

A G R E E M E N T
B E T W E E N
U K R A I N E
A N D
T H E R E P U B L I C O F E S T O N I A
O N F R E E T R A D E

Ukraine and the Republic of Estonia (hereinafter referred to as “the Parties”),

Recalling their intention to participate actively in the process of economic integration in Europe and expressing their preparedness to cooperate in seeking ways and means to strengthen this process,

Recalling their firm commitment to the final Act of the Conference on Security and Cooperation in Europe, the Paris Charter, and in particular the principles contained in the final document of the CSCE Bonn Conference on Economic Cooperation in Europe,

Reaffirming their commitment to the idea of law state based on the rule of law, human rights and fundamental freedoms,

Desiring to create favorable conditions for the development and diversification of trade between them and for the promotion of commercial and economic cooperation in areas of common interest on the basis of equality, mutual benefit and international law,

Resolved to contribute to the strengthening of the multilateral trading system and to develop their relations in the field of trade in accordance with the basic principles of the General Agreement on Tariffs and Trade (GATT/WTO),

Declaring their readiness to examine the possibility of developing and deepening their relations in order to extend them to fields not covered by this Agreement,

Have agreed as follows:

Article 1
Objectives

1. The Parties shall gradually establish a free trade area in accordance with the provisions of this agreement.
2. The objectives of this Agreement, which is based on trade relations between market economies, are:

- a) to promote, through the expansion of mutual trade, the harmonious development of the economic relations between Ukraine and Estonia and thus to foster the advance of economic activity, the improvement of living and employment conditions, increased productivity, financial stability and sustained growth of both Parties;
- b) to provide fair conditions of competition for trade between the Parties;
- c) to develop and identify, as far as possible, cooperation in the areas which are not covered by this Agreement, especially in the promotion of investments, economic and scientific cooperation, economic aid and the environment protection.

Article 2

The Joint Committee

1. The Joint Committee is hereby established, which shall be responsible for the administration of this Agreement and shall review its implementation. For this purpose it shall follow closely the development of the trade and economic cooperation between the Parties and take any corresponding measure which is necessary to improve and further develop those relations. The decisions of the Joint Committee shall be put into effect by the Parties in accordance with their own laws.
2. For the purpose of the proper implementation of this Agreement the Parties shall exchange information and, at the request of either Party, shall hold consultations within the Joint Committee.
3. The Joint Committee shall consist of equally authorized representatives of Ukraine on the one side and of representatives of Estonia on the other.
4. The Joint Committee shall act by mutual agreement.
5. Each Party shall preside alternately over the Joint Committee.
6. The meetings of the Joint Committee should be held at least once a year in order to review the general functioning of the Agreement. The Joint Committee shall, in addition, meet whenever special circumstances so require at the request of either Party.
7. The Joint Committee may decide to set up any working group that can assist it in carrying out its duties.
8. The Joint Committee may take independent decisions concerning the application of this Agreement. The Joint Committee shall make recommendations on the amendments and changes of this Agreement.

Article 3

Scope

This Agreement shall apply to products falling within Chapters 1 to 97 of the Harmonized Commodity Description and Coding System, originating in Ukraine and Estonia.

Article 4

Rules of Origin and Cooperation in Customs Administration

1. Protocol A lays down the rules of origin and methods of administrative cooperation.
2. The Parties shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative cooperation, to ensure that the provision of Article 5 (Prohibition and abolition of customs duties on imports and charges having equivalent effect), Article 6 (Prohibition and abolition of customs duties on exports and charges having equivalent effect), Article 7 (Prohibition and abolition of quantitative restrictions on imports or exports and measures having equivalent effect), Article 10 (Internal taxation) and Article 18 (Reexports and serious shortage) of the Agreement and Protocol A are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

Article 5

Prohibition and Abolition of Customs Duties on Imports and Charges Having Equivalent Effect

1. No new customs duties on imports or charge having equivalent effect shall be introduced in trade between the Parties.
2. Customs duties on imports and charges having equivalent effect shall be abolished upon the date of entry into force of this Agreement.
3. The provisions of this Article shall also apply to customs duties of a fiscal nature. The Parties may replace a customs duty by an internal tax.

Article 6

Prohibition and Abolition of Customs Duties on Exports and Charges Having Equivalent Effect

1. No new customs duties on exports or charges having equivalent effect shall be introduced in trade between Parties.

2. Customs duties on exports and charges having equivalent effect shall be abolished upon the entry into force of this Agreement.

