identical.

ARTICLE 16

This Agreement can be supplemented or changed. The Contracting Parties shall begin negotiations on supplementing or changing this Agreement not later than a month from the date when either Contracting Party submits a written proposal to that effect.

Supplements and changes shall enter into force on the date when the Contracting Parties exchange written notices that the constitutional and other legal requirements for the entry into force of such supplements and changes have been fulfilled.

ARTICLE 17

The Contracting Parties have agreed that Ukraine can establish its Trade Representative Office in the Republic of Lithuania, and the Republic of Lithuania can establish its Trade Representative Office in Ukraine. The Parties shall additionally agree on the legal status of these trade representative offices, as well as their functions and locations.

ARTICLE 18

This Agreement shall enter into force on the date of the receipt of the last Note about the fulfillment of all national procedures necessary for entry into force. This Agreement shall remain in force for five years with automatic one year extensions.

The Agreement shall terminate upon either Contracting Party giving a one year written notice to that effect within the first five years or a six months written notice thereafter.

DONE at the city of Kyiv at this 4-th day of August 1993, in two authentic variants, each in the Ukrainian and Lithuanian languages, all texts being equally authentic.

**FOR
UKRAINE**

**FOR THE
REPUBLIC OF LITHUANIA**

PROTOCOL

to the Agreement between Ukraine and the Republic of Lithuania on free trade, dated August 4, 1993, regarding exclusions from the free trade regime

Pursuant to the Agreement between Ukraine and the Republic of Lithuania on free trade, dated August 4, 1993 (hereinafter referred to as "the Agreement") the authorized representatives of Ukraine and the Republic of Lithuania made this Protocol on the following:

Article 1

Exclusions from the free trade regime provided for by the Article 1 of the Agreement as to the commodity nomenclature are mentioned in Annexes 1 and 2 to this Protocol.

Article 2

This Protocol is an integral part to the Agreement.

DONE at the city of Kyiv at this 14-th day of October 1994, in two authentic variants, each in the Ukrainian and Lithuanian languages.

**FOR
UKRAINE**

**FOR THE
REPUBLIC OF LITHUANIA**

Nomenclature of Goods not Covered by Free Trade Regime When Being Imported to the
Republic of Lithuania from Ukraine

Code in the Goods Nomenclature of Foreign Economic Activity	Goods
0201-02050	Meat of bovine, meat of swine, meat of sheep and other meat, fresh and frozen
02071011-02072390	Meat of fowls
02073911-02073925	
02073931-02073947	
02073953-02073983	
02074110-02074171	
02074210-02074271	
02074311-02074381	
03053011, 03053019	Fish, dried, salted and smoked
03053090-030543	
03054930-03054990	
03055930	
03055990-030562	
03055690	
0401-04022199	Milk and dairy products
04022915-0404	
0406,0408,0410	
0405	Butter and other milk fats and oils
0407	Eggs
0409	Natural honey
0701, other than	Potatoes, other than seeds
070110	
07020090	Tomatoes (15.05 . - 31.10.)
07070019	Cucumbers (16.05 - 31.10.)
08081010	Apples for production of cider (16.09 - 15.12.)
08081091	Apples (01.08. - 31.12.)
08094011	Plumps (01.07. - 30.09.)
08101010	Strawberries (01.05. - 31.07)
100190-1004	Grains crops
1101-110210	Flour
110710	Malt
1601-1602	Sausages and similar products of meat; preserved meat
160411-160420	Preserved fish
1701	Sugar
17041011-17049051,	Sugar confectionery without cacao
17049061-17049099	

180620-180690	Chocolate and other food preparations containing cocoa
190510-19059020, 19059041-19059090	Pastry, cakes, biscuits and other bakers' wares
2001-2005, 2007, other than 200791, 20079920, 20079951, 2009, other than 200911, 200920, 200940, 200950, 200960, 200980, 210320, 21033090, 2106	Preparations made of vegetables, fruit, nuts and other edible parts of plants, various food products
2201-2202	Soft drinks
2203	Beer made from malt
22041011-22042110, 22042910	Champagne, sparkling wine and wine
2207-2208	Undenatured ethyl alcohol, denatured ethyl alcohol, vodka, liqueur and other hard drinks
2402	Cigars and cigarettes, of tobacco or of tobacco substitutes

