

## TREATY ON THE EURASIAN ECONOMIC UNION

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

**based** on the Declaration on Eurasian Economic Integration of November 18, 2011,

**guided** by the principle of the sovereign equality of states, the need for unconditional respect for the rule of constitutional rights and freedoms of man and national,

**seeking** to strengthen the solidarity and cooperation between their peoples while respecting their history, culture and traditions,

**convinced** that further development of Eurasian economic integration shall serve the national interests of the Parties,

**driven** by the urge to strengthen the economies of the Member States of the Eurasian Economic Union and to ensure their balanced development, convergence, steady growth in business activity, balanced trade and fair competition,

**ensuring** economic progress through joint actions aimed at solving common problems faced by the Member States of the Eurasian Economic Union with regard to sustainable economic development, comprehensive modernisation and improving competitiveness of national economies within the framework of the global economy,

**confirming** their commitment to further strengthen mutually beneficial and equal economic cooperation with other countries, international integration associations, and other international organisations,

**taking into account** the regulations, rules and principles of the World Trade Organisation,

**confirming** their commitment to the objectives and principles of the United Nations Charter and other universally recognised principles and regulations of international law,

have agreed as follows.

## PART ONE ESTABLISHING THE EURASIAN ECONOMIC UNION

### Section I GENERAL PROVISIONS

#### Article 1 Establishing the Eurasian Economic Union Legal Personality

1. The Parties hereby establish the Eurasian Economic Union (hereinafter “the Union”, “the EAEU”) ensuring free movement of goods, services, capital and labour within its borders, as well as coordinated, agreed or common policy in the economic sectors determined under this Treaty and international treaties within the Union.

2. The Union shall be an international organisation of regional economic integration and shall have international legal personality.

## Article 2 Terms and Definitions

For the purposes of this Treaty, the terms below shall have the following meanings:

“harmonisation of legislation” means the approximation of legislation of the Member States aimed at establishing similar (comparable) legal regulations in certain spheres;

“Member States” means the states that are members of the Union and Parties to this Treaty;

“officials” means the nationals of the Member States appointed as Directors of Departments of the Eurasian Economic Commission, Deputy Directors of Departments of the Commission, and the Head of the Secretariat of the Court of the Union, Deputy Head of the Secretariat of the Court of the Union and advisers to judges of the Court of the Union;

“common economic space” means the space consisting of the territories of the Member States implementing similar (comparable) and uniform economy regulation mechanisms based on market principles and the application of harmonised or unified legal norms, and having a common infrastructure;

“common policy” means the policy implemented by the Member States in certain spheres as specified in this Treaty and envisaging the application of unified legal regulations by the Member States, including on the basis of decisions issued by Bodies of the Union within their powers;

“international treaties within the Union” means international treaties concluded between the Member States on issues related to the functioning and development of the Union;

“international treaties of the Union with a third party” means international treaties concluded with third countries, integration associations thereof and international organisations;

“single (common) market” means a set of economic relations within the Union ensuring the freedom of movement of goods, services, capital and labour;

“disposition” means an organisational and administrative document enacted by the Bodies of the Union;

“decision” means a regulatory document enacted by the Bodies of the Union;

“coordinated policy” means policy implying the cooperation between the Member States on the basis of common approaches approved within Bodies of the Union and required to achieve the objectives of the Union under this Treaty;

“agreed policy” means policy implemented by the Member States in various areas suggesting the harmonisation of legal regulations, including on the basis of decisions of the Bodies of the Union, to the extent required to achieve the objectives of the Union under this Treaty;

“employees” means nationals of the Member States employed in Bodies of the Union under concluded employment contracts (agreements), except for the officials;

“Customs Union” means a form of trade and economic integration of the Member States envisaging a common customs territory, within which no customs duties (other duties, taxes and fees having equivalent effect), non-tariff regulatory measures, safeguard, anti-dumping and countervailing measures shall be applied to the mutual trade, while applying the Common

Customs Tariff of the Eurasian Economic Union and common measures regulating foreign trade with a third party;

“third party” means a state which is not a member of the Union, an international organisation or an international integration association;

“unification of legislation” means the approximation of legislation of the Member States aimed at establishing identical mechanisms of legal regulation in certain spheres as specified in this Treaty.

Other terms and definitions used in this Treaty shall have the meanings provided for by the relevant Sections of this Treaty and its Annexes.

## Section II BASIC PRINCIPLES, OBJECTIVES, JURISDICTION AND LAW OF THE UNION

### Article 3 Basic Principles of Functioning of the Union

The Union shall carry out its activities within the jurisdiction granted by the Member States in accordance with this Treaty, based on the following principles:

respect for the universally recognised principles of international law, including the principles of sovereign equality of the Member States and their territorial integrity;

respect for specific features of the political structures of the Member States;

ensuring mutually beneficial cooperation, equality and respect for the national interests of the Parties;

respect for the principles of market economy and fair competition;

ensuring the functioning of the Customs Union without exceptions and limitations after the transition period.

The Member States shall create favourable conditions to ensure proper functioning of the Union and shall refrain from any measures that might jeopardise the achievement of its objectives.

#### Article 4 Main Objectives of the Union

The main objectives of the Union shall be as follows:

to create proper conditions for sustainable economic development of the Member States in order to improve the living standards of their population;

to seek the creation of a common market for goods, services, capital and labour within the Union;

to ensure comprehensive modernisation, cooperation and competitiveness of national economies within the global economy.

#### Article 5 Jurisdiction

1. The Union shall have jurisdiction within the scope and limits determined under this Treaty and international treaties within the Union.

2. The Member States shall carry out coordinated or agreed policy within the scope and limits determined under this Treaty and international treaties within the Union.

3. In other spheres of the economy, the Member States shall seek to implement coordinated or agreed policy in accordance with the basic principles and objectives of the Union.

To this end, by decision of the Supreme Eurasian Economic Council, auxiliary authorities may be established (councils of state authorities' heads of the Parties, working groups, special commissions) in the relevant areas and/or the Eurasian Economic Commission may be instructed to coordinate the interaction between the Parties in their respective spheres.

## Article 6 Law of the Union

1. The Law of the Union shall consist of the following:  
this Treaty;  
international treaties within the Union;  
international treaties of the Union with a third party;  
decisions and dispositions of the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council, and the Eurasian Economic Commission adopted within the powers provided for by this Treaty and international treaties within the Union.

Decisions of the Supreme Eurasian Economic Council and Eurasian Intergovernmental Council shall be enforceable by the Member States in the procedure provided for by their national legislation.

2. International treaties of the Union with a third party shall not contradict the basic objectives, principles and rules of the functioning of the Union.

3. In case of conflict between international treaties within the Union and this Treaty, this Treaty shall prevail.

Decisions and dispositions of the Union shall not be inconsistent with this Treaty and international treaties within the Union.

4. In case of conflict between decisions of the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council, or the Eurasian Economic Commission:

decisions of the Supreme Eurasian Economic Council shall prevail over decisions of the Eurasian Intergovernmental Council and the Eurasian Economic Commission;

decisions of the Eurasian Intergovernmental Council shall prevail over decisions of the Eurasian Economic Commission.

## Article 7 International Activities of the Union

1. The Union shall be entitled to perform, within its jurisdiction, international activities aimed at addressing the challenges faced by the Union. As part of such activities, the Union shall have the right to engage in international cooperation with states, international organisations, and international integration associations and independently or jointly with the Member States conclude international treaties therewith on any matters within its jurisdiction.

The Procedure for the International Cooperation of the Union shall be determined by decision of the Supreme Eurasian Economic Council. All matters relating to the conclusion of international treaties of the Union with a third party shall be determined under an international treaty within the Union.

2. Negotiations on draft international treaties of the Union with a third party, as well as signing thereof, shall be conducted by decision of the Supreme Eurasian Economic Council upon completion of all internal legal procedures by the Member States.



The decision of the Union to give consent to be bound by an international treaty of the Union with a third party, termination/suspension of or withdrawal from an international treaty shall be adopted by the Supreme Eurasian Economic Council upon completion of all required internal legal procedures by the Member States.

### Section III BODIES OF THE UNION

#### Article 8 Bodies of the Union

1. Bodies of the Union shall be represented by:

Supreme Eurasian Economic Council (hereinafter “the Supreme Council”);

Eurasian Intergovernmental Council (hereinafter “the Intergovernmental Council”);

Eurasian Economic Commission (hereinafter “the Commission”, “the EEC”);

Court of the Eurasian Economic Union (hereinafter “the Court of the Union”).

2. Bodies of the Union shall act within the powers accorded to them by this Treaty and international treaties within the Union.

3. Bodies of the Union shall act on the basis of the principles set forth in Article 3 of this Treaty.

4. Chairmanship of the Supreme Council, the Intergovernmental Council and the Commission shall be arranged on a rotational basis, in the

Russian alphabetic order, with one Member State chairing within 1 calendar year without the right of prolongation.

5. The terms of stay of the Union's Bodies on the territories of the Member States shall be set out in international treaties between the Union and the host states.

#### Article 9 Appointments in Structural Subdivisions of Permanent Bodies of the Union

1. The right to hold office in the structural subdivisions of Permanent Bodies of the Union shall be provided to nationals of the Member States having relevant specialised education and work experience.

2. Officials of a Department of the Commission may not be nationals of the same state. Candidates for these positions shall be selected by the EEC Competition Commission with regard to the principle of equal representation of the Parties. In order to participate in the competition for these positions, each candidate shall be nominated by a Council member of the Commission from the respective Party.

3. The selection of candidates for other positions in departments of the Commission shall be conducted by the EEC on a competitive basis, with due account of equity participation of the Parties in financing of the Commission.

4. The EEC Competition Commission for the selection of candidates for positions referred to in paragraph 2 of this Article shall be composed of all members of the Board of the Commission, excluding the Chairman of the Board of the Commission.

The EEC Competition Commission shall make decisions in the form of recommendations by a majority vote and submit them to the Chairman of the Board of the Commission for approval. If in respect of a particular candidate

the Chairman of the Board of the Commission decides contrary to the recommendation of the EEC Competition Commission, the Chairman of the Board of the Commission shall refer the issue to the Council of the Commission for a final decision.

The regulation on the EEC Competition Commission (including the rules of competition), its composition and required qualifications of candidates for the positions of Directors and Deputy Directors of the Departments of the Commission shall be approved by the Council of the Commission.

5. The procedure for the selection of candidates and appointment to the positions in the Administration of the Court of the Union shall be in accordance with the documents regulating activities of the Court of the Union.

## Article 10 The Supreme Council

1. The Supreme Council shall be the supreme Body of the Union.
2. The Supreme Council shall consist of the heads of the Member States.

Article 11  
Procedures of the Supreme Council

1. Meetings of the Supreme Council shall be held at least once a year.

In order to solve urgent issues of the Union, on the initiative of any Member State or the Chairman of the Supreme Council, extraordinary meetings of the Supreme Council may be convened.

2. Meetings of the Supreme Council shall be chaired by the Chairman of the Supreme Council.

The Chairman of the Supreme Council shall:

chair meetings of the Supreme Council;

organise the work of the Supreme Council;

generally manage the preparation of issues submitted to the Supreme Council for consideration.

In the event of early termination of powers of the Chairman of the Supreme Council, the new member of the Supreme Council of the presiding Member State shall exercise the powers of the Chairman of the Supreme Council in the remaining period.

3. Meetings of the Supreme Council may, at the invitation of the Chairman of the Supreme Council, be attended by members of the Council of the Commission, Chairman of the Board of the Commission, and other invited persons.

The list of participants and the format of meetings of the Supreme Council shall be determined by the Chairman of the Supreme Council in consultation with its members.

The agenda for each meeting of the Supreme Council shall be arranged by the Commission based on proposals made by the Member States.

The issue as to the presence of accredited media representatives at meetings of the Supreme Council shall be decided on by the Chairman of the Supreme Council.

4. The procedure for the organisation of meetings of the Supreme Council shall be approved by the Supreme Council.

5. Organisational, information and logistics support in preparation of and holding meetings of the Supreme Council shall be provided by the Commission with the assistance of the host Member State. Financial support of meetings of the Supreme Council shall be provided from the budget of the Union.

## Article 12

### Powers of the Supreme Council

1. The Supreme Council shall consider the main issues of the Union's activities, define the strategy, directions and prospects of the integration development and make decisions aimed at implementing the objectives of the Union.

2. The Supreme Council shall have the following basic powers:

1) to determine the strategy, directions and prospects for the formation and development of the Union and make decisions aimed at implementing the objectives of the Union;

2) to approve the composition of the Board of the Commission, distribute responsibilities among Board of the Commission members and terminate their powers;

3) to appoint the Chairman of the Board of the Commission and decide on early termination of his/her powers;

4) to appoint judges of the Court of the Union on the recommendation of the Member States;

5) to approve the Rules of Procedure of the Eurasian Economic Commission;

6) to approve the Budget of the Union, the Regulation on the Budget of the Eurasian Economic Union and the report on implementation of the Budget of the Union;

7) to determine the amount (scale) of contributions of the Member States into the Budget of the Union;

8) to consider, on the proposal of a Member State, any issues relating to the cancellation or amendment of decisions adopted by the Intergovernmental Council or the Commission, subject to paragraph 7 of Article 16;

9) to consider, on the proposal of the Intergovernmental Council or the Commission, any issues on which no consensus was reached in decision-making;

10) to make requests to the Court of the Union;

11) to approve the procedure for verifying authenticity and completeness of information on the income, property and property obligations of judges of the Court of the Union, officials and employees of the Administration of the Court of the Union and their family members;

12) to determine the procedure for admission of new members to the Union and termination of membership in the Union;

13) to decide on granting or revocation of an observer status or the status of a candidate country for accession to the Union;

14) to approve the Procedure for International Cooperation of the Eurasian Economic Union;

15) to decide on negotiations with a third party on behalf of the Union, including on the conclusion of international treaties with the Union and empowerment to negotiate, as well as the expression of consent of the Union to be bound by an international treaty with a third party, termination/suspension of or withdrawal from an international treaty;

16) to approve the total staffing of Bodies of the Union and the parameters of representation of officials from amongst the nationals of the Member States in Bodies of the Union presented by the Member States on a competitive basis;

17) to approve the procedure for remuneration of members of the Board of the Commission, judges of the Court of the Union, officials and employees of Bodies of the Union;

18) to approve the Regulation on External Audit (Control) in Bodies of the Eurasian Economic Union;

19) to review the results of external audit (control) in Bodies of the Union;

20) to approve symbols of the Union;

21) to issue instructions to the Intergovernmental Council and the Commission;

22) to decide on the establishment of the auxiliary bodies in the relevant areas;

23) to exercise other powers provided for by this Treaty and international treaties within the Union.

Article 13  
Decisions and Dispositions of the Supreme Council

1. The Supreme Council shall issue decisions and dispositions.
2. Decisions and dispositions of the Supreme Council shall be adopted by consensus.

Decisions of the Supreme Council related to the termination of membership of a Member State in the Union shall be taken on the principle of “consensus minus the vote of the Member State declaring its intent to terminate its membership in the Union”.

Article 14  
Intergovernmental Council

The Intergovernmental Council shall be a Body of the Union consisting of the heads of governments of the Member States.

Article 15  
Procedure of the Intergovernmental Council

1. Meetings of the Intergovernmental Council shall be held as necessary, but at least twice a year.

In order to solve urgent issues of the Union, by initiative of any Member State or the Chairman of the Intergovernmental Council, extraordinary meetings of the Intergovernmental Council may be convened.

2. Meetings of the Intergovernmental Council shall be chaired by the Chairman of the Intergovernmental Council.

The Chairman of the Intergovernmental Council shall:



chair meetings of the Intergovernmental Council;  
organise the work of the Intergovernmental Council;  
generally manage the preparation of issues submitted to the Intergovernmental Council for consideration.

In the event of early termination of powers of the Chairman of the Intergovernmental Council, the new member of the Intergovernmental Council of the presiding Member State shall exercise the powers of the Chairman of the Intergovernmental Council in the remaining period.

3. Meetings of the Intergovernmental Council may, at the invitation of the Chairman of the Intergovernmental Council, be attended by members of the Council of the Commission, Chairman of the Board of the Commission, and other invited persons.

The list of participants and the format of meetings of the Intergovernmental Council shall be determined by the Chairman of the Intergovernmental Council in consultation with its members.

The agenda for each meeting of the Intergovernmental Council shall be arranged by the Commission based on proposals made by the Member States.