Article 7

Prohibition and Abolition of Quantitative Restrictions on Imports or Exports and Measures Having Equivalent Effect

1. No new quantitative restrictions on imports or exports and measures having equivalent effect shall be introduced in trade between the Parties.
2. Quantitative restrictions on imports or exports and measures having equivalent effect shall be abolished in trade upon the date of entry into force of this Agreement.

Article 8

General Exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of the environment; the protection of national treasures possessing artistic, historic or archaeological value; the protection of intellectual property; laws and regulations relating to precious stones and metals. Such prohibitions or restrictions shall not, however, constitute means of arbitrary discriminations or a disguised restriction on trade between the Parties.

Article 9

State Monopolies

1. The Parties shall ensure that any state monopoly of commercial character be adjusted, so that no discrimination regarding the conditions under which goods are procured and labeled will exist between nationals of the Parties. These goods shall be produced and marketed in accordance with commercial considerations.
2. This Article shall apply to the institutions through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. This Article shall likewise apply to monopolies delegated by the Party to others.

Article 10

Internal Taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in one Party and the similar products originating in the other Party.

2. Products exported to the territory of one of the Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

Article 11 **Payments**

1. Payments relating to the trade and the transfer of such payments to the territory of the Party where the creditor resides shall be free from any restrictions.

2. The parties shall refrain from any exchange and administrative restrictions on the grant, repayment or acceptance of short and medium term credits covering commercial transactions.

Article 12 **Legal Protection of Intellectual Property**

1. The Parties shall guarantee adequate, effective and non-discriminatory legal protection of intellectual property rights. With the establishment of this legal protection, especially against counterfeiting and piracy, they will adopt and apply adequate, effective and non-discriminatory measures.

2. In the field of intellectual property, the Parties shall not grant treatment less favorable to each other's nationals than that accorded to the nationals of a third State.

3. The Parties may apply, using their national laws and regulations, legal protection which exceeds the provisions of this Article provided that this legal protection is not in contradiction to the provisions of this Agreement.

4. If one of the Parties considers that the other Party has failed to fulfill the obligations under the Article, Article 23 (Fulfillment of obligations), Paragraph 2 shall apply.

5. The Parties to this Agreement shall agree upon appropriate modalities for technical assistance and cooperation of respective authorities of the Parties.

Article 13 **Rules of Competition Concerning Undertakings**

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:

a) all agreements between undertakings, decisions taken by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof.

2. If a Party considers that a given practice is incompatible with the provisions of paragraph 1 of this Article, it may take appropriate measures after consultations within the Joint committee or after thirty days following referral to such consultations.

Article 14

State Aid

1. Any aid granted by a Party in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it may affect trade between the Parties, be incompatible with the proper functioning of this Agreement.

2. The Parties shall ensure transparency of state aid measures by exchanging information on the request of either Party.

3. The Joint Committee shall keep the situation regarding the application of state aid measures under review, and shall with regard to other state aid that export aid, elaborate further rules of implementation.

4. If a Party considers that a given practice is incompatible with the paragraph 1 of this Article, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 20 (Procedure for the application of safeguard measures) of this Agreement.

Article 15

Dumping

If a Party finds that dumping within the meaning of Article VI of the General Agreement on Tariffs and Trade is taking place in trade relations governed by this Agreement, it may take appropriate measures against that in accordance with that Article and Agreement related to, under the conditions and in accordance with the procedure laid down in Article 20 (Procedure for the application of safeguard measures) of this Agreement.

Article 16

Emergency Action on Import of a Particular Product

If an increase in imports of a given product originating in Estonia or in Ukraine occurs in quantities or under conditions which cause, or are likely to cause:

a) serious injury to domestic producers of like or directly competitive products in the territory of the other Party, or

b) serious disturbances in any related sector of the economy or difficulties, which could bring about serious deterioration in the economic situation of a region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 20 (Procedure for the application of safeguard measures) of this Agreement.

Article 17

Structural Adjustment

Exceptional measures may only concern infant industries or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.

These measures shall be applied for a period not exceeding five years unless a longer duration is authorized by the Joint Committee, and cannot be introduced later than five years after the entry into force of this Agreement.

Article 18

Re-exports and Serious Shortage

Where compliance with the provisions of Article 6 (prohibition and abolition of customs duties on exports and charges having equivalent effect) and Article 7 (Prohibition and abolition of quantitative restrictions on imports or exports and measures having equivalent effect) leads to:

a) reexports towards a third country against which the exporting Party maintains for the products concerned quantitative export restriction, export duties or measures or charges having equivalent effect; or

b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the

conditions and in accordance with the procedures laid down in Article 20 (Procedure for the application of safeguard measures) of this Agreement.