Annex 2

Goods not Covered by Free Trade Regime When Being Imported to Ukraine from the Republic of Lithuania

Code in the Goods Nomenclature of Foreign Economic Activity	Goods
0201-02050	Meat of bovine, meat of swine, meat of sheep and other meat, fresh and frozen
02071011-02072390	Meat of fowls
02073911-02073925	
02073931-02073947	
02073953-02073983	
02074110-02074171	
02074210-02074271	
02074311-02074381	
03053011, 03053019	Fish fillets, dried, salted or in brine (other than smoked)
03054930-03054990	Fish, dried, salted or in brine
03055930	Smoked fish, whether or not cooked before or during the smoking process
0401-04022199	Milk and dairy products
04022915-0404	
0406	
0405	Butter and other milk fats and oils
0407-0408	Eggs
0409	Natural honey
0410	Edible products of animal origin, not elsewhere specified or included
0701	Potatoes
07020090	Tomatoes (15.05 . - 31.10.)
07070019	Cucumbers (16.05 - 31.10.)
08081010, 08081091	Apples
080940	Plumps
08101010	Strawberries (01.05. - 31.07)
100190-1008, other than 1005	Grains crops, other than corn
1101-1102	Flour
1107	Malt
1501-1503	Pif fat, fats and stearin
1601-1602	Sausages and similar products of meat; preserved meat
1701	Sugar
1704	Sugar confectionery without cacao
180620-180690	Chocolate and other food preparations containing cocoa
190510-19059020, 19059040-19059090	Pastry, cakes, biscuits and other bakers' wares
2001-2004, 2006	Preparations made of vegetables, fruit, nuts and other edible parts

	of plants, various food products
2201-2202	Soft drinks
2203	Beer made from malt
22041011-22042110, 22042910	Champagne, sparkling wine and wine with increased pressure
2207-2208	Undenatured ethyl alcohol, denatured ethyl alcohol, vodka, liqueur and other hard drinks
2402	Cigars and cigarettes, of tobacco or of tobacco substitutes

ANNEX

to the Agreement Between Ukraine and the Republic of Lithuania on Free Trade Regarding Rules for the Determination of the Country of Origin of Goods

These Rules for the determination of the country of origin of goods are developed in accordance with Article 1, paragraph 2 of the Agreement between Ukraine and the Republic of Lithuania on Free Trade (hereinafter referred to as "the Agreement").

These Rules shall apply to goods originating from the territory of Ukraine or the Republic of Lithuania, and traded between the two countries pursuant to the Agreement.

The procedure for the determination of the country of origin of goods exported to third countries from the customs territories of Ukraine or the Republic of Lithuania respectively shall be governed by the national laws of the two countries.

For the purposes of these Rules:

(a) "Certificate of Origin" means the document that proves that goods exported are produced or processed in Ukraine or in the Republic of Lithuania respectively.

(b) "Country of Origin of Goods" means the country (Ukraine or the Republic of Lithuania) where goods are completely produced or processed or worked on in a significant way;

(c) "Criteria of a Significant Processing or Working On" means that goods produced in Ukraine or in the Republic of Lithuania respectively from imported materials or components, including materials of indefinite origin, are deemed to have originated in the aforementioned countries, if materials and components used in their production undergo significant transformation there. In other words, they undergo processing which significantly changes their nature and characteristics. The term "significant transformation" is determined by the following:

- 1) processing criteria; or
- 2) percentage criteria.

Processing criteria means the following: materials (components) imported are considered as passing "significant transformation" if the end product is classified under different four code digits of the Harmonized Commodity Description and Coding System from the materials (components) used in its production.

"Percentage Criteria" means the following: materials (components) imported are considered significantly changed if their value does not exceed a percentage of EXW price established by the two countries.

(d) "Customs Control" means totality of measures used by the national customs authorities in order to ensure observance of national laws in the customs field, as well as national laws and international agreements, compliance with which is subject to the control of the customs authorities.