The issue as to the presence of accredited media representatives at meetings of the Intergovernmental Council shall be decided on by the Chairman of the Intergovernmental Council.

4. The procedure for the organisation of meetings of the Intergovernmental Council shall be approved by the Intergovernmental Council.

5. Organisational, information and logistical support in preparation of and holding meetings of the Intergovernmental Council shall be provided by the Commission with the assistance of the host Member State. Financial

support of meetings of the Intergovernmental Council shall be provided from the budget of the Union.

## Article 16 Powers of the Intergovernmental Council

The Intergovernmental Council shall have the following basic powers:

- 1) to ensure implementation and control the performance of this Treaty, international treaties within the Union and decisions of the Supreme Council;
- 2) to consider, on the proposal of the Council of the Commission, any issues for which no consensus was reached during decision-making in the Council of the Commission;
- 3) to issue instructions to the Commission;
- 4) to present candidates for members of the Council and the Board of the Commission to the Supreme Council;
- 5) to approve the drafts of the Budget of the Union, the Regulation on the Budget of the Eurasian Economic Union and the report on implementation of the Budget of the Union;
- 6) to approve the Regulation on the audit of financial and economic activity of the Eurasian Economic Union's Bodies, standards and methodology for conducting audits of financial and economic activities of the Bodies of the Union, to decide on the execution of audits of financial and economic activities of the Bodies of the Union and to determine their time periods;
- 7) to consider, when proposed by a Member State, any issues relating to the cancellation or amendment of a decision issued by the Commission, or, in case no agreement is reached, to refer them to the Supreme Council;

8) to decide on suspension of decisions of the Council or the Board of the Commission;

9) to approve the procedure for verifying authenticity and completeness of information on the income, property and property obligations of members of the Board of the Commission, officials and employees of the Commission and their family members;

10) to exercise other powers provided for by this Treaty and international treaties within the Union.

#### Article 17

##### Decisions and Dispositions of the Intergovernmental Council

1. The Intergovernmental Council shall issue decisions and dispositions.

2. Decisions and dispositions of the Intergovernmental Council shall be adopted by consensus.

#### Article 18

##### Commission

1. The Commission shall be a permanent governing Body of the Union. The Commission shall consist of a Council and a Board.

2. The Commission shall issue decisions, dispositions and recommendations.

Decisions, dispositions and recommendations of the Council of the Commission shall be taken by consensus.

Decisions, dispositions and recommendations of the Board of the Commission shall be taken by a qualified majority or consensus.

The Supreme Council shall compile a list of sensitive issues to be resolved by the Board of the Commission by consensus.

In this case, a two-thirds qualified majority of votes of all members of the Board of the Commission shall be required.

3. The status, tasks, composition, functions, powers and procedures of the Commission shall be determined in accordance with Annex 1 to this Treaty.

4. The place of stay of the Commission shall be the city of Moscow, Russian Federation.

#### Article 19 The Court of the Union

1. The Court of the Union shall be a permanent judicial Body of the Union.

2. The status, composition, jurisdiction, functioning and formation procedures of the Court of the Union shall be determined by the Statute of the Court of the Eurasian Economic Union in accordance with Annex 2 to this Treaty.

3. The place of stay of the Court of the Union shall be the city of Minsk, Belarus.

Section IV  
THE BUDGET OF THE UNION

Article 20  
The Budget of the Union

1. Activities of the Bodies of the Union shall be funded from the Budget of the Union to be formed in the procedure determined by the Regulation on the Budget of the Eurasian Economic Union.

The Budget of the Union for the next fiscal year shall be compiled in Russian roubles using assessed contributions by the Member States. The amount (scale) of a contribution of each Member State to the budget of the Union shall be determined by the Supreme Council.

The Budget of the Union shall be balanced in terms of income and expenditures. The fiscal year shall begin on January, 1 and end on December, 31 .

2. The Budget of the Union and the Regulation on the Budget of the Eurasian Economic Union shall be approved by the Supreme Council.

Any amendments to the Budget of the Union and the Regulation on the Budget of the Eurasian Economic Union shall be introduced by the Supreme Council.

Article 21  
Audit of Financial and Economic Activities of the Bodies of the Union

In order to oversee the implementation of the Budget of the Union, financial and economic activities of the Bodies of the Union shall be audited at least once every 2 years.

Inspections regarding any specific issues of financial and economic activities of the Bodies of the Union may be conducted on the initiative of any Member State.

Audit of financial and economic activities of the Bodies of the Union shall be performed by an audit group consisting of representatives of state financial authorities of the Member States.

Results of the audit of financial and economic activities of the Bodies of the Union shall be referred in the determined procedure for consideration to the Intergovernmental Council.

## Article 22 External Audit (Control)

External audit (control) shall be carried out in order to determine the efficiency of the formation, management and disposal of the funds of the budget of the Union and the efficiency of the use of its property and other assets. External audit (control) shall be conducted by a group of inspectors consisting of representatives of supreme state financial authorities of the Member States. Standards and methodology of external audit (control) shall be jointly determined by supreme state financial authorities of the Member States.

Results of external audit (control) in the Bodies of the Union shall be referred in the determined procedure for consideration to the Supreme Council.

**PART TWO**  
**CUSTOMS UNION**

Section V  
INFORMATION EXCHANGE AND STATISTICS

Article 23  
Information Exchange within the Union

1. In order to ensure information support for the integration processes in all spheres affecting the functioning of the Union, measures shall be developed and implemented aimed at ensuring the information exchange using information and communication technologies and the transboundary space of trust within the Union.

2. In the implementation of common processes within the Union, information exchange shall be carried out using an integrated information system of the Union supporting the integration of geographically distributed state information resources and information systems of the authorised authorities, as well as information resources and information systems of the Commission.

3. In order to ensure efficient cooperation and coordination of public information resources and information systems, the Member States shall conduct agreed policy in the field of electronic communication development and information technologies.

4. When using soft hardware and information technologies, the Member States shall ensure the protection of intellectual property used or received in the communication process.

5. The fundamental principles of information exchange and its coordination within the Union, as well as the procedures for the creation and

development of an integrated information system shall be determined in accordance with Annex 3 to this Treaty.

#### Article 24 Official Statistics of the Union

1. In order to ensure efficient functioning and development of the Union, official statistics of the Union shall be collected.

2. The official statistics of the Union shall be compiled in accordance with the following principles:

- 1) professional independence;
- 2) scientific validity and comparability;
- 3) completeness and accuracy;
- 4) relevance and timeliness;
- 5) transparency and accessibility;
- 6) cost-effectiveness;
- 7) statistical confidentiality.

3. The procedure for compilation and dissemination of official statistics of the Union shall be determined in accordance with Annex 4 to this Treaty.



Section VI  
FUNCTIONING OF THE CUSTOMS UNION

Article 25  
Principles of Functioning of the Customs Union

1. Within the Customs Union of the Member States:

1) an internal market for goods shall be in place;

2) the Common Customs Tariff of the Eurasian Economic Union and other common measures regulating foreign trade with third parties shall be applied;

3) a common trade regime shall be applied to relations with third parties;

4) Common customs regulations shall be applied;

5) free movement of goods between the territories of the Member States shall be ensured without the use of customs declarations and state control (transport, sanitary, veterinary-sanitary, phytosanitary quarantine), except as provided for by this Treaty.

2. For the purposes of this Treaty, the terms below shall have the following meanings:

“import customs duty” means a compulsory payment levied by the customs authorities of the Member States in connection with the importation of goods into the customs territory of the Union;

“Single Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union” (CN of FEA EAEU) means the Foreign Economic Activity Commodity Nomenclature based on the Harmonised System of Commodity Description and Coding of the World Customs

Organization and the Common Foreign Economic Activity Commodity Nomenclature of the Commonwealth of Independent States;

“Common Customs Tariff of the Eurasian Economic Union” (CCT EAEU) means a set of rates of customs duties applied to the goods imported from third countries into the customs territory of the Union, as classified in accordance with the Single Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union;

“tariff preference” means the exemption from import customs duties or reductions of rates of import customs duties on goods originating from the countries included in the free trade space with the Union, or reduction of rates of import customs duties on goods originating from developing countries using the common system of tariff preferences of the Union and/or the least developed countries using the common system of tariff preferences of the Union.

#### Article 26

##### Transfer and Distribution of Import Customs Duties (Other Duties, Taxes and Fees Having Equivalent Effect)

Paid (recovered) import customs duties shall be transferred to and distributed between the budgets of the Member States.

The transfer and distribution of import customs duties and their transfer to the budgets of the Member States shall be carried out in the procedure according to Annex 5 to this Treaty.

Article 27  
Establishing and Functioning of Free (Special)  
Economic Areas and Free Warehouses

In order to promote social and economic development of the Member States, promote investments, create and develop production facilities based on new technologies, develop transport infrastructure, tourism and health resort spheres, as well as for other purposes on the territories of the Member States, free (special) economic areas and free warehouses shall be established and shall function.

The conditions for the creation and functioning of free (special) economic areas and free warehouses shall be determined under international treaties within the Union.

Article 28  
Internal Market

1. The Union shall adopt measures to ensure the functioning of the internal market in accordance with the provisions of this Treaty.

2. The internal market shall include the economic space with free movement of goods, persons, services and capital ensured under the provisions of this Treaty.

3. Within the functioning of the internal market, the Member States shall not apply import and export customs duties (other duties, taxes and fees having equivalent effect), non-tariff regulatory measures, safeguard, anti-dumping and countervailing measures in mutual trade, except as provided for by this Treaty.

Article 29  
Exceptions to the Procedure of Functioning  
of the Internal Goods Market

1. The Member States shall be entitled to apply restrictions in mutual trade (provided that such measures are not a means of unjustifiable discrimination or a disguised restriction on trade) if required for:

- 1) protection of human life and health;
- 2) protection of public morals and public order;
- 3) environmental protection;
- 4) protection of animals, plants, or cultural values;
- 5) fulfilment of international obligations;
- 6) national defence and security of a Member State.

2. On the grounds specified in paragraph 1 of this Article, sanitary, veterinary-sanitary and phytosanitary quarantine measures may be applied in the internal market in the procedure determined by Section XI of this Treaty.

3. On the grounds specified in paragraph 1 of this Article, the turnover of certain categories of goods may be restricted.

The procedure of movement or circulation of such goods on the customs territory of the Union shall be determined under this Treaty and international treaties within the Union.

Section VII  
REGULATION ON CIRCULATION OF MEDICINES AND MEDICAL  
PRODUCTS

Article 30  
Establishing a Common Market of Medicines

1. The Member States shall establish a common market of medicines within the Union in compliance with the relevant standards of good pharmacy practice based on the following principles:

1) harmonisation and unification of the legislation of the Member States in the sphere of circulation of medicines;

2) ensuring the uniformity of mandatory requirements for the quality, effectiveness and safety of circulation of medicines on the territory of the Union;

3) adoption of common rules in the sphere of circulation of medicines;

4) development and application of identical or comparable research and monitoring methods to assess the quality, effectiveness and safety of medicines;

5) harmonisation of the legislation of the Member States in the field of control (supervision) over circulation of medicines;

6) exercising licensing and supervisory functions in the sphere of circulation of medicines by the relevant authorised authorities of the Member States.

2. The common market of medicines shall function within the Union in accordance with an international treaty within the Union subject to the provisions of Article 100 of this Treaty.

Article 31  
Establishing a Common Market of Medical Products  
(medical devices and equipment)

1. The Member States shall establish a common market of medical products (medical devices and equipment) within the Union based on the following principles:

1) harmonisation of the legislation of the Member States in the sphere of circulation of medical products (medical devices and equipment);

2) ensuring the uniformity of mandatory requirements for the efficiency and safety of circulation of medical products (medical devices and equipment) on the territory of the Union;

3) adoption of common rules in the sphere of circulation of medical products (medical devices and equipment);

4) establishment of common approaches for the creation of a quality assurance system for medical products (medical devices and equipment);

5) harmonisation of the legislation of the Member States in the field of control (supervision) in the sphere of circulation of medical products (medical devices and equipment).

2. The common market of medical products (medical devices and equipment) shall function within the Union in accordance with an international treaty within the Union subject to the provisions of Article 100 of this Treaty.

Section VIII  
CUSTOMS REGULATIONS

Article 32  
Customs Regulations in the Union

The Union shall apply Common customs regulations in accordance with the Customs Code of the Eurasian Economic Union, international treaties and acts constituting the law of the Union and governing customs legal relations, and in accordance with the provisions of this Treaty.

Section IX  
FOREIGN TRADE POLICY

1. General Provisions on Foreign Policy

Article 33  
Objectives and Principles of Foreign Trade Policy of the Union

1. Foreign trade policy of the Union shall promote sustainable economic development of the Member States, economic diversification, innovative development, increase in the volume and improvement in the structure of trade and investment, acceleration of the integration process, as well as further development of the Union as of an efficient and competitive organisation in the global economy.

2. The basic principles of foreign trade policy of the Union shall be as follows:

application of measures and mechanisms for the implementation of foreign trade policy of the Union that shall be burdensome for the participants of foreign trade activities of the Member States only to the extent required to ensure effective achievement of objectives of the Union;

publicity in the development, adoption and use of measures and mechanisms for the implementation of foreign trade policy of the Union;

validity and objectivity of measures and mechanisms for the implementation of foreign trade policy of the Union;

protection of the rights and legitimate interests of participants of foreign trade activities of the Member States, as well as the rights and legitimate interests of manufacturers and consumers of goods and services;

respect for the rights of foreign trade participants.

3. Foreign trade policy shall be implemented through the conclusion by the Union, independently or jointly with the Member States, of international treaties with a third party in spheres where Bodies of the Union are entitled to make binding decisions regarding the Member States, participation in international organisations or autonomous application of foreign trade policy measures and mechanisms.

The Union shall be liable for fulfilling its obligations under concluded international treaties and shall exercise its rights under these treaties.

#### Article 34

#### Most Favoured Nation Treatment

With regard to foreign trade, most favoured nation treatment shall be applied within the meaning of the General Agreement on Tariffs and Trade of 1994 (GATT 1994) in cases and under the conditions where the use of most favoured nation treatment is provided for by international treaties of the Union with a third party, as well as by international treaties of the Member States with a third party.



### Article 35 Free Trade Regime

The free trade regime within the meaning of GATT 1994 shall be applied to trade with a third party on the basis of an international treaty of the Union with such third party subject to the provisions of Article 102 of this Treaty.

The international treaty of the Union with a third party establishing a free trade regime may include other provisions related to foreign trade.

### Article 36 Tariff Preferences in Respect of Goods Originating from Developing Countries and/or Least Developed Countries

1. In order to promote economic development of developing and least developed countries, in accordance with this Treaty, the Union may grant tariff preferences in respect of goods originating from developing countries using the common system of tariff preferences of the Union and/or least developed countries using the common system of tariff preferences of the Union.

2. In respect of preferential goods imported into the customs territory of the Union and originating from developing countries using the common system of tariff preferences of the Union, the rates of import customs duties shall amount to 75% of rates of the import customs duties of the Common Customs Tariff of the Eurasian Economic Union.

3. In respect of preferential goods imported into the customs territory of the Union and originating from least developed countries using the common system of tariff preferences of the Union, zero rates of import customs duties

of the Common Customs Tariff of the Eurasian Economic Union shall be applied.

### Article 37 Rules of Origin

1. On the customs territory of the Union, common rules shall be applied for determining the country of origin of goods imported into the customs territory of the Union.

2. For the purposes of application of customs tariff regulation (except for the purposes of tariff preferences), non-tariff regulation and protection of the internal market, determining requirements for the labelling of the origin of goods, state (municipal) procurement, and collection of foreign trade statistics, the rules for determining the country of origin of goods imported into the customs territory of the Union (non-preferential rules of origin) shall be applied as determined by the Commission.

3. For the purposes of providing tariff preferences in respect of goods imported into the customs territory of the Union from developing or least developed countries using the common system of tariff preferences of the Union, the rules for determining the country of origin for goods imported from developing and least developed countries shall be applied as determined by the Commission.

4. For the purposes of providing tariff preferences in respect of goods imported into the customs territory of the Union from the states in respect of trade and economic relations with which the Union applies the free trade regime, the rules for determining the country of origin shall be used as set out

in the relevant international treaty of the Union with a third party envisaging the application of the free trade regime.