Article 19

Balance of Payments Difficulties

1. Where either Party is in serious balance of payments difficulties, or under imminent threat thereof, the Party concerned may, in accordance with the terms and conditions established under the General Agreement on Tariffs and Trade (GATT/WTO) and associated legal instruments, adopt trade restrictive measures, which shall be limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Parties shall give preference to price-based measures. The measures shall be eliminated when conditions no longer justify their maintenance. Parties shall inform each other forthwith of their introduction and on the time schedule for their removal.
2. The Parties shall, nevertheless endeavor to avoid the imposition of restrictive measures for balance of payments purposes.

Article 20

Procedure for the Application of Safeguard Measures

1. Without prejudice to paragraph 5 of this Article, the Party which considers resorting to safeguard measures shall promptly notify the other Party thereof and supply with all relevant information. Consultations shall take place without delay in the Joint Committee with a view to finding a mutually acceptable solution.
2.
 - a) As regards Article 14 (State Aid) the Party concerned shall give to the joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate this practice. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement after consultations, or after thirty days following referral to such consultations, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.
 - b) As regards Article 15 (Dumping), 16 (Emergency action on import of particular product) and 18 (Reexports and serious shortage), the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the absence of such a decision within thirty days of the matter being referred to the Joint Committee, the Party concerned may adopt the measures necessary in order to remedy the situation.
 - c) As regards Article 23 (Fulfillment of obligations), the Party concerned shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view of seeking mutually acceptable solution. If the

Joint Committee fails to reach such a solution or if a period of three months has elapsed from the date of notification, the Party concerned may take appropriate measures.

3. The safeguard measures taken shall be notified immediately to the other Party. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures as the least disturb the functioning of this Agreement.

4. The safeguard measures taken shall be the object of regular consultations with a view to their relaxation, substitution or abolition as soon as possible.

5. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the case of Articles 13 (Rules of competition concerning undertakings), 14 (State Aid), 15 (Dumping), 16 (Emergency Action on Imports of a Particular Product) and 18 (Reexports and serious shortage) apply forthwith the precautionary and provisional measures strictly necessary to deal with the situation. The measures shall be notified to the Joint Committee without delay and consultations between the Parties shall take place as soon as possible.

Article 21

Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any measures which it considers necessary:

a) to prevent the disclosure of information contrary to its essential security interests;

b) for the protection of its essential security interests or for the implementation of international obligations or national policies:

1) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or

2) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or

3) taken in time of war or other serious international tension.

Article 22

Evolutionary Clause

The Parties shall recognize the growing importance of such areas as services, investments and the implementation of joint projects. Where a Party considers that it would be useful in the interests of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening up negotiations.

Article 23

Fulfillment of Obligations

1. The Parties shall take all necessary measures to ensure the achievement of the objectives of this Agreement and the fulfillment of their obligations under this Agreement.

2. If either Party considers that the other Party has failed to fulfill an obligation under this Agreement, the Party concerned may take the appropriate measures after consultation in the Joint Committee under the conditions and in accordance with the procedure laid down in Article 20 (Procedure for the application of safeguard measures).

Article 24

Annexes and Protocols

The Annexes and the Protocols to this Agreement are integral parts of it.

Article 25

Customs Unions, Free Trade Areas and Frontier Trade

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime and in particular the provisions concerning rules of origin provided by this Agreement.

Article 26

Amendments

Amendments to this Agreement shall be submitted to the Parties for acceptance and shall enter into force in accordance with Article 27 of this Agreement.

Article 27
Entry into Force

This Agreement shall enter into force thirty days after the date when both Parties have notified to each other legal requirements for the entry into force have been fulfilled. This Agreement shall remain in force for an indefinite period.

Article 28
Denunciation

Either Party may denounce this Agreement by means of a written notification to the other Party. This Agreement shall cease to be in force six months after the date on which the notification was received by the other Party.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

Done at the city of Tallinn, this 24-th day of May 1995 in two originals, both in the Estonian, Ukrainian and English languages. In case of a dispute the English text shall prevail.