(e) "Goods" means any movable property including thermal, electric and other types of energy transferred across the customs border.

(f) "Goods Nomenclature" means the nomenclature of the Harmonized Commodity Description and Coding System applied in Ukraine and in the Republic of Lithuania.

Part I

DETERMINING THE COUNTRY OF ORIGIN OF GOODS

Article 1

Country of origin of goods shall be the country where goods are completely produced or processed or worked on in a significant way.

Article 2

The following goods shall be considered completely produced in Ukraine or in the Republic of Lithuania:

- (a) mineral products extracted on its territory or in its territorial waters, or on its continental shelf, or from the seabed where the country has exclusive rights of exploitation;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals born and raised there;
- (e) products obtained by hunting or fishing;
- (f) products of sea fishing taken from the sea by their vessels or leased (chartered) vessels;
- (g) waste and scrap resulting from manufacturing operations conducted there;
- (h) products of high technology acquired in upper space on space ships belonging to the country or leased by it;
- (i) goods produced in the country exclusively from products mentioned in paragraphs (a)-(h) above.

Article 3

When raw or processed materials, and components from third countries, are used in the production of goods, their origin shall be determined pursuant to the criteria of significant processing or working on.

Article 4

"Criteria of the Significant Processing or Working On" shall be determined by the following:

- (a) a rule that requires a digital code change under the Goods Nomenclature, or;
- (b) a rule of "ad valorem share", where a percentage share of the value of materials (components) used does not exceed fifty (50) per cent of EXW price for products exported.

Article 5

The following may not be considered as significant processing:

- (a) activities relating to the storage or transportation;
- (b) activities relating to the preparation of goods for sale and transportation (separation of goods into smaller units, their preparation for shipment, sorting and repackaging);
- (c) simple assembling operations;
- (d) mixing of goods (components) without giving characteristics to the resulting products which significantly differ from the primary components;
- (e) combination of two or more of the aforementioned operations; and
- (f) animal slaughtering.

Article 6

Value indices are calculated as follows:

- (a) for materials imported - pursuant to the customs value, i. e. the value subject to duties (on CIF basis), or in a case where their origin is unknown - pursuant to the determined price of the first sale on the territory of the country where production is carried out; and
- (b) for finished goods - pursuant to EXW price.

Article 7

For goods subject to Sections 84 and 85 of the Harmonized Commodity Description and Coding System in a disassembled or non-assembled form, which are supplied in several installments, when one shipment is not possible due to production or transportation reasons, one certificate shall be issued with the first installment. A copy of the certificate shall be used for subsequent installments.¹ This rule shall also apply in the determination of the country of origin in cases where goods are considered, in the importer's discretion, as a single article²

Article 8

For the purposes of determining the country of origin of goods which are used in production, the country of origin of thermal and electric energy, machinery, equipment and tools shall not be taken into account.

Article 9

Goods shall be considered as originating from the exporting country not only if they comply with the criteria of origin and other conditions established by these Rules, but also when they are purchased directly from an enterprise or a firm registered pursuant to the established procedures in the exporting country, and are imported by means of a direct shipment from that country into the importing country.

Goods which are transported through the territory of one or several countries because of geographic, transportation, technical and economic reasons, as well as during their temporary entry into or storage in the territory of such countries with the condition that they are under the customs control of the transit country, shall be deemed to meet the requirement of direct shipment.

Moreover, goods purchased by an importer at an exhibition or fair in a third country subject to the condition that they are not used for purposes other than exhibition, after their shipment to the exhibition or fair, and are left under the customs control in the course of the exhibition or fair, shall be deemed to meet the requirement of direct shipment as well.

¹ This rule shall also apply to situations where a shipment is divided into several parts by mistake or due to shipment errors.

² The following conditions apply here:

- preliminary notification to the Customs authority where import of goods is carried out in disassembled or non-assembled state in several installments with explanation for such installments, detailed description of each installment in accordance with the Goods Nomenclature, the value, and the country of origin of goods included in each installment;
- shipment of all installments from one country by one exporter;
- import of all installments through one customs point; and
- supply of all installments in a period not exceeding six (6) months from the date of the first shipment.