5. If an international treaty of the Union with a third party envisaging the application of the free trade regime does not set the rules for determining the country of origin or the rules have not yet been adopted at the effective date of the treaty, the rules for determining the country of origin stipulated in paragraph 2 of this Article shall be applied with regard to goods imported into the customs territory of the Union and originating from that country until the appropriate rules are adopted.

6. In case of repeated violations by a third party of the rules for determining (confirming) the origin of goods, the Commission may decide to monitor by the customs services of the Member States the correct identification (confirmation) of the origin of goods imported from this particular country. In case system violations of the rules for determining (confirming) the origin of goods by a third party are detected, the Commission may decide to suspend acceptance of documents confirming the origin of goods by customs services of the Member States. The provisions of this paragraph shall not limit the powers of the Member States to control the origin of imported goods and to take measures based on its results.

### Article 38 Foreign Trade in Services

The Member States shall coordinate trade in services with third parties.

This coordination, however, shall not imply any supranational jurisdiction of the Union in this sphere.

Article 39  
Elimination of Restrictive Measures in Trade with Third Parties

The Commission shall render assistance in accessing the markets of third parties, monitor restrictive measures applied by third party in respect of the Member States and, in case of any action by a third party in relation to the Union or trade disputes between the Union and a third party, conduct consultations with the respective third party jointly with the Member States.

Article 40  
Response Measures towards a Third Party

1. If an international treaty of the Union with a third party and/or of the Member States with third parties provides the possibility of any response measures, the decision to impose such measures on the customs territory of the Union shall be adopted by the Commission, including by raising of rates of import customs duties, introduction of quantitative restrictions, temporary suspension of preferences or adoption, within the jurisdiction of the Commission, of other measures affecting the results of foreign trade with the respective state.

2. In cases provided for by international treaties of the Member States with third parties concluded before January 1, 2015 the Member States may unilaterally apply such response measures as increased import customs duties in excess of the Common Customs Tariff of the Eurasian Economic Union, as well as unilaterally suspend tariff preferences provided that administration mechanisms of such response measures do not violate any provisions of this Treaty.

## Article 41 Export Development Measures

In accordance with international treaties, regulations and rules of the World Trade Organisation, the Union may apply joint measures to promote exports of goods originating from the Member States to the markets of third parties.

These joint measures shall include, in particular, insurance and export credits, international leasing, promotion of the concept of “good of the Eurasian Economic Union”, introduction of a common system of labelling for the Union, exhibition, fair and exposition activities, advertising and branding activities abroad.

## 2. Customs Tariff Regulation and Non-Tariff Regulation

### Article 42 Common Customs Tariff of the Eurasian Economic Union

1. The Single Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union and the Common Customs Tariff of the Eurasian Economic Union shall be applied on the customs territory of the Union, approved by the Commission and representing the trade policy instruments of the Union.

2. The main objectives of the application of the Common Customs Tariff of the Eurasian Economic Union shall be as follows:

- 1) enabling efficient integration of the Union into the global economy;
- 2) streamlining the commodity structure for goods imported into the customs territory of the Union;

3) maintaining a rational correlation between export and import of goods on the customs territory of the Union;

4) enabling progressive changes in the structure of production and consumption of goods within the Union;

5) support for various economy sectors of the Union.

3. The Common Customs Tariff of the Eurasian Economic Union shall use the following types of import customs duty rates:

1) ad valorem rates expressed as a percentage of the customs value of goods;

2) specific rates determined depending on the physical characteristics in kind of taxable goods (quantity, weight, volume or other characteristics);

3) combined rates having the features of both types specified in subparagraphs 1 and 2 of this paragraph.

4. The rates of import customs duties of the Common Customs Tariff of the Eurasian Economic Union shall be common and shall not be subject to change depending on persons transporting goods across the customs border of the Union, types of transactions and other circumstances, except as provided for in Articles 35, 36 and 43 of this Treaty.

5. In order to ensure the efficient control over the import of goods into the customs territory of the Union, if necessary, seasonal customs duties may be determined with their validity period not exceeding 6 months per each year and such duties shall be applied instead of import customs duties provided under the Common Customs Tariff of the Eurasian Economic Union.

6. Any state which has acceded to the Union shall have the right to apply rates of the import customs duties different from the Common Customs

Tariff rates of the Eurasian Economic Union in accordance with the list of goods and rates approved by the Commission pursuant to an international agreement of accession of such state to the Union.

Any state which has acceded to the Union shall ensure that the goods, to which the reduced import customs duty rates (as compared to the Common Customs Tariff of the Eurasian Economic Union) are applied, shall be used only within its territory and shall take measures to prevent exportation of such goods to other Member States without additional payment of import customs duties in the amount of the difference between the import customs duties calculated at the rates of the Common Customs Tariff of the Eurasian Economic Union and the amounts of import customs duties paid at the importation of goods.

#### Article 43 Tariff exemptions

1. In respect of goods imported into the customs territory of the Union, tariff exemptions may be applied in the form of exemption from import customs duties or reduced rates of import customs duties.

2. Tariff exemptions may not be of an individual nature and shall be applied regardless of the country of origin of goods.

3. Tariff exemptions shall be provided in accordance with Annex 6 to this Treaty.

Article 44  
Tariff Quotas

1. Setting tariff quotas in respect of certain types of agricultural goods originating from third countries and imported into the customs territory of the Union shall be allowed, where like products are produced (mined, grown) on the customs territory of the Union.

2. Relevant import customs duties of the Common Customs Tariff of the Eurasian Economic Union shall be applied to the goods referred to in paragraph 1 of this Article and imported into the customs territory of the Union within a determined tariff quota volume.

3. Setting tariff quotas for certain types of agricultural goods originating from third countries and imported into the customs territory of the Union and distribution of tariff quota volumes shall be carried out in the procedure provided for by Annex 6 to this Treaty.

Article 45  
Powers of the Commission on  
Customs Tariff Regulation

1. The Commission shall:

maintain the Single Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union and the Common Customs Tariff of the Eurasian Economic Union;

determine the rates of import customs duties, including seasonal rates;

determine the cases and conditions for granting tariff exemptions;

set out the application procedure for tariff exemptions;

specify the conditions and application procedure for the common system of tariff preferences of the Union and approve:



a list of developing countries using the common system of tariff preferences of the Union;

a list of least developed countries using the common system of tariff preferences of the Union;

a list of goods originating from developing or least developed countries in respect of which tariff preferences are provided during importation into the customs territory of the Union;

set tariff quotas, distribute tariff quota volume between the Member States, specify the method and procedure for the distribution of tariff quota volume among the participants of foreign trade activities and, if necessary, allocate tariff quotas to third countries or adopt an act enabling the Member States to determine the method and procedure for distributing tariff quota volume among the participants of foreign trade activities and, if necessary, to distribute tariff quota volume between third countries.

2. The list of sensitive goods in respect of which the import customs duties may only be changed by decision of the Council of the Commission shall be approved by the Supreme Council.

#### Article 46 Non-Tariff Regulatory Measures

1. In trade with third countries of the Union, the following common non-tariff regulatory measures shall be applied:

- 1) prohibition of import and/or export of goods;
- 2) quantitative restrictions on import and/or export of goods;
- 3) exclusive right to export and/or import of goods;
- 4) automatic licensing (surveillance) of export and/or import of goods;

5) authorisation-based procedure for import and/or export of goods.

2. Non-tariff regulatory measures shall be introduced and applied on the basis of the principles of transparency and non-discrimination in the procedure according to Annex 7 to this Treaty.

#### Article 47 Unilateral Introduction of Non-Tariff Regulatory Measures

The Member States, when in trade with third countries, may unilaterally determine and implement non-tariff regulatory measures in the procedure provided for by Annex 7 to this Treaty.

### 3. Trade remedies

#### Article 48 General Provisions on Imposition of Trade Remedies

1. In order to defend economic interests of producers in the Union, trade remedies may be imposed on products originating in third countries and imported into the customs territory of the Union in the form of safeguard, anti-dumping and countervailing measures, and in the form of other measures in cases provided for in Article 50 of this Treaty.

2. A decision on application, modification, revocation or non-application of a safeguard, anti-dumping or countervailing measure is to be adopted by the Commission.

3. Safeguards, anti-dumping or countervailing measures shall be applied in accordance with the conditions and procedures set out in Annex 8 to this Treaty.

4. A safeguard, an anti-dumping or countervailing measure shall be applied pursuant to an investigation conducted by the competent authority designated by the Commission as an authority responsible for the investigation (hereinafter - investigating authority) in accordance with the provisions of Annex 8 to this Treaty.

5. Safeguard, anti-dumping and countervailing duties shall be transferred and distributed in accordance with Annex 8 to this Treaty.

#### Article 49

#### Principles of Application of Safeguard, Anti-dumping and Countervailing Measures

6. A safeguard measure may be applied to a product if, pursuant to an investigation, the investigating authority determines that such product is being imported into the customs territory of the Union in such increased quantities (absolute or relative to domestic production of the like or directly competitive product in the Member States), and under such conditions as to cause or threaten to cause serious injury to the domestic industry of the Member States.

7. An anti-dumping measure may be applied to the product that is considered to be dumped if, pursuant to an investigation, the investigating authority determines that imports of such product into the customs territory of the Union cause or threaten to cause material injury to a domestic industry of the Member States or materially retard the establishment of a domestic industry of the Member States.

8. A countervailing measure may be applied to an imported product that was granted a specific subsidy from an exporting third country on the

manufacture, production, export or transportation of the product if, pursuant to an investigation, the investigating authority determines that imports of such product into the customs territory of the Union cause or threaten to cause material injury to a domestic industry of the Member States or materially retard the establishment of a domestic industry of the Member States.

9. For the purposes of application of trade remedies the domestic industry of the Member States is understood to mean domestic producers as a whole of the like products (for the purposes of anti-dumping and countervailing duty investigations) or the like or directly competitive products (for the purposes of safeguard investigations) or those of them whose collective output of the products constitutes a major proportion of the total domestic production in the Member States of the like products or like or directly competitive products, respectively, but not less than 25 percent.

#### Article 50 Other Trade Defence Instruments

10. To offset negative impact of imports from a Third Party on producers of the Member States an international treaty establishing a free trade regime between the Union and such Third Party may provide for the right to impose bilateral trade defence instruments other than safeguard, anti-dumping and countervailing measures, including measures with respect to agricultural products.

11. The decision on imposition of such measures is to be adopted by the Commission.

Section X  
TECHNICAL REGULATION

Article 51  
General Principles of Technical Regulation

1. Technical regulation within the Union shall be carried out in accordance with the following principles:

1) determination of mandatory requirements to products or to products and product-related requirements to design (including research), manufacture, construction, installation, commissioning, operation, storage, transportation, sale and disposal;

2) determination of common mandatory requirements in technical regulations of the Union or national mandatory requirements in the legislation of the Member States to the products included in the common list of products subject to mandatory requirements within the Union (hereinafter “the common list”);

3) application and enforcement of technical regulations of the Union in the Member States without exceptions;

4) compliance of technical regulations within the Union with the level of economic development of the Member States and the level of scientific and technological development;

5) independence of accreditation authorities, conformity authorisation authorities and supervision (control) authorities of the Member States from manufacturers, sellers and purchasers, including consumers;

6) uniformity of researches (test) rules and methods and all measurements during mandatory conformity assessment procedures;

7) uniformity in the application of the requirements of the Union's technical regulations, regardless of types and/or specific features of transactions;

8) inadmissibility of any restrictions of competition in conformity assessments;

9) state control (supervision) over the observance of technical regulations of the Union based on the harmonisation of the legislation of the Member States;

10) voluntary application of standards;

11) development and application of interstate standards;

12) harmonisation of interstate standards with international and regional standards;

13) uniformity of rules and procedures for mandatory conformity assessments;

14) ensuring harmonisation of the legislation of the Member States with regard to determining liability for violations of mandatory requirements to products, as well as rules and procedures of mandatory conformity assessments;

15) implementation of agreed policy for ensuring uniformity of measurements within the Union;

16) preventing the establishment of redundant barriers to business activities;

17) establishing transitional provisions for a phase transition to new requirements and documents.

2. The provisions of this Section shall not be extended to establish and apply sanitary, veterinary-sanitary and phytosanitary quarantine measures.

3. The rules and procedures of technical regulation within the Union shall be established in accordance with Annex 9 to this Treaty.

4. Agreed policy for ensuring uniformity of measurements within the Union shall be carried out in accordance with Annex 10 to this Treaty.

## Article 52 Technical Regulations and Standards of the Union

1. Technical regulations of the Union shall be adopted in order to protect life and/or health of people, property, environment, life and/or health of animals and plants, prevent consumer misleading actions and ensure energy efficiency and resource conservation in the Union.

It shall not be allowed to adopt technical regulations of the Union for any other purposes.

The procedure for the development and adoption of technical regulations of the Union, as well as the procedure for introducing amendments thereto and cancellation thereof shall be determined by the Commission.

Technical regulations of the Union or national mandatory requirements shall only apply to products included in the common list approved by the Commission.

The procedure for establishing and maintaining the common list shall be approved by the Commission.

In their legislation the Member States shall not allow the determination of any mandatory requirements to products not included in the common list.

2. Technical regulations of the Union shall have direct effect on the territory of the Union.

Introduction procedures for the adopted technical regulations of the Union and transitional provisions shall be determined by technical regulations of the Union and/or acts of the Commission.

3. In order to meet the requirements of the technical regulations of the Union and assess the conformity with its technical regulations, international, regional (interstate) standards may be applied on a voluntary basis and, in their absence (prior to the adoption of regional (interstate) standards), national (state) standards of the Member States may apply.

### Article 53

#### Circulation of Products and Validity of Technical Regulations of the Union

1. All products released into circulation on the territory of the Union shall be safe.

The rules and procedures for ensuring the safety and circulation of products the requirements for which are not determined by the technical regulations of the Union shall be determined under an international treaty within the Union.

2. Products subject to valid technical regulations of the Union shall be released for circulation on the territory of the Union provided that they have completed the required conformity assessment procedures as determined by the technical regulations of the Union.

The Member States shall ensure the circulation of products conforming to the requirements of the technical regulations of the Union on its territory without introduction of any additional requirements to such products in excess of those set out in the technical regulations of the Union and without any additional conformity assessment procedures.



The provisions of the second indent of this paragraph shall not apply to sanitary, veterinary-sanitary and phytosanitary quarantine measures.

3. Starting from the date of entry into force of the technical regulations of the Union on the territories of the Member States, respective mandatory requirements to products or products and product-related requirements to design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal, as determined by the legislation of the Member States or acts of the Commission, shall be effective only to the extent specified in the transitional provisions and shall become invalid upon expiration of the transitional provisions of the technical regulations of the Union and/or acts of the Commission, shall not apply to the release of products for circulation, conformity assessment to technical regulations, state control (supervision) over the observance of the technical regulations of the Union.

The provisions in the first indent of this paragraph shall not apply to sanitary, veterinary-sanitary and phytosanitary quarantine measures.

Mandatory requirements to products or products and product-related requirements to design (including research), manufacture, construction, installation, commissioning, operation, storage, transportation, sale and disposal, as determined by acts of the Commission before the effective date of the technical regulations of the Union, shall be included in the technical regulations of the Union.

4. State control (supervision) over the observance of the technical regulations of the Union shall be carried out in accordance with the procedure determined by the legislation of the Member States.

Principles and approaches to the harmonisation of the legislation of the Member States in the sphere of state control (supervision) over the observance of the technical regulations of the Union shall be determined under an international treaty within the Union.

5. Liability for failure to comply with the technical regulations of the Union, as well as for any violation of conformity assessment procedures with regard to the technical regulations of the Union, shall be determined in accordance with the legislation of the Member States.

#### Article 54 Accreditation

1. Accreditation within the Union shall be carried out in accordance with the following principles:

- 1) harmonisation of rules and approaches in the field of accreditation with international standards;
- 2) ensuring voluntary accreditation, transparency and accessibility of information on accreditation procedures, rules and results;
- 3) ensuring objectivity, impartiality and jurisdiction of accreditation authorities of the Member States;
- 4) ensuring equal accreditation conditions for all applicants and confidentiality of information obtained during the accreditation;
- 5) inadmissibility for a single authority of a Member State to combine the accreditation powers with the powers of state control (supervision), with the exception of monitoring the activities of accredited conformity assessment authorities of the Member States (including certification authorities, testing laboratories (centres));

6) inadmissibility for a single authority of a Member State to combine the accreditation and conformity assessment powers.

2. Accreditation of conformity assessment authorities shall be carried out by accreditation authorities of the Member States duly authorised under the legislation of the Member States to conduct these activities.