For the
Ukraine

For the
Republic of Estonia

Protocol A
concerning the definition of originating products and methods
of administrative cooperation
to the Agreement between
Ukraine and the Republic of Estonia

TITLE I
GENERAL PROVISIONS

Article 1
Definitions

For the purposes of this Protocol:

- (a) 'manufacture' means any kind of working or processing including assembly or specific operations;
- (b) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (c) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (d) 'goods' means both materials and products;
- (e) 'customs value' means the value as determined in accordance with the Agreement on implementation of Article VII of the General Agreement in Tariffs and Trade, done at Geneva on 12 April 1979;
- (f) 'ex-works price' means the price paid for the product ex-works to the manufacturer in whose undertaking the last working or processing is carried out provided the price includes the value of all the materials used, minus all internal taxes which are, or may be, repaid when the product obtained is exported;
- (g) 'value of materials' means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territories concerned;
- (h) 'value of originating materials' means the customs value of such materials as defined in subparagraph (g) applied *m u t a t i s m u t a n d i s*;
- (i) 'added value shall be taken to be the ex-works price minus the customs value of each of the products incorporated which those products were obtained;

- (j) 'chapters and headings' means the chapters and the headings (four-digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System or 'HS';
- (k) 'classified' refers to the classification of a product or material under a particular heading;
- (l) 'consignment' means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or in the absence of such a document by a single invoice.

TITLE II DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"

Article 2 Origin criteria

For the purpose of implementing this Agreement and without prejudice to the provisions of Articles 3 and 4 of this protocol, the following products shall be considered as

1. products originating in Ukraine

a) products wholly obtained in Ukraine, within the meaning of Article 5 of this Protocol;

b) products obtained in Ukraine which contain materials not wholly obtained there, provided that the said materials have undergone sufficient working or processing in Ukraine within the meaning of Article 6 of this protocol;

2. products originating in Estonia

a) products wholly obtained in Estonia, within the meaning of Article 5 of this Protocol;

b) products obtained in Estonia which contain materials not wholly obtained there, provided that the said materials have undergone sufficient working or processing in Estonia within the meaning of Article 6 of this protocol.

Article 3 Bilateral cumulation

1. Notwithstanding Article 2 (1) (b), materials originating in Estonia within the meaning of this Protocol shall be considered as materials originating in Ukraine and it shall not be necessary processing there, provided however that they have undergone working going beyond that referred to in Article 7 of this Protocol.

2. Notwithstanding Article 2 (2) (b), materials originating in Ukraine within the meaning of this Protocol shall be considered as materials originating in Estonia and it shall not be necessary processing there, provided however that they have undergone working going beyond that referred to in Article 7 of this Protocol.

Article 4 Cumulation with materials originating in Latvia, Lithuania and the European Community

1. (a) Notwithstanding Article 2 (1) (b) and subject to the provisions of paragraphs 2 and 3, materials originating in Latvia or Lithuania or the European Community within the meaning of Protocol A or 3 annexed to the Agreements between Ukraine and these countries shall be considered as originating in Ukraine and it shall not be necessary that such materials have undergone sufficient working or processing, on condition however that they have undergone working or processing beyond that referred to in Article 7 of this Protocol.

(b) Notwithstanding Article 2 (2) (b) and subject to the provisions of paragraph 2, materials originating in Latvia or Lithuania or the European Community within the meaning of Protocol A or 3 annexed to the Agreements between Estonia and these countries shall be considered as originating in Estonia and it shall not be necessary that such materials have undergone sufficient working or processing, on condition however that they have undergone working or processing beyond that referred to in Article 7 of this Protocol.

2. For the purposes of this Article, identical rules of origin to those in this Protocol shall be applied in trade between Estonia and Latvia and Lithuania and the European Community and between Ukraine and those countries and also between each of these countries themselves.

3. Paragraph 1(a) may be applied only on conditions that the necessary Agreements between Ukraine, Latvia, Lithuania and European Community for the implementation of these provisions will be in force on accordance with the provisions of this protocol.

Article 5 Wholly obtained products

1. Within the meaning of Article 2 (1) (a) and (2) (a), the following shall be as wholly obtained either in Ukraine or in Estonia.

- (a) mineral products extracted from their soil or from their seabed;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing there;
- (f) products of sea fishing and other products taken from the sea by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);
- (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit for retreading or use as waste;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
- (k) goods produced exclusively from products specified in subparagraphs (a) to (j).

2. The terms their vessels and their factory ships in paragraph 1 (f) and (g) shall apply only to vessels and factory ships:

- which are registered or recorded in Estonia or in Ukraine;
- which sail under the flag of Estonia or in Ukraine;
- which are owned to an extent of at least 50 per cent by nationals of Estonia or of Ukraine, or by a company with its head office in Ukraine or in Estonia, of which the manager or managers, chairman of the board of directors or the supervisory board, and the majority of the members of such boards are nationals of Estonia or of Ukraine and of which in addition, in the case of partnerships or limited companies, at least half the capital belongs to Ukraine, to Estonia, to their public bodies or to their nationals;
- of which the master and officers are nationals of Estonia or of Ukraine;
- of which at least 75% of the crew are the nationals of Estonia or of Ukraine.

