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

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

Guided by the provisions of the Agreement on Friendship and Cooperation between the Republic of Kazakhstan and Ukraine of January 20, 1994,

Desiring to develop trade and economic cooperation between the Republic of Kazakhstan and Ukraine on basis of equality and mutual benefit,

Guided by the Agreement of the Council of the Heads of the CIS States of April 15, 1994 on the Creation of a Free Trade Zone,

Expressing their firm commitment to develop bilateral relations in the field of trade and economic relations based on the principles of the General Agreement on Tariffs and Trade (GATT),

Have agreed as follows:

Article 1

1. The Parties shall not introduce customs duties, taxes and fees having equivalent effect on export or import of products originating in the customs territory of either Party and designed for the customs territory of the other Party. Exemptions from this trade regime according to the agreed commodity description may be executed by a separate Protocol, if the Parties deem it necessary.

2. For the purpose of this Agreement and during the period of its implementation, the products originating in the territories of the Parties shall mean the products:

- a) fully produced on the territory of the Parties or;
- b) processed on the territory of the Parties by means of raw materials, manufactured materials and parts originating in third countries, and which as a result thereof change their position in classification of the Harmonized Commodity Description and Coding System at least by one of the four first digits;
- c) produced with the use of raw materials, manufactured materials and parts specified in sub-paragraph “b”.

The Parties shall agree, in a separate instrument being an integral part of this Agreement, on the detailed rules of origin.

Article 2

The 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 3

1. This Agreement shall not limit the right of either Party to take measures, that are generally excepted in international practice, on the state regulation in the field of foreign economic relations which it deems necessary to implement international agreements to which it is or is going to become a Party, if these measures relate to:

- protection of public morality and public order;
- protection of human life and health;
- protection of animals and plants;
- environmental protection;
- protection of artistic, archaeological and historical values as national property;
- protection of industrial or intellectual property;
- trade in gold, silver or other precious metals and stones;
- preservation of non-renewable natural resources;
- limitation on the export of products where the domestic price of thereof is lower than the world price as a result of implementation of government support programs;
- disruption of the balance of payments.

2. Nothing in this Agreement shall preclude the right of either Party to take regulatory measures it deems necessary, if such measures concern:

- national security, including the prevention of disclosure of confidential information relating to a state secret;
- trade in arms, military equipment and ammunition, provision of military services, transfer of technologies and rendering services for production of arms and military equipment and for other military purposes;
- supply of fissionable materials and sources of radioactive substances, utilization of radioactive waste;
- measures applied in war or in other special circumstances in the conduct of international relations;
- actions to fulfil its obligations under the UN Charter to preserve international peace and security.

Article 4

Re-export of specific products may be limited by mutual agreement of the Parties by the volume and range of products determined annually by trade and economic cooperation agreements.

Such products may be re-exported to the third countries only upon the written consent and on the conditions to be determined by the authorized agency of the country of origin of these products. In case of failure to fulfil this provision, the Party concerned shall have the right, after preliminary consultations with the other Party, to introduce unilaterally the measures on regulation of export of such products to the territory of the Party which has allowed the non-agreed re-export.

Re-export means export of products, originating in the customs territory of one Party, by the other Party outside its customs territory with the purpose of export to a third country.

Article 5

The Parties shall exchange, on a regular basis, information on customs issues, including customs statistics, on matters under this Agreement. The relevant authorized bodies of the Parties shall agree on the procedure for the exchange of such information.

Article 6

1. The Parties shall exchange information about the Free Trade Agreements of the Parties concluded with the third parties.
2. The Parties shall inform each other about all changes in their customs tariffs.

Article 7

The Parties shall, in compliance with the laws of the Parties, consider unfair business practice incompatible with the objectives of this Agreement, expressed, in particular, as follows:

- conclusion of agreements between enterprises or their associations having as their objective either prevention or limitation of competition or its distortion in the territories of the Parties;
- actions by which one or several enterprises use their dominant positions to restrict competition on the whole or considerable part of its territory.

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 nine-digit 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. In doing so the Parties, for their own needs, shall develop, where necessary, the Commodity Description beyond the nine-digit system.

The standard Commodity Description shall be introduced on the basis of mutual consent through the existing missions in the relevant international organizations.

Article 9

Each Party in accordance with the effective domestic laws shall ensure free transit through its territory for products originating in the customs territory of the other Party or third countries and designed for the customs territory of the other Party or third country, and will provide the exporters, importers or carriers who carry out such transit with all available and necessary facilities and services for such transit on conditions, including financial ones, which are not worse than facilities and services available to the exporters, importers, national carriers of any third state.

Each Party shall guarantee to exempt transit products originating in the customs territory of the other Party from customs duties and transit fees, and this shall be formalized by a separate Agreement.

Article 10

Nothing in this Agreement shall preclude the Parties from establishing relations, which do not contradict the objectives and conditions of this Agreement, with states which are not parties to this Agreement, and also their associations and international organizations.

Article 11

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

Article 12

Proceeding from the purposes of this Agreement and in order to develop recommendations on improvement of trade and economic cooperation between the two states, the Parties have agreed to establish a bilateral Committee.

The main goals of the said Committee shall be as follows:

- to consider issues relating to the interpretation and applications of this Agreement, and settlement of disputes between the Parties;
- to analyze the development of bilateral trade and economic relations;
- to develop proposals on improvement of conditions for trade and economic cooperation between the two states and on the perspectives of further development;
- to consider the issues of export control, including the list of products subject to control, methods and forms of their export control, facts of the breach of export control requirements, preparation of proposals on introduction and termination of sanctions;
- to consider implementation of this Agreement and to develop appropriate recommendations.

Meetings of the Committee take place upon the request of either Party at least once a year alternatively in the Republic of Kazakhstan and in Ukraine.

Article 13

This Agreement shall enter into force upon exchange of the instruments in which the Parties notify each other about the implementation of the internal procedures required for its entry into force and shall remain in force until either Party notifies, in writing, six months in advance, the other Party about its intention to terminate the Agreement.

Done in the city of Almaty, this 17th day of September 1994, in two originals, each in the Kazakh, Ukrainian and Russian languages, all texts being equally authentic.

In case of dispute between the Contracting Parties with regard to interpretation, application or implementation of this Agreement, the Parties shall be guided by the Russian text of the Agreement.

For the
Government of Ukraine

For the Government of the
Republic of Kazakhstan