3. An accreditation authority of a Member State shall not compete with accreditation authorities of other Member States.

In order to prevent competition between accreditation authorities of the Member States, a conformity assessment authority of a Member State shall apply for accreditation to the accreditation authority of the Member State on the territory of which it is registered as a juridical person.

When a conformity assessment authority registered as a juridical person on the territory of another Member State applies to the accreditation authority of a Member State for the purpose of accreditation, this accreditation authority shall inform the accreditation authority of the Member State on the territory of which the conformity assessment authority is registered. In this case it shall be allowed for the accreditation to be conducted by accreditation authorities of other Member States, if the accreditation authority of the Member State on the territory of which this conformity assessment authority is registered does not carry out accreditation in the required field. In this connection, the accreditation authority of the Member State on the territory of which this conformity assessment authority is registered shall be entitled to participate as an observer.

4. Accreditation authorities of the Member States shall perform mutual comparative assessments in order to achieve equivalence of all procedures applied.

Results of accreditation of the conformity assessment authorities of the Member States shall be recognised in accordance with Annex 11 to this Treaty.

#### Article 55

##### Elimination of Technical Barriers in Mutual Trade with Third Countries

Procedure and conditions for the elimination of technical barriers in mutual trade with third countries shall be determined under an international treaty within the Union.

#### Section XI

##### SANITARY, VETERINARY-SANITARY AND PHYTOSANITARY QUARANTINE MEASURES

#### Article 56

##### General Application Principles for Sanitary, Veterinary-Sanitary and Phytosanitary Quarantine Measures

1. Sanitary, veterinary-sanitary and phytosanitary quarantine measures shall be applied based on scientifically justified principles and only to the extent required to protect life and health of humans, animals and plants.

Sanitary, veterinary-sanitary and phytosanitary quarantine measures applied within the Union shall be based on international and regional standards, guidelines, and/or the recommendations, except when, based on appropriate scientific studies, any sanitary, veterinary-sanitary and phytosanitary quarantine measures, which ensure a higher level of sanitary, veterinary-sanitary or phytosanitary quarantine protection than measures based on relevant international and regional standards, guidelines and/or recommendations, are introduced.

2. In order to ensure the sanitary and epidemiological welfare of the population, as well as veterinary-sanitary and phytosanitary quarantine safety within the Union, agreed policy shall be conducted in the sphere of application of sanitary, veterinary-sanitary and phytosanitary quarantine measures.

3. Agreed policy shall be implemented through the Member States' joint development, adoption and implementation of international treaties and acts of the Commission in the application of sanitary, veterinary-sanitary and phytosanitary quarantine measures.

4. Each Member State shall have the right to develop and apply temporary sanitary, veterinary-sanitary and phytosanitary quarantine measures.

The communication procedure for authorised authorities of the Member States in the introduction of temporary sanitary, veterinary-sanitary and phytosanitary quarantine measures shall be approved by the Commission.

5. Agreed approaches to the identification, registration and traceability of animals and products of animal origin shall be applied in accordance with acts of the Commission.

6. The application of sanitary, veterinary-sanitary and phytosanitary quarantine measures, and interaction of authorised authorities of the Member States in the field of sanitary, veterinary-sanitary and phytosanitary quarantine measures shall be carried out according to Annex 12 to this Treaty.

Article 57  
Application of Sanitary Measures

1. Sanitary measures shall be applied to persons, vehicles, and products subject to sanitary and epidemiological supervision (control) included in the common list of products (goods) subject to state sanitary and epidemiological supervision (control) in accordance with acts of the Commission.

2. Common sanitary, epidemiological and hygienic requirements and procedures shall be determined for products (goods) subject to state sanitary and epidemiological supervision (control).

Common sanitary, epidemiological and hygienic requirements to products (goods) in respect of which technical regulations of the Union are developed shall be included in the technical regulations of the Union in accordance with acts of the Commission.

3. The procedure for developing, approving, modifying and applying common sanitary, epidemiological and hygienic requirements and procedures shall be approved by the Commission.

4. In order to ensure the sanitary and epidemiological welfare of the population, state sanitary and epidemiological supervision (control) shall be conducted by authorised authorities in the field of sanitary and epidemiological welfare of the population in accordance with the legislation of the Member States and acts of the Commission.

The authorised authorities in the field of sanitary and epidemiological welfare of the population may exercise state supervision (control) over the observance of the technical regulations of the Union within the state sanitary

and epidemiological supervision (control) in accordance with the legislation of the Member States.

## Article 58 Application of Veterinary-Sanitary Measures

1. Veterinary-sanitary measures shall be applied to goods (as well as goods for personal use) included in the common list of goods subject to veterinary control (supervision) approved by the Commission, and to items subject to veterinary control (supervision), imported into and moved through the customs territory of the Union.

2. Common veterinary (veterinary-sanitary) requirements approved by the Commission shall be applied to goods and items subject to veterinary control (supervision).

3. In order to prevent the entry and spread of contagious animal diseases, including those common to humans and animals, and goods not complying with the common veterinary (veterinary-sanitary) requirements, veterinary control (supervision) shall be exercised in respect of goods (as well as goods for personal use) subject to veterinary control (supervision) and to items subject to veterinary control (supervision), in accordance with acts of the Commission.

The interaction between the Member States in prevention, diagnosis, localisation and elimination of foci of extremely dangerous, quarantine and zoonotic diseases of animals shall be carried out in the procedure determined by the Commission.

4. Authorised veterinary authorities shall conduct veterinary control (supervision) of goods subject to veterinary control (supervision) moving

through the customs borders of the Union at checkpoints across the state borders of the Member States or in other places as may be determined by the legislation of the Member States and these checkpoints and other places shall be equipped with veterinary inspection (supervision) facilities in accordance with the legislation of the Member States.

5. Each batch of goods subject to veterinary control (supervision) shall be imported into the customs territory of the Union in accordance with the common veterinary (veterinary-sanitary) requirements approved by the Commission and subject to the presence of a permit issued by the authorised veterinary authority of the Member State into the territory of which the goods are imported and/or a veterinary certificate issued by the competent authority of the country of origin of the goods.

6. Goods subject to veterinary control (supervision) shall be transported from the territory of one Member State to the territory of another Member State in accordance with the common veterinary (veterinary-sanitary) requirements. These goods shall be accompanied by a veterinary certificate, unless otherwise determined by the Commission.

The Member States shall mutually recognise veterinary certificates issued by authorised veterinary authorities and having a common form as approved by the Commission.

7. The basic principle for ensuring safety of goods subject to veterinary control (supervision) during their manufacture, processing, transportation and/or storage in third countries shall imply audit of the foreign official supervision system.



Authorised veterinary authorities shall conduct audits of foreign official supervision and inspection facilities subject to veterinary control (supervision) in accordance with acts of the Commission.

8. The Member States shall be entitled to develop and implement temporary veterinary (veterinary-sanitary) requirements and measures in case any official information is received from the relevant international organisations, the Member States and third countries as to the deterioration of the epizootic situation on the territories of third countries or the Member States.

In case of receipt of such information, but in the absence of sufficient scientific evidence or upon impossibility of its timely presentation, the Member States may apply urgent veterinary-sanitary measures.

## Article 59 Phytosanitary Quarantine Measures

1. Phytosanitary quarantine measures shall be applied to products included in the list of quarantineable products (quarantineable freights, quarantineable materials, quarantineable goods) subject to phytosanitary quarantine control (supervision) at the customs border of the Union and on the customs territory of the Union (hereinafter “the list of quarantineable products”), quarantine items included in the common list of quarantine items of the Union, as well as quarantineable items.

2. Phytosanitary quarantine control (supervision) on the customs territory of the Union and at the customs border of the Union shall be carried out in respect of the products included in the list of quarantineable products,

quarantine items included in the common list of quarantine items of the Union, as well as quarantineable items.

3. The list of quarantineable products, the common list of quarantine items of the Union and common phytosanitary quarantine requirements shall be approved by the Commission.

## Section XII

### CONSUMER PROTECTION

#### Article 60

#### Consumer Protection Safeguards

1. Consumer rights and protection thereof shall be guaranteed by the consumer protection legislation of the Member States, as well as by this Treaty.

2. Nationals of a Member State, as well as other persons residing in its territory, shall enjoy on the territories of the other Member States the same legal protection in the field of consumer protection as the nationals of the other Member States and shall have the right to apply to state and consumer public protection and other organisations, as well as to courts and/or conduct any other proceedings on the same conditions as nationals of the other Member States.

#### Article 61

#### Consumer Protection Policy

1. The Member States shall conduct agreed policy in the sphere of consumer protection aimed at creating equal conditions for the nationals of

the Member States in order to protect their interests against dishonest activities of economic entities.

2. Agreed policy in the sphere of consumer protection shall be ensured in accordance with this Treaty and the legislation of the Member States concerning consumer protection based on the principles according to Annex 13 to this Treaty.

## PART THREE COMMON ECONOMIC SPACE

### Section XIII MACROECONOMIC POLICY

#### Article 62 Main Directions of Agreed Macroeconomic Policy

1. Agreed macroeconomic policy shall be implemented within the Union providing for the development and implementation of joint actions by the Member States aimed at achieving their balanced economic development.

2. Coordination of the implementation by the Member States of the agreed macroeconomic policy shall be carried out by the Commission in accordance with Annex 14 to this Treaty.

3. The main directions of the agreed macroeconomic policy of the Member States shall include:

1) ensuring sustainable development of the economies of the Member States using the integration potential of the Union and competitive advantages of each Member State;

2) establishing common operation principles for the economies of the Member States and ensuring their effective interaction;

3) creating conditions to increase internal sustainability of the economies of the Member States, including their macroeconomic stability and resistance to external influences;

4) development of common principles and guidelines to predict social and economic development of the Member States.

4. Implementation of the main directions of the agreed macroeconomic policy shall be carried out in accordance with Annex 14 to this Treaty.

### Article 63

#### Main Macroeconomic Indicators Determining Sustainability of Economic Development

The Member States shall form their economic policy using the following quantitative values of macroeconomic indicators determining sustainability of their economic development:

annual deficit of the consolidated budget of a state-controlled sector shall not exceed 3 percent of the gross domestic product;

debt of a state-controlled sector shall not exceed 50 percent of the gross domestic product;

inflation rate (consumer price index) per annum (December to December of the previous year, in percent) shall exceed the inflation rate in the Member State with the lowest value by not more than 5 %.

Section XIV  
MONETARY POLICY

Article 64  
Objectives and Principles of Agreed Monetary Policy

1. In order to deepen their economic integration, develop cooperation in the monetary sphere, ensure free movement of goods, services and capital on the territories of the Member States, enhance the role of national currencies of the Member States in foreign trade and investment operations, as well as to ensure mutual convertibility of their currencies, the Member States shall develop and implement agreed monetary policy based on the following principles:

1) phased harmonisation and convergence of approaches to the formation and implementation of their monetary policy to the extent corresponding to the current macroeconomic integration and cooperation requirements;

2) establishment of the required organisational and legal conditions at the national and interstate levels for the development of integration processes in the monetary sphere, as well as for the coordination and harmonisation of monetary policy;

3) inapplicability of any actions in the monetary sphere that may adversely affect the development of integration processes and, when such actions are inevitable, ensuring minimisation of their consequences;

4) implementation of economic policy aimed at increasing confidence in the national currencies of the Member States, both in the internal currency market of each Member State and in international currency markets.

2. In order to conduct agreed monetary policy, the Member States shall implement measures in accordance with Annex 15 to this Treaty.

3. Exchange rate policy shall be coordinated by an independent authority consisting of the heads of national (central) banks of the Member States, with its activities determined under an international treaty within the Union.

4. Agreed approaches of the Member States to the regulation of currency relations and liberalisation measures shall be determined under an international treaty within the Union.

## Section XV

### TRADE IN SERVICES, INCORPORATION, ACTIVITIES AND INVESTMENTS

#### Article 65

#### Subject and Purpose of Regulation, Sphere of Application

1. The purpose of this Section is to ensure freedom of trade in services, incorporation, activities and investments within the Union in accordance with the terms of this Section and Annex 16 to this Treaty.

The legal basis for the regulation of trade in services, incorporation, activities and investments in the Member States shall be specified in Annex 16 to this Treaty.

2. The provisions of this Section shall be applied to all measures taken by the Member States with regard to the delivery and receipt of services, as well as incorporation, activities and investments.

The provisions of this Section shall not apply:

to state (municipal) procurement transactions governed by Section XXII of this Treaty;

to services delivered and activities carried out as part of the functions of the state government.

3. Services covered by Sections XVI, XIX, XX and XXI of this Treaty shall be governed by the provisions of these Sections respectively. The provisions of this Section shall be applied insofar as they do not conflict with the above Sections.

4. Specific features of legal relations arising in connection with trade in telecommunication services shall be determined under the Procedure for Trade in Telecommunication Services (Annex 1 to Annex 16 to this Treaty).

5. Specific features of entry, exit, stay and employment of natural persons shall be governed by Section XXVI of this Treaty insofar as they do not conflict with this Section.

6. Nothing in this Section shall be construed as:

1) requiring any Member State to provide any information the disclosure of which is considered by such state as contrary to its essential security interests;

2) preventing any Member State from taking any action it deems necessary to protect its essential security interests through the adoption of legislation, including:

with regard to the supply of services, directly or indirectly, for the purpose of supplying a military institution;

with regard to fissionable and fusionable materials or materials they are derived from;

any action taken in time of war or other emergency in international relations;

3) preventing any Member State from taking any action required to fulfil its obligations under the Charter of the United Nations in order to maintain international peace and security.

7. No provision of this Section shall prevent the Member States from taking or adopting any measures:

1) required to protect public morals or maintain public order. Exceptions with regard to the public order may only be applied in cases where there is a genuine and sufficiently serious threat to one of the fundamental interests of the society;

2) required to protect life or health of people, animals or plants;

3) required to comply with the legislation of the Member States that is not contrary to the provisions of this Section, including those related to:

the prevention of misleading and fraudulent practices or consequences of non-compliance with civil law contracts;

the protection of privacy of individuals in processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

security;

4) inconsistent with paragraphs 21 and 24 of Annex 16 to this Treaty, provided that the difference in the actually provided treatment is aimed at ensuring equitable or effective imposition of direct taxes and their collection from nationals of another Member State or third states in respect of trade in services, creation and management, and that such measures shall not conflict with the provisions of international treaties of the Member States;



5) inconsistent with paragraphs 27 and 29 of Annex 16 to this Treaty, provided that the difference in treatment is the result of an agreement on taxation, including that on the avoidance of double taxation, to which the respective Member State is a participant.

8. No measures stipulated in paragraph 7 of this Article shall lead to arbitrary or unjustifiable discrimination between the Member States or any disguised restrictions on trade in services, as well as on incorporation, activities and investments.

9. If a Member State maintains restrictions on trade in services, as well as on the incorporation, activities and investments, in respect of a third state, nothing in this Section shall be construed as obliging this Member State to extend the provisions of this Section to persons from another Member State if such persons belong to or are controlled by the said third state, and the extension of the provisions of this Section would lead to circumvention or violation of these prohibitions and restrictions.

10. A Member State may not extend its obligations assumed in accordance with this Section on a person from another Member State in respect of trade in services, incorporation, activities and investments, if it is proven that this person of another Member State does not conduct any significant business operations on the territory of that (another) Member State and belongs to or is controlled by a person from the first Member State or a third state.

## Article 66

## Liberalisation of Trade in Services, Incorporation, Activities and Investments

1. The Member States shall not introduce new discriminatory measures with regard to the trade in services, incorporation and activities of persons of other Member States as compared with the regime in force at the date of entry into force of this Treaty.

2. In order to ensure freedom of trade in services, incorporation, activities and investments, the Member States shall conduct gradual liberalisation of mutual conditions of trade in services, incorporation, activities and investments.

3. The Member States shall seek to establish and ensure the functioning of a common market for services as set out in paragraphs 38-43 of Annex 16 to this Treaty for the maximum number of service sectors.

## Article 67

Liberalisation Principles for Trade in Services, Incorporation,  
Activities and Investments

1. The liberalisation of trade in services, incorporation, activities and investments shall be conducted with due account of international principles and standards through the harmonisation of the legislation of the Member States and organizing mutual administrative cooperation between the competent authorities of the Member States.