3. The terms “Estonia” and “Ukraine” shall also cover the territorial waters which surround Estonia and Ukraine.

Sea-going vessels, including factory ships on which the fish caught is worked or processed, shall be considered as part of the territory of Ukraine or of Estonia provided that they satisfy the conditions set out in paragraph 2.

Article 6

Sufficiently worked or processed products

1. For the purposes of Article 2, non-originating materials are considered to be sufficiently worked or processed when the product obtained is classified in a heading which is different from that in which all the non-originating materials used in its manufacture are classified, subject to paragraphs 2 and 3.

2. For a product mentioned in columns 1 and 2 of the list in Annex II, the conditions set out in column 3 for the product concerned must be fulfilled instead of the rule in paragraph 1.

Where in the list in Annex II a percentage rule is applied in determining the originating status of a product obtained in Ukraine or the Estonia the value added by the working or processing shall correspond to the ex-works price of the product obtained, less the value of third-country materials imported into Ukraine or Estonia.

3. These conditions indicate, for all products covered by the Agreement, the working or processing which must be carried out on the non-originating materials used in the manufacture of these products , and apply only in relation to such materials. Accordingly, it follows that if a product, which has acquired originating status by fulfilling the conditions set out in the product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

Article 7

Insufficient working or processing operations

For the purpose of implementing article 6 the following shall be considered as insufficient working or processing to confer the status of originating products, whether or not there is a change of heading:

- (a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulfur dioxide or other aqueous solutions, removal of damaged parts and like operation);
- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

- (c) (i) changes of packaging and breaking up and assembly of packages;
(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;
- (d) affixing marks, labels and other like distinguishing things on products or their packaging;
- (e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating in Ukraine or in Estonia;
- (f) simple assembly of parts to constitute a complete product;
- (g) a combination of two or more operations specified in subparagraphs (a) to (f);
- (h) slaughter of animals.

Article 8 Unit of qualification

1. The unit qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System.

Accordingly, it follows that:

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each product must be taken individually when applying the provisions of this Protocol.

2. Where, under general rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 9 Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are of part of the normal equipment and included in the price

thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 10 Sets

Sets, as defined in general rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 per cent of the ex-works price of the set.

Article 11 Neutral elements

In order to determine whether a product originates in Ukraine or in Estonia it shall be necessary to establish whether the electrical energy, fuel, plant and equipment as well as machines and tools used to obtain such product, or whether any goods, used in the course of production which do not enter and which were not intended to enter into the final composition of the product, are originating or not.

TITLE III TERRITORIAL REQUIREMENTS

Article 12 Principle of territoriality

The conditions set out in Title II relative to the acquisition of originating status must be fulfilled without interruption in Ukraine or in Estonia without prejudice to the provisions of Article 3.

Article 13 Reimportation of goods

If originating products exported from Ukraine or Estonia to another country are returned, except so far as provided for in Article 3 or 4 they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

- (a) the goods returned are the same goods as those exported;
- and

- (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 14 Direct transport

1. The preferential treatment provided for under the Agreement applies only to products or materials which are transported between the territories of Ukraine or Estonia or when the provisions of Article 4 are applied of Latvia or Lithuania or the European Community without entering any other territory. However, goods originating in Estonia or in Ukraine and constituting on single consignment which is not split up may be transported through territory other than that of Ukraine or Estonia or, when the provisions of the Article 4 apply of Latvia or Lithuania or the European Community with, should the occasion arise, transshipment or temporary warehousing in such territory, provided that the goods have remained under the surveillance of the customs authorities in the country of transit or warehousing and that they have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

Products originating in Estonia or in Ukraine may be transported by pipeline across territory other than that of Ukraine or that of Estonia.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled may be supplied to the customs authorities of the importing country by the production of:

- (a) a through bill of lading issued by the customs authorities of the country of transit;
or
- (b) a certificate issued by the customs authorities of the country of transit:
 - (i) giving an exact description of the products;
 - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships used; and
 - (iii) certifying the conditions under which the products remained in the transit country; or
- (c) failing these, any substantiating documents.

Article 15 Exhibitions

1. Products sent from one of the Parties for exhibition in a third country and sold after the exhibition in a third country and sold after the exhibition for importation from

the provisions of the Agreement on condition that the products meet the requirements of this Protocol entitling them to be recognized as originating in Ukraine or in Estonia and provided that it is shown to the satisfaction of the customs authorities that:

- (a) an exporter has consigned these products from one of the Parties to the country in which the exhibition is held and has exhibited them there;
- (b) the products have been sold or otherwise disposed of by that exporter to a person in another Party;
- (c) the products have been consigned during the exhibition or immediately thereafter to the latter Party in the state in which they were sent for exhibition; and
- (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the customs authorities of the importing country in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

TITLE IV PROOF OF ORIGIN

Article 16 Movement procedure for the issue of a movement certificate EUR.1

1. A movement certificate EUR.1 shall be issued by the customs authorities of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorized representative.