Part II

METHODS OF ADMINISTRATIVE COOPERATION

Article 10

It is necessary to provide the customs authorities of the importing country with the declaration-certificate (hereinafter referred to as "the certificate of the origin of goods") to confirm the origin of goods in Ukraine or in the Republic of Lithuania. The form and procedure for the preparation of the certificate of the origin of good shall be agreed upon by the authorized bodies of the Parties in accordance with their national laws.

Article 11

When goods are exported from Ukraine or the Republic of Lithuania to the other country, the established form of the certificate of origin of goods shall be issued by the body authorized to do so in accordance with the national laws of each Party.

Ukraine and the Republic of Lithuania shall exchange samples of the respective government agency stamps authorized to be used on certificates. Certificates shall be considered invalid if the aforementioned samples are not supplied; and the goods shall not be covered by the preferences included in the Agreement.

Article 12

The certificate shall contain the following information with respect to goods for which it is issued:

- a) the name and address of the exporter;
- b) the name and address of the importer;
- c) means of transportation and a route (so far as it is known);
- d) number of items, type of packaging, and a description of the goods required for their identification; and
- e) gross weight or other unit of quantity.

Article 13

The certificate of the origin of goods shall indicate unequivocally that the specific goods originate in the respective country, i. e. it must contain the following:

- a) a written declaration of the exporter to the effect that the specific goods meet the appropriate criteria of origin;
- b) a written confirmation from the appropriate agency which issues the certificate that the information submitted by the exporter in the certificate is correct;
- c) the following marks must be to comply with the criteria for the identification of origin:
 - "P" - for goods produced fully and completely in Ukraine or the Republic of Lithuania;

"W" - for goods produced with the use of materials (components) imported. In this case the first four digits under the Goods Nomenclature (for example, "W"3907) must be used to indicate the code of the exported goods.

"Y" - for goods to which the percentage criterium applies. In this case "Y" precedes the per cent of a foreign content (for example, "Y" 45 %).

Article 14

The certificate shall be submitted to the customs authorities in writing without corrections, in Russian and English. If it is handwritten, it must be done in ink and in capital letters. The certificate shall be valid for four months from the date when it is issued by the authorized agency of the exporting country.

Article 15

The certificate shall be submitted together with the customs cargo declaration and other documents required by the customs procedures, except in cases mentioned in Articles 18 and 19.

Article 16

If the certificate is lost or destroyed, a duplicate shall be issued. The duplicate shall be issued by the authorized agency of the exporting country which issued the original certificate. In this case, "the duplicate" shall be indicated in the appropriate box in the certificate, and the number and the date of the lost or destroyed original shall be mentioned.

Article 17

Within two years from the date of the issue of the certificate the Customs authorities of the Republic of Lithuania and Ukraine may request the appropriate issuing agency to examine the particular case. Results of the examination shall be notified within six months.

Article 18

There is the following general rule: non-submission of a certificate prepared in a proper way cannot be a ground for the non-admission of goods.

The customs authority can refuse entry only if there are sufficient grounds to believe that the goods originated in a country, goods of which may be not brought into the importing country in accordance with international agreements effective for one of the Parties and/or in accordance with the national laws of the Republic of Lithuania or Ukraine.

Taking into account clause 2 of this paragraph, goods, the origin of which has not been clearly established, shall be permitted to enter the importing country together with the payment of duties at maximum rates of the importing country.

Article 19

In extraordinary situations where a certificate is submitted to the customs authority, preferential treatment, including the return of excess customs duties, may be applied

(reapplied) to the goods mentioned in paragraph 3 of Article 18. In such cases the term "issued later" shall be indicated in line 4 of the certificate.

Article 20

Disputes regarding the rules of determining the origin of goods shall be decided within two months by a Bilateral Committee established in accordance with Article 14 of the Agreement.

DONE at Vilnius on "___" February 1994, in duplicate, each in the Ukrainian and Lithuanian languages, all texts being equally authentic.

**FOR
THE REPUBLIC OF LITHUANIA**

**FOR
UKRAINE**