2. In the process of liberalisation of trade in services, incorporation, activities and investments, the Member States shall be guided by the following principles:

1) optimisation of internal control: gradual simplification and/or elimination of excessive internal regulations, including licensing requirements and procedures for suppliers, service recipients, persons engaged in incorporation or activities, and investors with account of the best international regulation practices for specific service sectors and, when such practices are unavailable, by selecting and applying the most advanced models of the Member States;

2) proportionality: requirement for and sufficient levels of harmonisation of the legislation of the Member States and mutual administrative cooperation for the efficient functioning of the services market, incorporation, activities, or investments;

3) mutual benefit: liberalisation of trade in services, incorporation, activities and investments on the basis of equitable sharing of benefits and obligations with account of the sensitivity of service sectors and types of activities for each Member State;

4) coherence: adoption of any measures relating to the trade in services, incorporation, activities and investments, including harmonisation of the legislation of the Member States and administrative cooperation based on the following:

no deterioration of mutual access conditions shall be allowed for any service sector and type of activities as compared to the conditions prevailing as of the date of signing this Treaty and the terms and conditions set forth in this Treaty;

gradual reduction of restrictions, exemptions, additional requirements and conditions stipulated by individual national lists of restrictions, exemptions, additional requirements and conditions to be approved by the

Supreme Council, referred to in indent 4 of paragraph 2 and paragraphs 15-17, 23, 26, 28, 31, 33 and 35 of Annex 16 to this Treaty;

5) economic feasibility: as part of the creation of a common market of services as stipulated in paragraphs 38-43 of Annex 16 to this Treaty, liberalisation of trade in services on a priority basis with regard to service sectors most intensely affecting the cost, competitiveness and/or amounts of goods manufactured and sold in the internal market of the Union.

## Article 68 Administrative Cooperation

1. The Member States shall assist each other in ensuring efficient cooperation between competent authorities on matters governed by this Section.

In order to ensure efficient cooperation, including the exchange of information, the competent authorities of the Member States shall conclude agreements.

2. Administrative cooperation shall include:

1) prompt information exchange between competent authorities of the Member States with regard to both entire service sectors and specific market participants;

2) establishment of a mechanism to prevent violations of the rights of service providers and legitimate interests of consumers, *bona fide* market participants, as well as public (state) interests.

3. Competent authorities of a Member State may request competent authorities of other Member States, as under the agreements concluded, to provide any information related to the jurisdiction of the latter and required

for the effective implementation of the requirements in this Section, including information regarding:

1) persons of such other Member States that have incorporated or are supplying services on the territory of the first Member State and, in particular, information confirming that such persons are actually incorporated in their territories and that, according to the competent authorities, these persons are engaged in entrepreneurial activities;

2) permits issued by the competent authorities and types activities for which the permits have been issued;

3) administrative measures, criminal and legal sanctions and insolvency (bankruptcy) recognition decisions adopted by the competent authorities in relation to respective persons and directly affecting the jurisdiction or professional reputation of such persons. Competent authorities of a Member State shall submit any requested information to requesting competent authorities of another Member State, including that on liability incidents for persons having completed incorporation or supplying services on the territory of the first Member State.

4. Administrative cooperation of competent authorities of the Member States (including those exercising control and supervision functions in respect of activities) shall be carried out in order to:

1) create an efficient system to protect the rights of beneficiaries of one Member State at delivery of these services by a supplier from another Member State;

2) execute tax-related and other obligations by suppliers and recipients of services;

3) eliminate unfair business practices;

4) ensure reliability of statistical data on the amounts of services for the Member States.

5. If a Member State becomes aware of any actions of service providers, persons engaged in incorporation or activities or investors that may harm the health or safety of people, animals, plants or the environment on the territory of that Member State or on the territories of other Member States, the first Member State shall inform all Member States and the Commission thereof as soon as possible.

6. The Commission shall assist in the creation and participate in the functioning of information systems of the Union on the matters governed by this Section.

7. The Member States may inform the Commission of any failure of other Member States to fulfil their obligations under this Article.

## Article 69 Transparency

1. Each Member State shall ensure transparency and availability of its legislation on matters governed by this Section.

For this purposes, all regulatory legal acts of a Member State that affect or may affect the matters governed by this Section shall be published in an official source and, if possible, also on the corresponding website on the information and telecommunications network “Internet” (hereinafter “the Internet”) so that any person whose rights and/or obligations may be affected by such regulatory legal acts could become familiar with them.

2. Regulatory legal acts of the Member States referred to in paragraph 1 of this Article shall be published within time limits ensuring legal certainty

and responding to reasonable expectations of persons whose rights and/or obligations may be affected by these regulatory legal acts, but in any case before their effective dates (entry into force).

3. The Member States shall ensure preliminary publication of draft regulatory legal acts specified in paragraph 1 of this Article.

The Member States shall post on the Internet, on official websites of governmental agencies responsible for development of draft regulatory legal act or on specially created websites for draft regulations, all information regarding the procedures for filing individual comments and suggestions to such acts, as well as information on the duration of public discussion of draft regulatory legal acts in order to enable all interested persons to send their comments and suggestions.

Draft regulatory legal acts shall be generally published within 30 calendar days before the date of their adoption. Such preliminary publication shall not be required in exceptional cases requiring rapid response, as well as in cases where preliminary publication of draft regulatory legal acts may prevent their execution or otherwise be contrary to the public interest.

All comments and/or suggestions received by the competent authorities of the Member States during public discussions shall be taken into account to the extent possible when finalizing draft regulatory legal acts.

4. Publications of (draft) regulatory legal acts referred to in paragraph 1 of this Article shall include explanation of the purpose of their adoption and implementation.

5. The Member States shall establish mechanisms for responding to written or electronic requests from any persons regarding any acting and/or planned regulatory legal acts referred to in paragraph 1 of this Article.

6. The Member States shall ensure consideration of appeals from persons from other Member States on matters governed by this Section, in accordance with their legislation in the procedure determined for their own nationals.

## Section XVI REGULATION OF FINANCIAL MARKETS

### Article 70 Objectives and Principles of Regulation of Financial Markets

1. The Member States shall conduct agreed regulation of financial markets within the Union in accordance with the following objectives and principles:

1) deepening economic integration of the Member States in order to create a common financial market within the Union and to ensure non-discriminatory access to the financial markets of the Member States;

2) ensuring guaranteed and effective protection of the rights and legitimate interests of consumers of financial services;

3) enabling mutual recognition of licenses in the banking and insurance sectors, as well as in the service sector in the securities market for securities issued by authorised authorities of one Member State on the territory of other Member States;

4) identification of approaches to risk management in the financial markets of the Member States in accordance with international standards;



5) determination of requirements for banking and insurance activities and activities in the securities market (prudential requirements);

6) determination of the procedure for exercising supervision over the activities of financial market participants;

7) ensuring transparency of activities of financial market participants.

2. In order to enable free movement of capital in the financial market, the Member States shall apply the following basic forms of cooperation, including:

1) exchange of information, including confidential information, between authorised authorities of the Member States on the management and development of banking and insurance operations and activities in the securities market, control and supervision in accordance with an international treaty within the Union;

2) carrying out agreed activities to discuss current and potential problems in the financial markets and to develop proposals to address them;

3) carrying out by competent authorities of the Member States mutual consultations regarding the regulation of banking and insurance operations and activities in the securities market.

3. In order to achieve the objectives set out in paragraph 1 of this Article, the Member States shall, in accordance with an international treaty within the Union and with account of Annex 17 to this Treaty and Article 103 of this Treaty, harmonise their legislation on financial markets.

Section XVII  
TAXES AND TAXATION

Article 71  
Principles of Cooperation between the Member States  
in Taxation

1. All goods imported from the territory of one Member State to the territory of another Member State shall be subject to indirect taxation.

2. In mutual trade, the Member States shall levy taxes and other fees and charges in such a way to ensure that taxation in the Member State where goods of other Member States are sold is no less favourable than the taxation applied by this Member State under the same circumstances in respect of like products originating from its territory.

3. The Member States shall determine the directions, forms and procedures for the harmonisation of legislation in respect of taxes affecting their mutual trade so as to prevent violation of any terms of competition and interference with the free movement of goods, works and services at the national level or at the level of the Union, including:

1) harmonisation (convergence) of excise tax rates for the most sensitive excisable goods;

2) further improvement of the system of collection of value added taxes in mutual trade (including the use of information technology).

Article 72  
Principles of Indirect Taxation  
in the Member States

1. Indirect taxes in mutual trade in goods shall be collected by the country of destination with the application of zero value added tax rate and/or exemption from excise duty on the export of goods and indirect taxation on import.

Collection of indirect taxes and the mechanism for controlling their payment on export and import of goods shall be carried out in the procedure according to Annex 18 to this Treaty.

2. Indirect taxes on the performance of works and provision of services shall be collected in the Member State the territory of which is recognised as the place of sale of these works and services.

Indirect taxes on the performance of works and provision of services shall be collected in the procedure provided for by Annex 18 to this Treaty.

3. Tax authorities of the Member States shall exchange all information required to ensure complete payment of indirect taxes in accordance with an international interagency treaty and this treaty shall determine as well the procedure for information exchange, the application form for import of goods and payment of indirect taxes, application filling regulations and requirements to the exchange format.

4. When importing goods into the territory of one Member State from the territory of another Member State, indirect taxes shall be levied by tax authorities of the Member State to the territory of which goods are imported, unless otherwise determined by the legislation of that Member State with

regard to goods subject to marking with excise stamps (accounting and control marks and labels).

5. The rates of indirect taxes in mutual trade in goods imported into the territory of a Member State shall not exceed the rates of indirect taxes imposed on like products sold on the territory of that Member State.

6. Indirect taxes shall not be levied on import into the territory of a Member State of:

1) goods that are, in accordance with the legislation of that Member State, not subject to taxation (exempt from tax) on import into its territory;

2) goods imported into the territory of a Member State by natural persons, not for the purpose of business activities;

3) goods imported into the territory of one Member State from the territory of another Member State in connection with their transfer within a single juridical person (the legislation of a Member State may require mandatory notification of tax authorities of the import (export) of such goods).

### Article 73 Personal Income Taxes

If, in accordance with its legislation and provisions of international treaties, a Member State is entitled to levy the income tax from a tax resident (permanent resident) of another Member State in connection with his/her employment in the first Member State, such income tax shall be levied in the first Member State starting from the first day of employment at the tax rates stipulated for such income of natural persons - tax residents (permanent residents) of the first Member State.

The provisions of this Article shall be applied to all taxable income derived from employment by nationals of the Member States.

## Section XVIII

### GENERAL PRINCIPLES AND RULES OF COMPETITION

#### Article 74

#### General provisions

1. This Section determines the general principles and rules of competition ensuring detection and elimination of anti-competitive behaviour on the territories of the Member States and actions producing a negative impact on competition in transboundary markets on the territory of two or more Member States.

2. The provisions of this Section shall be applied to relations connected to the implementation of competition (antitrust) policy within the Member States and to relations with economic entities (market participants) of the Member States which produce or may produce an adverse effect on competition in transboundary markets on the territories of two or more Member States. The criteria of transboundary markets required for determining the jurisdiction of the Commission shall be determined by decision of the Supreme Council.

3. The Member States may determine in their legislation any further prohibitions, as well as additional requirements and restrictions with regard to the prohibitions set out in Articles 75 and 76 of this Treaty.

4. The Member States shall conduct agreed competition (antitrust) policy in relation to actions of economic entities (market participants) of third

countries, if such actions may negatively affect the competition in commodity markets of the Member States.

5. Nothing in this Section shall be construed so as to prevent any Member State from taking any action it deems necessary to protect the fundamental interests of national defence or national security.

6. The provisions of this Section shall be applied to the natural monopoly entities with account of the specific features provided for by this Treaty.

7. The provisions of this Section shall be implemented in accordance with Annex 19 to this Treaty.

#### Article 75 General Principles of Competition

1. The Member States shall apply their rules of competition (antitrust) legislation to economic entities (market participants) of the Member States in an equitable manner and to the equal extent irrespective of the legal form and place of registration of such economic entities (market participants) on equal terms.

2. The Member States shall, in particular, determine in their legislation prohibitions of:

1) agreements between state government authorities, local authorities and other agencies or organisations exercising their functions or agreements between them and economic entities (market participants), if such agreements result or can lead to any prevention, restriction or elimination of competition, except in cases provided for by this Treaty and/or other international treaties of the Member States;

2) provision of state or municipal preferences, except as provided by the legislation of the Member States, and with account of the specifications set out in this Treaty and/or other international treaties of the Member States.

3. The Member States shall take effective measures to prevent, detect and combat actions (omission) specified in sub-paragraph 1 of paragraph 2 of this Article.

4. The Member States shall, in accordance with their legislation, ensure efficient control over the economic concentration to the extent required for the protection and development of competition on the territory of each Member State.

5. Each Member State shall ensure availability of a state government authority in charge of the implementation and/or enforcement of competition (antitrust) policy, which implies, among other things, vesting such authority with the powers to monitor the compliance with the prohibition of anti-competitive practices and unfair competition and economic concentration, as well as to prevent and to detect violations of competition (antitrust) legislation, to take measures to stop these violations and prosecute such violations (hereinafter “the authorised authority of the Member State”).

6. The Member States shall determine in their legislation penalties for economic entities (market participants) and public officials with regard to all anti-competitive behaviour, based on the principles of efficiency, proportionality, security, inevitability and certainty, and shall ensure control over their enforcement. The Member States recognise that in case of penalties, the highest penalty rates shall be set for violations representing the greatest threat to competition (anti-competitive agreements, abuse of dominance by economic entities (market participants) of the Member States).

Penalties calculated on the basis of the income generated by the violator in selling goods or on the cost of purchase of goods by the violator in the market where the violation occurred shall be preferred

7. The Member States shall, in accordance with their legislation, ensure permanent informational transparency of their current competition (antitrust) policy, including by posting information on activities of their authorised authorities in the media and on the Internet.

8. Authorised authorities of the Member States shall, in accordance with their state legislation and this Treaty, interact with each other by sending notices and requests for information, holding consultations, sending notifications on investigations (examination of cases) affecting the interests of another Member State, conducting investigations (examination of cases) by request of an authorised authority of any Member State and providing information on their results.

## Article 76 General Rules of Competition

1. Any actions (omission) of dominant economic entities (market participants) that result or may result in prevention, restriction or elimination of competition and/or infringement of interests of other persons shall be prohibited, including the following actions (omission):

- 1) setting and maintaining monopolistically high or low prices of goods;
- 2) withdrawal of goods from circulation resulting in an increase in the price of such goods;



3) forced imposition of any economically or technologically unjustified contract conditions to contractors that are unfavourable for the latter or not related to the subject matter of the agreement;

4) economically or technologically unjustified reduction or cessation of production of goods, if the goods are in demand or orders for their delivery have been placed and their production is feasible, as well as if such reduction or cessation of production of the goods is not explicitly provided for by this Treaty and/or other international treaties of the Member States;

5) economically or technologically unjustified refusal to enter or evasion from concluding agreements with individual buyers (customers) capable of manufacturing or supplying the relevant goods with account of the specifications set out in this Treaty and/or other international treaties of the Member States;

6) economically, technologically or otherwise unjustified setting different prices (tariffs) for the same products, thus creating discriminatory conditions, with account of the specifications set out in this Treaty and/or other international treaties of the Member States;

7) creating barriers to entry into the commodity market or exit from the commodity market for other economic entities (market participants).

2. Any unfair competition shall be prohibited, including:

1) dissemination of false, inaccurate or distorted information, which may inflict damage to an economic entity (market participant) or damage its business reputation;

2) misleading as to the nature, method and place of manufacture, consumer properties, quality and quantity of goods or their manufacturers;

3) incorrect comparison by an economic entity (market participant) of goods manufactured or sold by the entity with goods manufactured or sold by other economic entities (market participants).

3. Any agreements between economic entities (market participants) of the Member States shall be prohibited if these entities are competitors operating in the same product market and such agreements lead or may lead to:

1) setting or maintaining prices (tariffs), discounts, allowances (surcharges), extra charges;

2) increasing, decreasing or maintaining prices in tenders;

3) dividing the commodity market in the territorial principle, by the volume of sales or purchases of goods, by the range of products sold or composition of sellers or buyers (customers);

4) reduction in or cessation of the production of goods;

5) refusal to conclude agreements with certain sellers or buyers (customers).