2. For this purpose, the exporter or his authorized representative shall fill out both the movement certificate EUR.1 and the application form, specimens of which appear in Annex III.

These forms shall be completed in one of the languages in which the agreement is drawn up, in accordance with the provisions of the domestic law of the exporting country. If they are handwritten, they shall be completed in ink in capital letters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

3. The exporter applying for the issue of a movement certificate EUR.1 shall be prepared to submit at any time, at the request of the customs authorities of the exporting country where the movement certificate EUR.1 is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfillment of the other requirements of this Protocol.

The exporter must retain for at least three years the documents referred to the preceding paragraph.

Applications for movement certificates EUR.1 must be preserved for at least three years by the customs authorities of the exporting State.

4. The movement certificate EUR.1 shall be issued by the customs authorities of Ukraine if the goods to be exported can be considered as products originating in Ukraine within the meaning of Article 2 (1) of this Protocol. The movement certificate EUR.1 shall be issued by the customs authorities of Estonia; if the goods to be exported can be considered as products originating in Estonia within the meaning of Article 2 (2) of this Protocol.

5. Where the cumulation provisions of Article 2 to 4 are applied, the customs authorities of Ukraine or the Estonia may issue movement certificates EUR.1 under the conditions laid down in this Protocol if the goods to be exported can be considered as originating products within the meaning of this Protocol and provided that the goods covered by the movement certificates EUR.1 are in Ukraine or Estonia.

In these cases movement certificates EUR.1 shall be issued subject to the presentation of the proof of origin previously issued or made out. This proof of origin must be kept for at least three years by the customs authorities of the exporting State.

6. The issuing customs authorities shall take any steps necessary to verify the originating status of the products and the fulfillment of the other requirements of the Protocol. For this purpose they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check which they consider appropriate.

The issuing customs authorities shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

7. The date of issue of the movement certificate EUR.1 shall be indicated in the part of the certificate reserved for the customs authorities.

8. A movement certificate EUR.1 shall be issued by the customs authorities of the exporting country when the products to which it relates are exported. It shall be made available to the exporter as soon as actual exportation has been effected or ensured.

Article 18 Movement certificates EUR.1 issued retrospectively

1. Notwithstanding Article 17 (8), a movement certificate EUR.1 may exceptionally be issued after exportation of the products to which it relates it:

- (a) it was not issued at the time of exportation because of errors of involuntary omissions or special circumstances; or
- (b) it is demonstrated to the satisfaction of the customs authorities that a movement certificate EUR.1 was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1, the exporter must indicate in this application the place and the date of exportation of the products to which the movement certificate EUR.1 relates, and state the reasons for his request.

3. The customs authorities must issue a movement certificate EUR.1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that the corresponding file.

4. Movement certificates EUR.1 issued retrospectively must be endorsed with one of the following phrases:

“TAGANTJARELE VALJAANTUD”, “ISSUED RETROSPECTIVELY”, “ÂÈÄÀÉÇÃÄÏ”.

5. The endorsement referred to in paragraph 4 shall be inserted in the Remarks box of the movement certificate EUR.1.

Article 19 Issue of a duplicate movement certificate

EUR.1

1. In the event of theft, loss or destruction of a movement certificate EUR.1, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.
2. The duplicate issued in this way must be endorsed with one of the following words:

“DUPLICAAT”, “DUPLICATE”, “ΔΟΛΩΤΗΡΙΟ”.
3. The endorsement referred to in paragraph 2, and the date of issue of the serial number of the original certificate shall be inserted in the Remarks box of the duplicate movement certificate EUR.1.
4. The duplicate, which must bear the date of issue of the original movement certificate EUR.1, shall take effect as from that date.

Article 20

Replacement of certificates

1. It shall at any time be possible to replace one or more movement certificates EUR.1 by one or more other certificates provided that this is done by the customs office responsible for controlling the goods.
2. The replacement certificates shall be regarded as a definite movement certificate EUR.1 for the purpose of the application of this Protocol, including the provisions of this Article.
3. The replacement certificates shall be issued on the basis of a written request from the re-exporter, after the authorities concerned have verified the information supplied in the applicant's request. The date and serial number of the original movement certificate EUR.1 shall be given in box 7.