4. "Vertical" agreements between economic entities (market participants) shall be prohibited, with the exception of "vertical" agreements recognised as admissible in accordance with the admissibility criteria determined by Annex 19 to this Treaty, if:

1) such agreements lead or may lead to setting a resale price of goods, except in the case where the seller sets to the buyer the maximum resale price of goods;

2) such agreements obligate the buyer not to sell goods of any economic entity (market participant) that is a competitor of the seller. This prohibition shall not apply to agreements implying organisation by the buyer

of the sale of goods under the trademark or other identifications of the seller or manufacturer.

5. Other agreements between economic entities (market participants) shall be prohibited, except for “vertical” agreements recognised as admissible in accordance with the admissibility criteria determined in Annex 19 to this Treaty, if it is determined that such agreements lead or may lead to any restriction of competition.

6. It shall not be allowed for natural persons, business and non-profit organisations to coordinate economic activities of economic entities (market participants) of the Member States, if such coordination leads or may lead to any of the consequences set out in paragraphs 3 and 4 of this Article that may not be recognised as admissible in accordance with the admissibility criteria determined in Annex 19 to this Treaty. The Member States may determine in their legislation a ban on coordination of economic activities if such coordination leads or may lead to the consequences specified in paragraph 5 of this Article that may not be recognised as admissible in accordance with the admissibility criteria determined by Annex 19 to this Treaty.

7. All violations of the general rules of competition determined in this Section by economic entities (market participants) of the Member States, as well as by natural persons and non-profit organisations of the Member States not carrying out any business activity, if such violations have or may have an adverse effect on competition in transboundary markets on the territories of two or more Member States, with the exception of financial markets, shall be stopped by the Commission in the procedure provided for by Annex 19 to this Treaty.

Article 77  
State Price Regulation

Procedures for the introduction of state price regulation and contesting respective introduction decisions made by the Member States shall be specified by Annex 19 to this Treaty.

Section XIX  
NATURAL MONOPOLIES

Article 78  
Spheres and Natural Monopoly Entities

1. When regulating natural monopolies, the Member States shall be guided by the rules and regulations provided for by Annex 20 to this Treaty.

2. The provisions of this Section shall be applied to relations with natural monopoly entities, consumers, executive and local authorities of the Member States in the spheres of natural monopolies affecting the trade between the Member States and listed in Annex 1 to Annex 20 to this Treaty.

3. Legal relations in specific spheres of natural monopolies shall be in accordance with this Section, with account of the specifications provided for by Sections XX and XXI of this Treaty.

4. In the Member States, the spheres of natural monopolies shall also include the spheres of natural monopolies specified in Annex 2 to Annex 20 to this Treaty.

Requirements of the legislation of the Member States shall be applied to the spheres of natural monopolies specified in Annex 2 to Annex 20 to this Treaty.

5. A list of services provided by natural monopoly entities included in the spheres of natural monopolies shall be determined by the legislation of the Member States.

6. The Member States shall seek to harmonise all spheres of natural monopolies specified in Annexes 1 and 2 to Annex 20 to this Treaty through their reduction and possible identification of a transitional period in Sections XX and XXI of this Treaty.

7. Natural monopolies in the Member States may be expanded:

in accordance with the legislation of the Member States, if a Member State intends to include in the sphere of natural monopolies a sphere rated as a natural monopoly in another Member State and specified in Annex 1 or 2 to Annex 20 to this Treaty;

by decision of the Commission, if a Member State intends to include in the sphere of natural monopolies a sphere of natural monopolies not specified in Annex 1 or 2 to Annex 20 to this Treaty, following a respective request from the Member State to the Commission.

8. This Section shall not apply to any relations governed by effective bilateral international treaties between the Member States. Newly concluded bilateral international treaties between the Member States may not conflict with this Section.

9. The provisions of Section XVIII of this Treaty shall be applied to natural monopoly entities with account of the specific features stipulated in this Section.

Section XX  
ENERGY INDUSTRY

Article 79  
Cooperation of the Member States  
in the Energy Sphere

1. In order to effectively utilise the potential of the fuel and energy complex of the Member States, as well as to provide national economies with the main types of energy resources (electricity, gas, oil and petroleum products), the Member States shall develop long-term mutually beneficial cooperation in the energy sphere, conduct coordinated energy policy and gradually create common energy markets in accordance with the international treaties provided for by Articles 81, 83 and 84 of this Treaty, with due account for ensuring energy security, based on the following fundamental principles:

- 1) ensuring market pricing for energy resources;
- 2) ensuring the development of competition in the common markets of energy resources;
- 3) no technical, administrative and other barriers to trade in energy resources, equipment, technology and related services;
- 4) ensuring the development of a transport infrastructure for the common markets of energy resources;
- 5) ensuring non-discriminatory conditions for economic entities of the Member States in the common markets of energy resources;
- 6) creation of favourable conditions for attracting investments in the energy sector of the Member States;
- 7) harmonisation of national rules and regulations for the functioning of the process and business infrastructure of the common markets of energy resources.

2. All relations of economic entities of the Member States operating in the spheres of electric power, gas, oil and petroleum products and not governed by this Section shall be subject to the legislation of the Member States.

3. The provisions of Section XVIII of this Treaty in respect of economic entities of the Member States operating in the spheres of electric power, gas, oil and petroleum products shall be applied with account of the specific terms set out in this Section and in Section XIX of this Treaty.

Article 80  
Indicative (Projected) Balances of Gas,  
Oil and Petroleum Products

1. In order to effectively use the aggregate energy potential and optimise interstate energy supplies, authorised authorities of the Member States shall develop and agree on the following:

indicative (projected) gas balance of the Union;

indicative (projected) oil balance of the Union;

indicative (projected) balances of petroleum products of the Union.

2. The balances referred to in paragraph 1 of this Article shall be developed with the participation of the Commission and in accordance with the methodology for calculating indicative (projected) balances of gas, oil and petroleum products to be developed within the period specified in paragraph 1 of Article 104 of the Treaty and coordinated by the authorised authorities of the Member States.

## Article 81

## Establishment of a Common Electric Power Market of the Union

1. The Member States shall gradually establish a common electric power market of the Union based on parallel electric power systems, taking into account the transitional provisions of paragraphs 2 and 3 of Article 104 of this Treaty.

2. The Member States shall develop the concept and programme for the establishment of the common electric power market of the Union to be approved by the Supreme Council.

3. The Member States shall conclude an international treaty within the Union on the establishment of the common electric power market based on the provisions of the approved concept and programme for the establishment of the common electric power market of the Union.

## Article 82

## Ensuring Access to Services of Natural Monopoly Entities in the Electric Power Sphere

1. Within the existing technical capacities, the Member States shall ensure free access to the services of natural monopoly entities in the electric power sphere, provided the priority use of these services to cover the domestic needs of the Member States for electricity (power) in accordance with the common principles and rules specified in Annex 21 to this Treaty.

2. The principles and rules of access to services of natural monopoly entities in the electric power sphere, including fundamental pricing and tariff policy in accordance with Annex 21 to this Treaty, shall be applied to the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation.



In case of accession of any new members to the Union, the annex shall be amended accordingly.

Article 83  
Establishment of a Common Gas Market  
and Ensuring Access to Services of Natural Monopoly Entities in Gas  
Transportation

1. The Member States shall gradually establish a common gas market of the Union in accordance with Annex 22 to this Treaty with account of the transitional provisions of paragraphs 4 and 5 of Article 104 of this Treaty.

2. The Member States shall develop the concept and programme for the establishment of the common gas market of the Union to be approved by the Supreme Council.

3. The Member States shall conclude an international treaty within the Union on the establishment of the common gas market based on the provisions of the approved concept and programme.

4. Within the existing technical capabilities and available capacities of gas transportation systems, taking into account the agreed indicative (projected) gas balance of the Union and on the basis of civil law contracts of economic entities, the Member States shall ensure unhindered access for economic entities of other Member States to gas transportation systems located on the territories of the Member States to enable gas transportation on the basis of common principles, conditions and rules provided for by Annex 22 to this Treaty.

#### Article 84

### Establishment of Common Markets of Oil and Petroleum Products of the Union and Ensuring Access to Services of Natural Monopoly Entities in Transportation of Oil and Petroleum Products

1. The Member States shall gradually establish common markets of oil and petroleum products of the Union in accordance with Annex 23 to this Treaty, taking into account the transitional provisions stipulated in paragraphs 6 and 7 of Article 104 of this Treaty.

2. The Member States shall develop the concept and programme for the establishment of the common markets of oil and petroleum products of the Union to be approved by the Supreme Council.

3. The Member States shall conclude an international treaty within the Union on the establishment of the common markets of oil and petroleum products, based on the provisions of the approved concept and programme.

4. Within the existing technical capabilities, with due account of the agreed indicative (projected) balances of oil and petroleum products of the Union and on the basis of civil law contracts of economic entities, the Member States shall ensure unhindered access for economic entities of other Member States to the oil and petroleum products transportation systems located on the territories of the Member States on the basis of common principles, conditions and rules specified in Annex 23 to this Treaty.

#### Article 85

### Powers of the Commission in the Energy Sphere

In the energy sphere, the Commission shall monitor the implementation of this Section.

## Section XXI TRANSPORT

### Article 86 Coordinated (Agreed) Transport Policy

1. The Union shall conduct coordinated (agreed) transport policy aimed at ensuring economic integration, consistent and gradual formation of a common transport space based on the principles of competition, transparency, security, reliability, availability and sustainability.

2. The coordinated (agreed) transportation policy shall have the following objectives:

- 1) establishment of a common market of transportation services;
- 2) adoption of agreed measures to ensure general benefits in the sphere of transport and apply the best practices;
- 3) integration of transport systems of the Member States into the global transport system;
- 4) efficient use of the transit potential of the Member States;
- 5) improving the quality of transport services;
- 6) ensuring transport safety;
- 7) reduction of harmful effects generated by transport on the environment and human health;
- 8) creation of a favourable investment climate.

3. The main priorities of the coordinated (agreed) transport policy shall be as follows:

- 1) formation of a common transport space;
- 2) establishment and development of Eurasian transport corridors;

3) implementation and development of the transit potential within the Union;

4) coordination of development of the transport infrastructure;

5) establishment of logistics centres and transport organisations to ensure process optimisation in transportation process;

6) involvement and use of the workforce capacity of the Member States;

7) development of science and innovation in the sphere of transportation.

4. The coordinated (agreed) transport policy shall be formed by the Member States.

5. The main directions and implementation stages of the coordinated (agreed) transport policy shall be determined by the Supreme Council.

6. Implementation of the coordinated (agreed) transport policy by the Member States shall be monitored by the Commission.

## Article 87

### Sphere of Application

1. The provisions of this Section shall be applied to road, air, water and rail transport with account of the provisions of Sections XVIII and XIX of this Treaty and the specific features provided for by Annex 24 to this Treaty.

2. The Member States shall seek a gradual liberalisation of transport services provided between the Member States.

Liberalisation procedure, conditions and stages shall be determined under international treaties within the Union with account of the specifications provided for by Annex 24 to this Treaty.

3. Transportation safety requirements (transport safety and safe operation of transport) shall be in accordance with the legislation of the Member States and international treaties.

Section XXII  
STATE (MUNICIPAL) PROCUREMENT

Article 88  
Objectives and Principles of Regulation  
in the Sphere of State (Municipal) Procurement

1. The Member States hereby set out the following objectives and principles of regulation in the sphere of state (municipal) procurement (hereinafter “procurement”):

regulation of relations in the sphere of procurement through the legislation of a Member State on procurement and international treaties of the Member States;

ensuring optimal and most efficient expenditure of funds used for procurement in the Member States;

providing the Member States with national treatment in the sphere of procurement;

inadmissibility of provision of more favourable treatment in the sphere of procurement to third countries as compared to the Member States;

ensuring disclosure and transparency of procurement;

ensuring unhindered access of potential suppliers and suppliers of the Member States to the participation in procurement procedures conducted in an electronic format by mutual recognition by a Member State of digital signatures made in accordance with the legislation of another Member State;

ensuring availability of competent regulatory and supervisory authorities of the Member States in the sphere of procurement (both functions may be exercised by a single authority);

determining liability for violation of the procurement legislation of the Member States;

development of competition, as well as the fight against corruption and other abuses in the sphere of procurement.

2. This Treaty shall not apply to procurement procedures the details of which, in accordance with the legislation of a Member State, constitute a State secret.

3. All procurement in the Member States shall be carried out in accordance with Annex 25 to this Treaty.

4. This Section shall not apply to procurement procedures carried out by national (central) banks of the Member States subject to the provisions of indents 2-4 of this paragraph.

National (central) banks of the Member States shall carry out procurement procedures for administrative and economic purposes, as well as for construction and repairs, in accordance with their internal procurement rules (hereinafter “the procurement clause”). The procurement clause shall not be contrary to the purposes and principles set out in this Article; in particular, the regulations shall ensure equal access for potential suppliers of the Member States. In exceptional cases, exceptions to the above principles may be determined by decision of the supreme authority of a national (central) bank.

The procurement clause shall contain procurement requirements, including the procedure for the preparation of and holding all procurement

procedures (including the procurement methods) and their application conditions, as well as the procedure for concluding agreements (contracts).

The procurement clause and information on procurement procedures planned and implemented by national (central) banks of the Member States shall be posted on the official websites of national (central) banks of the Member States on the Internet in the procedure determined by the procurement clause.

### Section XXIII INTELLECTUAL PROPERTY

#### Article 89 General provisions

1. The Member States shall cooperate in the sphere of protection and enforcement of intellectual property rights and ensure in their territories the protection and safeguarding of these rights in accordance with international law, international treaties and acts constituting the law of the Union and the legislation of the Member States.

The Member States shall cooperate to solve the following key objectives:

harmonisation of legislation of the Member States in the sphere of protection and enforcement of intellectual property rights;

protection of the interests of right holders of intellectual property rights in the Member States.

2. The Member States shall cooperate in the following areas:

1) support for scientific and innovative development;

2) improvement of the mechanisms of commercialisation and use of intellectual property;

3) creation of a favourable environment for copyright holders and holders of related rights in the Member States;

4) introduction of a registration system for trademarks and service marks of the Eurasian Economic Union and appellations of origin of goods of the Eurasian Economic Union;

5) protection of intellectual property rights, including on the Internet;

6) ensuring effective customs protection of intellectual property rights, including through the maintenance of a common customs registry of intellectual property of the Member States;

7) implementation of coordinated measures to prevent and combat trafficking in counterfeit goods.

3. In order to ensure effective protection and enforcement of intellectual property rights, consultations of the Member States shall be conducted to be organised by the Commission.

Following the results of such consultations, proposals shall be developed to address all problematic issues identified in the cooperation between the Member States.

## Article 90

### Legal Treatment of Intellectual Property

1. Nationals of one Member State shall be granted national treatment on the territory of another Member State with regard to the legal treatment of intellectual property. Legislation of a Member State may provide exceptions to the national treatment in respect of judicial and administrative



proceedings, including with regard to indication of an address for correspondence and appointment of a representative.

2. The Member States may provide in their legislation any rules ensuring a higher level of protection and enforcement of intellectual property rights than those set out in international legal acts applicable to the Member States, as well as in international treaties and acts constituting the law of the Union.

3. The Member States shall carry out activities in the sphere of protection and enforcement of intellectual property rights in accordance with the following fundamental international treaties:

Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886 (as amended in 1971);

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of April 28, 1977;

World Intellectual Property Organization Copyright Treaty of December 20, 1996;

World Intellectual Property Organization Performances and Phonograms Treaty of December 20, 1996;

Patent Law Treaty of June 1, 2000;

Patent Cooperation Treaty of June 19, 1970;

Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms of October 29, 1971;

Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of June 28, 1989;

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations of October 26, 1961;

Paris Convention for the Protection of Industrial Property of March 20, 1883;

Singapore Treaty on the Law of Trademarks of March 27, 2006.

Those Member States that are not parties to these agreements shall be obliged to accede thereto.

4. All relations in the sphere of protection and enforcement of intellectual property rights, including identification of specific features of legal treatment applied to certain types of intellectual property, shall be governed in accordance with Annex 26 to this Treaty.

#### Article 91 Enforcement

1. The Member States shall take enforcement measures to ensure effective protection of intellectual property rights.

2. The Member States shall carry out activities to protect intellectual property rights in accordance with the Customs Code of the Eurasian Economic Union, as well as with international treaties and acts constituting the law of the Union and governing customs legal relations.

3. Authorised authorities of the Member States authorised to protect intellectual property rights shall cooperate and collaborate in order to coordinate their actions for the prevention, detection and restraint of violations of intellectual property rights on the territory of the Member States.

Section XXIV  
MANUFACTURING INDUSTRY

Article 92  
Industrial Policy and Cooperation

1. The Member States shall independently develop, shape and implement national industrial policy, in particular, adopt national industrial development programmes and other measures of industrial policy, and shall determine the ways, forms and areas of providing industrial subsidies not contradicting Article 93 of this Treaty.

Industrial policy within the Union shall be shaped by the Member States in the main directions of industrial cooperation, as approved by the Intergovernmental Council, and shall be carried out in consultation and coordination with the Commission.

2. The industrial policy within the Union shall be carried out by the Member States based on the following principles:

- 1) equality and respect for the national interests of the Member States;
- 2) mutual benefit;
- 3) fair competition;
- 4) non-discrimination;
- 5) transparency.

3. Industrial policy within the Union shall be aimed at accelerating and improving the sustainability of industrial development, improving the competitiveness of industrial complexes of the Member States, implementation of effective cooperation aimed at increasing innovation activity, and elimination of barriers in the industrial sphere, including with respect to the movement of industrial products from the Member States.

4. In order to achieve the objectives of the industrial policy within the Union, the Member States may:

- 1) to inform each other about their industrial development plans;
- 2) hold regular meetings (consultations) of representatives of authorised authorities of the Member States responsible for the shaping and implementation of the national industrial policy, including at the venues of the Commission;
- 3) develop and implement joint programmes for the development of priority economic activities for industrial cooperation;
- 4) develop and agree on a list of sensitive goods;
- 5) implement joint projects, including for the development of the infrastructure required to improve the efficiency of industrial cooperation and deepen the industrial cooperation between the Member States;
- 6) develop process-related and information resources for the purposes of industrial cooperation;
- 7) conduct joint research and development activities in order to promote high-tech industries;
- 8) implement other measures aimed at removing barriers and developing mutually beneficial cooperation.

5. If necessary, appropriate implementation procedures for the measures referred to in paragraph 4 of this Article may be developed by decision of the Intergovernmental Council.

6. The Member States shall develop the Main Directions of Industrial Cooperation within the Union (hereinafter “the Main Directions”), to be approved by the Intergovernmental Council and to include, among other

things, priority economic activities for industrial cooperation and sensitive goods.

The Commission shall conduct annual monitoring and analysis of implementation results for the Main Directions and, if required, prepare, in agreement with the Member States, proposals for clarification of the Main Directions.

7. When developing and implementing policy in trade, customs tariffs, competition, state procurement, technical regulations, business development, transportation, infrastructure and other spheres, the interests of industrial development of the Member States shall be taken into account.

8. With respect to sensitive goods, the Member States shall hold consultations for mutual consideration of their positions prior to the adoption of any industrial policy measures.

The Member States shall preliminarily inform each other of all planned national industrial policy implementation areas for the approved list of sensitive goods.

Jointly with the Commission, the Member States shall develop the procedure for such consultations and/or mutual notifications, to be approved by the Council of the Commission.

9. For the purposes of industrial cooperation within the Union, the Member States may, upon consultation and coordination with the Commission, develop and apply the following instruments:

1) promotion of mutually beneficial industrial cooperation in order to create high-tech, innovative and competitive products;

2) joint programmes and projects with the participation of the Member States for their mutual benefit;

- 3) joint technology platforms and industrial clusters;
- 4) other instruments to promote the development of industrial cooperation.

10. For the purposes of this Article, the Member States may develop any additional documents and mechanisms with the participation of the Commission.

11. The Commission shall provide consultations and coordination to the Member States on the main directions of industrial cooperation within its powers determined under this Treaty, in accordance with Annex 27 to this Treaty.

For the purposes of this Article, the terms shall be used in accordance with Annex 27 to this Treaty.

### Article 93 Industrial Subsidies

1. In order to enable stable and efficient development of the economies of the Member States and to create a proper environment for the promotion of mutual trade and fair competition between the Member States, common rules for granting subsidies for industrial goods shall be applied on the territories of the Member States, including for the provision or receipt of services that are directly related to the manufacture, sale and consumption of industrial goods, according to Annex 28 to this Treaty.

2. Obligations of the Member States arising from the provisions of this Article and Annex 28 to this Treaty shall not apply to legal relations between the Member States and third countries.

3. For the purposes of this Article, a subsidy shall refer to:

a) financial contribution provided by a subsidising authority of a Member State (or an authorised institution of a Member State), used for generating (ensuring) benefits and carried out through:

direct transfer of funds (for example, in the form of impaired and other loans), acquisition of a share in the authorised capital or an increase thereof, or an obligation to transfer such funds (e.g., loan guarantees);

full or partial waiver of the collection of payments that would have been otherwise included in the income of the Member State (e.g., tax exemptions, debt relief). In this case, the exemption of exported industrial goods from duties and taxes levied on like products when intended for domestic consumption or any reduction of duties and taxes and refund of such duties and taxes in an amount not exceeding the amount actually accrued, shall not be considered as a subsidy;

provision of goods or services (except for industrial goods or services intended for the maintenance and development of the common infrastructure);

purchase of industrial goods;

b) any other form of income or price support (directly or indirectly) reducing the importation of industrial goods from the territory of any Member State or increasing the exportation of industrial goods into the territory of any Member State with resulting advantages.

The types of subsidies are specified in Annex 28 to this Treaty.

4. The subsidising authority may designate or instruct any other organisation to perform one or more of its functions related to the provision of subsidies. Actions of such an organisation shall be regarded as actions of the subsidising authority.

Acts of the head of a Member State aimed at providing subsidies shall be regarded as actions of the subsidising authority.

5. Any investigation aimed at analysing the conformity of subsidies granted on the territory of a Member State to the provisions of this Article and Annex 28 to this Treaty shall be conducted in accordance with the procedure described in Annex 28 to this Treaty.

6. The Commission shall ensure the control of implementation of the provisions of this Article and Annex 28 to this Treaty and shall have the following powers:

1) to monitor and conduct comparative legal analysis of the legislation of the Member States for compliance with the provisions of this Treaty in respect of subsidies, as well as to prepare annual reports on compliance of the Member States with the provisions of this Article and Annex 28 to this Treaty;

2) to facilitate the organisation of consultations between the Member States on the harmonisation and unification of their legislation on the provision of subsidies;

3) to adopt binding decisions for the Member States provided for by Annex 28 to this Treaty on the basis of voluntary coordination of planned and provided specific subsidies, including:

adoption of decisions on the admissibility or inadmissibility of specific subsidies in accordance with paragraph 6 of Annex 28 to this Treaty on the basis of the criteria outlined in the international agreement within the Union stipulated in paragraph 7 of Annex 28 to this Treaty;



holding a hearing on provision of specific subsidies and adoption of related binding decisions in cases determined by the international agreement within the Union stipulated in paragraph 7 of Annex 28 to this Treaty;

resolution of disputes on matters relating to implementation of the provisions of this Article and Annex 28 to this Treaty and provision of explanations on their application;

4) to request and obtain information on subsidies granted in the procedure and on the terms determined under an international treaty within the Union stipulated in paragraph 7 of Annex 28 to this Treaty.

Sub-paragraphs 3 and 4 of this paragraph shall be applied with account of the transitional provisions of paragraph 1 of Article 105 of this Treaty.

7. All disputes concerning the provisions of this Article and Annex 28 to this Treaty shall be primarily settled through negotiations and consultations. If a dispute may not be settled through negotiations and consultations within 60 calendar days from the date of a formal written request for holding thereof sent by the Member State that initiated the dispute to the respondent state, the claimant state shall be entitled to apply to the Court of the Union.

If the decisions of the Court of the Union are not enforced within a determined period or if the Court of the Union decides that the measures notified by the respondent state are inconsistent with the provisions of this Article and Annex 28 to this Treaty, the claimant state shall be entitled to take proportionate response measures.

8. The period within which the Member States shall be entitled to challenge a specific subsidy provided in violation of Annex 28 to this Treaty shall amount to 5 years from the date of such specific subsidy.

Section XXV  
AGRICULTURAL SECTOR

Article 94  
Objectives and Goals of Agreed  
(Coordinated) Agricultural Policy

1. In order to ensure the development of the agricultural sector and rural areas in the interests of the population of each the Member State and the Union as a whole, as well as to promote economic integration within the Union, agreed (coordinated) agricultural policy shall be conducted implying the use of control mechanisms provided for in this Treaty and other international treaties within the Union in the sphere of agricultural sector and mutual submission by the Member States to each other and to the Commission of manufacture development plans (programmes) for each sensitive agricultural goods, the list of which shall be compiled on the basis of proposals from the Member States and approved by the Commission.

2. The main objective of the agreed (coordinated) agricultural policy shall consist in the effective implementation of the resource potential of the Member States for optimisation of volumes of competitive agricultural and food products, meeting the needs of the common agricultural market, as well as increasing exports of agricultural and food products.

3. The agreed (coordinated) agricultural policy shall ensure the following:

1) balanced development of the production and markets for agricultural and food products;

2) fair competition between constituents of the Member States, including equal access to the common agricultural market;

3) unification of requirements related to the circulation of agricultural and food products;

4) protection of the interests of manufacturers of the Member States in internal and foreign markets.

Article 95  
Main Directions of Agreed (Coordinated)  
Agricultural Policy and Agricultural State Support Measures

1. Solving the tasks of an agreed (coordinated) agricultural policy refers to the use of mechanisms for interstate cooperation in the following main directions:

- 1) forecasting in the agricultural sector;
- 2) state support for agriculture;
- 3) common agricultural market regulation;
- 4) common requirements for the production and circulation of products;
- 5) development of export of agricultural and food products;
- 6) scientific and innovative development of the agricultural sector;
- 7) integrated information support of agriculture.

2. In order to implement the measures of the agreed (coordinated) agricultural policy, regular consultations of representatives of the Member States shall be organised by the Commission, including with regard to sensitive agricultural goods, at least once a year. These consultations shall result in recommendations on the implementation of agreed (coordinated) agricultural policy within the main directions determined in paragraph 1 of this Article.

3. When carrying out the agreed (coordinated) agricultural policy, the Member States shall take into account the specific nature of agricultural

activities that is not only due to the industrial, economic significance, but also to the social significance of the industry and structural and climatic differences among regions and territories of the Member States.

4. In other spheres of integration interaction, including in the sphere of sanitary, phytosanitary and veterinary (veterinary-sanitary) measures for agricultural and food products, the respective policy shall be conducted with account of the objectives, tasks and directions of the agreed (coordinated) agricultural policy.

5. Within the Union, state support for agriculture shall be provided in accordance with the approaches under Annex 29 to this Treaty.

6. All disputes concerning this Article and Annex 29 to this Treaty shall be primarily settled through negotiations and consultations conducted with the participation of the Commission. If a dispute cannot be settled through negotiations and consultations within 60 calendar days from the date of a formal written request for holding thereof sent by the Member State that initiated the dispute and acting as the claimant state to the respondent state, the claimant state shall be entitled to apply to the Court of the Union. When sending a formal written request for negotiations and consultations, the claimant Member State shall, within 10 calendar days from the date of such request, inform the Commission thereof.

7. For the purposes of implementation of the agreed (coordinated) agricultural policy, the Commission shall:

1) jointly with the Member States develop, coordinate and implement the main directions of the agreed (coordinated) agricultural policy within its powers;

2) coordinate activities of the Member States in preparation of joint development forecasts for the agricultural sector, supply and demand for agricultural and food products;

3) coordinate mutual presentation by the Member States of development programmes for the agricultural sector and its branches;

4) monitor the development of agricultural sectors of the Member States and application of state regulation measures for the agricultural sectors by the Member States, including state support measures for agriculture;

5) monitor prices and analyse competitiveness of products manufactured based on the nomenclature agreed upon by the Member States;

6) assist in the organisation of consultations and negotiations on the harmonisation of legislation of the Member States in the sphere of agricultural sector, including the legislation on state support for agriculture, as well as in dispute resolution related to the fulfilment of obligations in the field of state support for agriculture;

7) monitor and conduct comparative legal analysis of the legislation of the Member States in the field of state support for agriculture in terms of its compliance with the obligations assumed within the Union;

8) prepare and submit to the Member States reviews of the state policy in the sphere of agricultural sector and state support for agriculture in the Member States, including recommendations on improvement of the efficiency of state support;

9) assist the Member States on issues related to the calculation of the amount of state support for agriculture;

10) jointly with the Member States, prepare recommendations on coordinated actions aimed at developing the export potential in the sphere of agricultural sector;

11) coordinate the implementation by the Member States of joint scientific and innovative activities in the sphere of agricultural sector, including within interstate programmes of the Member States;

12) coordinate the development and implementation by the Member States of the standardised requirements regarding the conditions of import, export and movement of pedigree products within the customs territory of the Union, methods for determining the breeding value of breeding stock, as well as the forms of breeding certificates (certificates, books of certificate);

13) coordinate the development and implementation of the standardised requirements in the sphere of testing crop types and seeds, as well as coordinate mutual recognition by the Member States of documents certifying the varietal and sowing seed quality;

14) assist in ensuring equal competitive environments within the main directions of the agreed (coordinated) agricultural policy.

## Section XXVI LABOUR MIGRATION

### Article 96 Cooperation between the Member States in the Sphere of Labour Migration

1. The Member States shall cooperate on agreement of their policy in the sphere of labour migration within the Union, as well as to assist the organised recruitment and involvement of workers of the Member States for employment in the Member States.

2. Cooperation between the Member States in the sphere of labour migration shall be carried out through the interaction between state authorities of the Member States having the respective jurisdiction.

3. Cooperation between the Member States in the sphere of labour migration within the Union shall be carried out in the following forms:

1) agreement of common principles and approaches in the sphere of labour migration;

2) exchange of regulatory legal acts;

3) exchange of information;

4) implementation of measures aimed at preventing the spread of false information;

5) exchange of experiences, internships, seminars and training courses;

6) cooperation in the framework of advisory authorities.

4. Upon agreement between the Member States, other forms of cooperation in the sphere of migration may be established.

5. The terms used in this Section shall have the meanings set forth below:

“state of entry” means a Member State entered by a national of another Member State;

“state of permanent residence” means a Member State which national is a worker of a Member State;

“state of employment” means a Member State of employment;

“certificates of education” means state education documents, as well as certificates of education recognised as state education documents;

“customer of works (services)” means a juridical or natural person providing a worker of a Member State with work based on a concluded civil

law contract in the procedure and on the terms provided for by the legislation of the state of employment;

“migration card” means a document containing information about a national of a Member State entering the territory of another Member State used for registration and control of his/her temporary stay on the territory of the state of entry;

“employer” means a juridical or natural person providing a worker of a Member State with work based on a concluded employment contract in the procedure and on the terms provided for by the legislation of the state of employment;

“social security (social insurance)” means compulsory insurance against temporary disability and maternity insurance, compulsory insurance against occupational accidents and diseases and compulsory health insurance;

“employment” means activities performed under an employment contract or in execution of works (services) under a civil law contract carried out on the territory of the state of employment in accordance with the legislation of that state;

“worker of a Member State” means a person who is a national of a Member State lawfully residing and lawfully engaged in labour activities in the state of employment, of which he or she is not a national and where he or she does not permanently reside;

“family member” means a spouse of the worker of a Member State, as well as their dependent children and other persons recognised as members of their families in accordance with the legislation of the state of employment.



Article 97  
Employment of Workers of the Member States

1. Employers and/or customers of works (services) of a Member State may employ workers of the Member States without consideration of any restrictions for the protection of their national labour market. However, workers of the Member States shall not be required to obtain employment permits for the state of employment.

2. The Member States shall not determine or apply any restrictions provided by their legislation for the protection of their national labour market, except for the restrictions determined by this Treaty and the legislation of the Member States aimed at ensuring their national security (including in economic sectors of strategic importance) and public order, with regard to relations with workers of the Member States, their employment, occupation and territory of stay.

3. In order to enable workers of the Member States to conduct labour activities in the state of employment, education certificates issued by educational organisations (educational institutions, organisations in the sphere of education) of the Member States shall be recognised without carrying out by the state of employment the procedures of recognition of education certificates determined by their legislation.

Workers of a Member State applying for employment in educational, legal, medical or pharmaceutical spheres in another Member State shall undergo the procedure of recognition of education certificates determined by the legislation of the state of employment and shall be admitted to such educational, legal, medical or pharmaceutical activities in accordance with the legislation of the state of employment.