Article 21

Simplified procedure for the issue of certificates

1. By way of derogation from Article 17, 18 and 19 of this Protocol, a simplified procedure for the issue of EUR.1 movement certificates can be used in accordance with the following provisions.
2. The customs authorities in the exporting State may authorize any exporter, hereinafter referred to as approved exporter, making frequent shipments for which EUR.1 movement certificates may be issued and who offers, to the satisfaction of the competent authorities, all guarantees necessary to verify the originating status of the products, not to

submit to the customs office of the application for the EUR.1 certificate under the conditions laid down in Article 17 of this Protocol.

3. The authorization referred to in paragraph 2 shall stipulate, at the choice of the competent of the EUR.1 movement certificate must

- (a) either be endorsed beforehand with the stamp of the competent customs office of the exporting State and the signature, which may be a facsimile, of an official of that office; or
- (b) be endorsed by the approved exporter with a special stamp which has been approved by the custom authorities of the exporting State and corresponds to the specimen given in Annex V of this Protocol. Such stamp may be pre- printed on the forms.

4. In the cases referred to in the paragraph 3 (a), one of the following phrases shall be entered in the box No 7. Remarks of the EUR.1 movement certificate:

“LIHTSUSTATUD PROTSEDUUR”, “SIMPLIFIED PROCEDURE”, “ÑĬĎÎÛÁÌÀ
ĬĎĬÖÄÖÐÀ”

5. Box No 11 Customs endorsement of the EUR.1 certificate shall be completed if necessary by the approved exporter.

6. The approved exporter shall, if necessary, indicate in box No 13 Request for verification of the EUR.1 certificate the name and address of the authority competent to verify such a certificate.

7. Where the simplified procedure is applied, the customs authorities of the exporting State may prescribe the use of EUR.1 certificates bearing a distinctive sign by which they may be identified.

8. In the authorization referred to in paragraph 2 the competent authorities shall specify in particular:

- (a) the conditions under which the applications for EUR.1 certificates are to be made;
- (b) the conditions under which these applications are to be kept for at least three years;
- (c) in the cases referred to in paragraph 3(b) the authority competent to carry out the subsequent verification referred to in Article 30 of this Protocol.

9. The customs authorities of the exporting State may declare certain categories of goods ineligible for the special treatment provided for in paragraph 2.

10. The customs authorities shall refuse the authorization referred to in paragraph 2 to exporters who do not offer all the guarantees which may consider necessary. The competent authorities may withdraw the authorization at any time. They must do so where the approved exporter no longer satisfies the conditions or no longer offers these guaranties.

11. The approved exporter may be required to inform the competent authorities, in accordance with the rules which they lay down, of the goods to be dispatched by him, so that such authorities may make any verification they think necessary before the departure of the goods.

12. The customs authorities of the exporting State may carry out any check in approved exporters which they consider necessary. Such exporters must allow this to be done.

13. the provisions of this article shall be without prejudice to the application of the rules of Ukraine and Estonia concerning customs formalities and the use of customs documents.

Article 22

Validity of proof of origin

1. A movement certificate EUR.1 shall be valid for four months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country,

2. Movement certificates EUR.1 which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to reasons of *f o r c e m a j e u r e* or exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing country may accept the movement certificates EUR.1 where the products have been submitted to them before the said final date.

Article 23

Submission of proof of origin

Movement certificates EUR.1 shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of the movement certificate EUR.1 or an invoice declaration. They may also require the import declaration to be accompanied by a

statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

Article 24 Importation by installments

Where at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of general rule 2 (a) of the Harmonized System are imported by installments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first installment.

Article 25 Form EUR.2

1. Notwithstanding Article 16, the evidence of originating status, within the meaning of this Protocol, for consignments containing only originating products and whose value does not exceed ECU [3000] per consignment, may be given by a form EUR.2, a specimen of which appears in Annex IV to this Protocol.
2. The form EUR.2 shall be completed and signed by the exporter or, under the exporter's responsibility, by his authorized representative in accordance with this Protocol.
3. A form EUR.2 shall be completed for each consignment.
4. The exporter who applied for the form EUR.2 shall submit at the request of the customs authorities of the exporting State all supporting documents concerning the use of this form.
5. Article 22 and 23 shall apply *m u t a t i s m u t a n d i s* to forms EUR.2.

Article 26 Exemptions from formal proof of origin

1. Products sent as small packages from private persons to private persons or forming part of traveler's' personal luggage shall be admitted as originating products without requiring the submission of a formal proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Protocol and where there is no doubt as to the veracity of such a declaration or on a sheet of paper annexed to the document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travelers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products must not exceed ECU 300 in the case of small packages or ECU 800 in the case of products forming part of travelers' personal luggage.

Article 27 Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in a movement certificate EUR.1, of in a form EUR.2 and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not ipso facto render the movement certificate EUR.2 null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on a movement certificate EUR.1, or a Form EUR 2 should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 28 Amounts expressed in ECU's

Amounts in the national currency of the exporting country equivalent to the amounts expressed in ECU's shall be fixed by the exporting country and communicated to the other Party.

When the amounts exceed the corresponding amounts fixed by the importing country, the latter shall accept them if the products are invoiced in the currency of the exporting country or in the currency of one of the other countries referred to in Article 4 of this Protocol.

Title V ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

Article 29 Communication of stamps and addresses

The customs authorities of Ukraine and Estonia shall provide each other, with specimen impressions of stamps used in their customs offices for the issue of the EUR.1 certificates and with the addresses of the customs authorities responsible for issuing movement certificates EUR.1 and for verifying those certificates and forms EUR.2.

Article 30
Verification of movement certificates
EUR.1 and of forms EUR.2

1. Subsequent verification of movement certificates EUR.1 and forms EUR.2 shall be carried out randomly or whenever the customs authorities of the importing state have reasoned to doubt the authenticity of such documents, the originating status of the products concerned or the fulfillment of the other requirements of this Protocol.
2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing country shall return the movement certificate EUR.1, the form EUR.2, or a copy of these documents, to the customs authorities of the exporting country giving, where appropriate, the reasons of substance or form for inquiry.
3. The verification shall be carried out by the customs authorities of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check which may consider appropriate.
4. If the customs authorities of the importing country decide to suspend the granting of the preferential treatment to the products concerned while awaiting the results of the verification, they shall offer to release the products to the importer subject to any precautionary measures judged necessary.
5. The customs authorities requesting the verification shall be informed of the results of this verification within a maximum of ten months. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as originating products and fulfill the other requirements of this Protocol.
6. If in cases of reasonable doubt there is no reply within ten months or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall, except in the case of force majeure or in exceptional circumstances, refuse entitlement to the preferences.

Article 31
Dispute settlement

Where disputes arise in relation to the verification procedures of Article 30 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Joint Committee.

In all cases the settlement of disputes between the importer and the customs authorities of the importing State shall be under the legislation of the said State.

Article 32 Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

Article 33 Free zones

1. Ukraine and Estonia shall take all necessary steps to ensure that products traded under cover of a movement certificate EUR.1, which in the course of transport use a free zone situated in their territory, are not substituted by other goods and that they do not undergo handling other than normal operations designed to prevent their deterioration.

2. By means of an exemption to the provisions contained in paragraph 1, when products originating in Ukraine or in Estonia and imported into a free zone under cover of an EUR.1 certificate and undergo treatment of processing, the authorities concerned must issue a new EUR.1 certificate at the exporter's request, if the treatment of processing undergone is on conformity with the provisions of the Protocol.

TITLE VI FINAL PROVISIONS

Article 34 Customs Cooperation Committee

1. A Customs Cooperation Committee shall be set up, charged with carrying out administrative cooperation with a view to the correct and uniform application of this Protocol and with carrying out any other tasks in the customs field which may be entrusted to it.

2. The committee shall be composed, on the one hand, of the experts of Ukraine who are responsible for customs questions and, on the other hand, of experts nominated by Estonia.

Article 35
Annexes

The annexes to this Protocol shall form an integral part thereof.

Article 36
Implementation of the Protocol

Ukraine and Estonia shall each take the steps necessary to implement this Protocol.

Article 37
Arrangements with Latvia and Lithuania and
the European Community

The parties shall take any measures necessary for the conclusion of arrangements with Latvia and Lithuania and the European community enabling this Protocol to be applied. The Parties shall notify each other of measures taken to this effect.

Article 38
Goods in transit or storage

The provisions of the Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of the Agreement are either in transit or are in Ukraine and Estonia or, in so far as provisions of Article 2 are applicable, in Latvia or Lithuania or the European Community in temporary storage in bonded warehouses or in free zones, subject to the submission to the customs authorities of the importing State, within four months of that date, of a certificate EUR.1 endorsed retrospectively by the competent authorities of the exporting State together with the documents showing that the goods have been transported directly.

Article 39
Amendments to the Protocol

Amendments to the Protocol should be done in accordance with Article 2 of the Agreement.

Such examination shall take into account in particular the participation of the Parties in free-trade zones or customs unions with third countries.