Documents on scientific and academic degrees issued by the authorised authorities of the Member States shall be recognised in accordance with the legislation of the state of employment.

Employers (customers of works (services)) shall be entitled to request certified translations of education certificates into the language of the state of employment and as well as for the purpose of verification of education certificates of workers of the Member States if it is required, employers (customers) shall be entitled to submit requests, including by reference to information databases, to educational organisations (educational institutions, organisations in the sphere of education) that have issued the education certificates and obtain appropriate responses.

4. Employment of workers of a Member State shall be governed by the legislation of the state of employment subject to the provisions of this Treaty.

5. The period of temporary stay (residence) of a worker of a Member State and his/her family members on the territory of the state of employment shall depend on the duration of an employment contract or a civil law contract concluded by the worker with the employer or customer of works (services).

6. Nationals of the Member States entering the territory of another Member State for employment and their family members shall be exempt from the obligation to register within 30 days from the date of entry.

If a national of a Member State stays on the territory of another Member State for more than 30 days from the date of entry, this national shall be required to register in accordance with the legislation of the state of entry, if such a requirement is determined by the legislation of the state of entry.

7. Nationals of the Member States, when entering the territory of another Member State in cases provided for by the legislation of the state of entry, shall use migration cards, unless otherwise provided for by international treaties of the Member States.

8. When entering the territory of another Member State using one of the valid documents suitable for affixing marks of border control authorities on crossing of the state border, nationals of the Member States shall not be required to use migration cards, provided that the duration of their stay does not exceed 30 days from the date of entry, if such a requirement is determined by the legislation of the state of entry.

9. In the event of early termination of an employment contract or a civil law contract after the expiry of 90 days from the date of entry into the territory of the state of employment, the worker of a Member State shall be entitled, without departure from the territory of the state of employment, to enter into a new employment contract or a civil law contract within 15 days.

## Article 98

### Rights and Obligations of Workers of the Member States

1. A worker of a Member State shall be entitled to engage in professional activities in accordance with their specialisation and qualifications specified in their certificates of education and documents on awarding a scientific and/or academic degree, to be recognised in accordance with this Treaty and the legislation of the state of employment.

2. In accordance with the procedure determined by the legislation of the state of employment, workers of a Member State and their family members shall exercise the rights to:

- 1) possess, use and dispose of their property;
- 2) protection of property;
- 3) free transfer of funds.

3. Social security (social insurance) (except pensions) of workers of the Member States and their family members shall be ensured on the same conditions and in the same manner as those of the nationals of the state of employment.

Employed (pensionable) service of workers of the Member States shall be included in the total employed (pensionable) service for the purposes of social security (social insurance), except for pensions, in accordance with the legislation of the state of employment.

Pension benefits of workers of the Member States and their family members shall be governed by the legislation of the state of permanent residence, as well as by an international treaty between the Member States.

4. The right of workers of the Member States and their family members to receive emergency medical care (emergency and urgent care) and other types of medical treatment shall be governed in the procedure under Annex 30 to this Treaty, as well as by the legislation of the state of employment and international treaties a party to which it constitutes.

5. A worker of a Member State shall be entitled to join trade unions on a par with the nationals of the state of employment.

6. A worker of a Member State shall be entitled to receive from the state authorities of the state of employment (having the respective jurisdiction) and the employer (customer of works (services)) any information relating to the conditions of his/her stay and employment, as well

as the rights and obligations provided for by the legislation the state of employment.

7. At the request of a worker of a Member State (including former workers), the employer (customer of works (services)) shall, at no charge, provide a certificate and/or a certified copy of a certificate indicating the profession (specialisation, qualifications and positions), the period of employment and wages within the terms determined by the legislation of the state of employment.

8. Children of a worker of a Member State residing together with the worker on the territory of the state of employment shall be entitled to attend pre-school institutions and receive education in accordance with the legislation of the state of employment.

9. Workers of a Member State and their family members shall be required to comply with the legislation of the state of employment, respect the culture and traditions of the people of the state of employment, and be liable for offences under the legislation of the state of employment.

10. Income of workers of a Member State generated as a result of employment in the state of employment shall be taxable in accordance with international treaties and legislation of the state of employment subject to the provisions of this Treaty.

**PART FOUR**  
**TRANSITIONAL AND FINAL PROVISIONS**

Section XXVII  
**TRANSITIONAL PROVISIONS**

Article 99  
General Transitional Provisions

1. International treaties of the Member States concluded in the establishment of the legal framework of the Customs Union and the Common Economic Space and effective on the date of entry into force of this Treaty shall form part of the Union law as international treaties within the Union and shall be applied to the extent not inconsistent with this Treaty.

2. Decisions of the Supreme Eurasian Economic Council at the level of heads of states, the Supreme Eurasian Economic Council at the level of heads of governments and the Eurasian Economic Commission effective on the date of entry into force of this Treaty shall remain in force and shall be applied to the extent not inconsistent with this Treaty.

3. Starting from the effective date of this Treaty:

all functions and powers of the Supreme Eurasian Economic Council at the level of heads of states and the Supreme Eurasian Economic Council at the level of heads of governments effective in accordance with the Treaty on the Eurasian Economic Commission of November 18, 2011 shall be carried out by the Supreme Council and the Intergovernmental Council, respectively, in accordance with this Treaty;

The Eurasian Economic Commission established in accordance with the Treaty on the Eurasian Economic Commission of November 18, 2011, shall operate in accordance with this Treaty;

members of the Board of the Commission appointed prior to the entry into force of this Treaty shall continue in office until the expiration of their official term of office;

the Directors and Deputy Directors of departments employment contracts with which have been concluded before the entry into force of this Treaty shall continue in office until the expiration of the period specified in their employment contracts;

vacancies in the structural subdivisions of the Commission shall be filled as provided for by this Treaty.

4. Respective international treaties listed in Annex 31 to this Treaty shall also apply within the Union.

#### Article 100 Transitional Provisions for Section VII

1. The common market of medicines within the Union shall function starting from January 1, 2016, in accordance with an international treaty within the Union outlining the common principles and rules for the circulation of medicines to be signed by the Member States not later than January 1, 2015.

2. The common market of medical devices (medical products and equipment) within the Union shall function starting from January 1, 2016, in accordance with an international treaty within the Union determining the common principles and rules for the circulation of medical devices (medical products and equipment) to be signed by the Member States not later than January 1, 2015.

Article 101  
Transitional Provisions for Section VIII

1. Prior to the entry into force of the Customs Code of the Eurasian Economic Union, customs regulations within the Union shall be in accordance with the Treaty on the Customs Code of the Customs Union of November 27, 2009, and other international treaties of the Member States concluded in the establishment of the legal framework of the Customs Union and the Common Economic Space governing the customs relations and forming part of the Union law in accordance with Article 99 of this Treaty, subject to the provisions of this Article.

2. For the purposes of the application of international treaties referred to in paragraph 1 of this Article, the terms used shall have the following meanings:

“Member States of the Customs Union” means the Member States within the meaning of this Treaty;

“common customs territory of the Customs Union (customs territory of the Customs Union)” means the customs territory of the Union;

“Single Commodity Nomenclature of Foreign Economic Activity of the Customs Union (Foreign Economic Activity Commodity Nomenclature)” means a Single Foreign Economic Activity Commodity Nomenclature of the Eurasian Economic Union;

“Common Customs Tariff of the Customs Union” means the Common Customs Tariff of the Eurasian Economic Union;

“Commission of the Customs Union” means the Eurasian Economic Commission;



“international treaties of the Member States of the Customs Union” means international treaties within the Union, including international agreements of the Member States that form part of the Union law in accordance with Article 99 of this Treaty;

“customs border of the Customs Union” (customs border)” means the customs border of the Eurasian Economic Union;

“good of the Customs Union” means the good of the Eurasian Economic Union.

3. For the purposes of the application of international treaties referred to in paragraph 1 of this Article, the prohibitions and restrictions shall include non-tariff regulatory measures (also those imposed on the basis of general exceptions, for the protection of the external financial position and for unilaterally ensuring a balance of payments), technical regulation measures, export control measures and measures for military products, as well as sanitary, veterinary-sanitary and phytosanitary quarantine measures and radiation requirements applied in respect of goods transported through the customs border of the Union.

The measures determined by Articles 46 and 47 of this Treaty shall relate to non-tariff regulatory measures, introduced inter alia on the basis of general exceptions, the protection of the external financial position and unilaterally ensuring a balance of payments.

Provisions of the international treaties referred to in paragraph 1 of this Article, except for paragraphs 3 and 4 of Article 3 of the Customs Code of the Customs Union on the definition and application (non-application) of prohibitions and restrictions, shall not apply.

In the movement of goods across the customs border of the Union, including goods for personal use, and/or in customs clearance of goods, compliance with the prohibitions and restrictions shall be confirmed in the cases and procedure determined by the Commission or regulatory legal acts of the Member States in accordance with this Treaty or determined in accordance with the legislation of the Member States, by submission of documents and/or information demonstrating compliance with the prohibitions and restrictions.

Veterinary-sanitary, phytosanitary quarantine, sanitary and epidemiological, radiation and other forms of state control (supervision) when moving goods across the customs border of the Union shall be performed and documented in accordance with this Treaty, or acts of the Commission or regulations of the Member States adopted pursuant thereto, or in accordance with the legislation of the Member States.

4. Article 51 of the Customs Code of the Customs Union regarding the maintenance of the Common Foreign Economic Activity Commodity Nomenclature of the Customs Union shall be applied subject to the provisions of Article 45 of this Treaty.

5. Chapter 7 of the Customs Code of the Customs Union shall be applied subject to the provisions of Article 37 of this Treaty.

6. Paragraph 2 of Article 70 of the Customs Code of the Customs Union shall not be applicable.

Safeguard, anti-dumping, and countervailing duties shall be set in accordance with the provisions of this Treaty and shall be collected in the procedure provided for by the Customs Code of the Customs Union for the

collection of customs duties, subject to the provisions of Articles 48 and 49 of this Treaty, as well as with account of the following.

Safeguard, anti-dumping, and countervailing duties shall be payable in case of customs clearance of goods when its terms, pursuant to the international treaties referred to in paragraph 1 of this Article, require compliance with the restrictions with the use of safeguard, anti-dumping and countervailing measures.

The calculation of safeguard, anti-dumping and countervailing duties, the emergence and termination of the obligations to pay these duties, the timing and procedure of their payment shall be as set out in the Customs Code of the Customs Union for import customs duties, with into account of specific features determined by this Treaty.

In case of application of anti-dumping or countervailing duties in accordance with paragraphs 104 and 169 of the Protocol on the application of safeguard, anti-dumping and countervailing measures in relation to third countries (Annex 8 to this Treaty), anti-dumping and countervailing duties shall be payable not later than within 30 business days from the effective date of the decision of the Commission on the application of the anti-dumping or countervailing duties and shall be transferred and distributed in the procedure determined in the annex to the said Protocol.

The timing of payment of safeguard, anti-dumping and countervailing duties may not be changed to deferred payments or payment in instalments.

In case of non-payment or partial payment of safeguard, anti-dumping or countervailing duties within the determined period, they shall be recovered in the procedure provided for the import customs duties in the legislation of a Member State, the customs authorities of which perform the collection of

customs duties and taxes with the imposition of penalties. The procedure of calculation, payment, collection and recovery of penalties is similar to the procedure determined for penalties paid or recovered due to non-payment or partial payment of import customs duties.

The provisions of this paragraph shall be applied to the calculation, payment and collection of provisional safeguard, provisional anti-dumping and provisional countervailing duties.

7. Article 74 of the Customs Code of the Customs Union regarding tariff exemptions shall be applied subject to the provisions of Article 43 of this Treaty.

8. The second part of paragraph 2 of Article 77 of the Customs Code of the Customs Union shall not be applicable.

For the purposes of calculation of export customs duties, the rates shall be applied as provided by the legislation of the Member State on the territory of which the goods are cleared in the customs or on the territory of which illegal movement of goods across the customs border of the Union is detected, unless otherwise determined under international treaties within the Union and/or bilateral international treaties between the Member States.

## Article 102 Transitional Provisions for Section IX

1. Notwithstanding the provisions of Article 35 of this Treaty, the Member States may unilaterally grant preferences in trade with a third party on the basis of an international treaty concluded by the respective Member State with such a third party before January 1, 2015 or an international treaty to which all the Member States are participants.

The Member States shall unify all treaties that imply granting preferences.

2. Following revision of safeguard, anti-dumping and countervailing measures in force in accordance with the legislation of the Member States, such measures adopted in respect of goods imported into the customs territory of the Union shall be applied until the expiration of the period determined for them by the appropriate decision of the Commission and may be subject to review in accordance with the provisions of Section IX of this Treaty and Annex 8 to this Treaty.

3. For the purposes of implementing the provisions of Article 36 of this Treaty before the entry into force of a decision of the Commission determining the conditions for the application and procedure for the common system of tariff preferences of the Union in respect of goods originating from developing countries and/or least developed countries, the Protocol on the Common System of Tariff Preferences of the Customs Union of December 12, 2008 shall be applied.

4. Prior to the entry into force of a Commission's decision determining the rules for identification of the origin of goods stipulated in paragraph 2 of Article 37 of this Treaty, the Agreement on the common rules for determining the country of origin of goods of January 25, 2008, shall be applied.

5. Prior to the entry into force of a Commission's decision determining the rules for identification of the origin of goods stipulated in paragraph 3 of Article 37 of this Treaty, the Agreement on the rules for determining the origin of goods from developing and least developed countries of December 12, 2008 shall be applied.

Article 103  
Transitional Provisions for Section XVI

1. In order to achieve the objectives set out in paragraph 1 of Article 70 of this Treaty, the Member States shall have completed the harmonisation of their legislation in the sphere of financial markets by 2025 in accordance with an international treaty within the Union and the Protocol on Financial Services (Annex 17 to this Treaty).

2. After the harmonisation of legislation in the sphere of financial markets, the Member States shall decide on the powers and functions of a supranational authority to regulate financial markets and shall establish the authority to be located in the city of Almaty in 2025.

Article 104  
Transitional Provisions for Section XX

1. In order to ensure the development of indicative (projected) balances of gas, oil and petroleum products of the Union, contributing to the efficient use of the aggregate energy potential and optimisation of interstate supplies of energy resources, authorised authorities of the Member States shall draft and approve the methodology for preparing indicative (projected) balances of gas, oil and petroleum products before July 1, 2015.

2. In order to create the common electric power market of the Union, the Supreme Council shall approve its concept prior to July 1, 2015, and the programme for its creation before July 1, 2016, providing a time frame for the implementation of the programme until July 1, 2018.

3. Upon completion of the programme for the creation of the common electric power market of the Union, the Member States shall conclude an

international agreement within the Union on the establishment of the common electric power market of the Union, including the common rules of access to the services of natural monopoly entity in the electrical power sector, and shall ensure its entry into force no later than on July 1, 2019.

4. In order to create the common gas market of the Union, the Supreme Council shall approve its concept prior to January 1, 2016, and the programme for its creation before January 1, 2018, providing a time frame for the implementation of the programme until January 1, 2024.

5. Upon completion of the programme for the creation of the common gas market of the Union, the Member States shall conclude an international treaty within the Union on the establishment of the common gas market of the Union, including the common rules of access to gas transportation systems located on the territories of the Member States, and shall ensure its entry into force no later than on January 1, 2025.

6. In order to create the common markets of oil and petroleum products of the Union, the Supreme Council shall approve their concept prior to January 1, 2016, and the programme for their creation before January 1, 2018, providing a time frame for the implementation of the programme until January 1, 2024.

7. Upon completion of the programme for the creation of common markets of oil and petroleum products of the Union, the Member States shall conclude an international treaty within the Union on the establishment of the common markets of oil and petroleum products of the Union, including the common rules of access to oil and petroleum products transportation systems located on the territories of the Member States, and shall ensure its entry into force no later than on January 1, 2025.

8. The Protocol on the access to services of natural monopoly entities in the electrical power sector, including fundamental pricing and tariff policy (Annex 21 to this Treaty) shall be valid until the entry into force of the international treaty referred to in paragraph 3 of this Article.

9. The Protocol on the rules of access to services of natural monopoly entities in the sphere of gas transportation using gas transportation systems, including fundamental pricing and tariff policy (Annex 22 to this Treaty) shall be valid until the entry into force of the international treaty referred to in paragraph 5 of this Article.

10. The Protocol on the organisation, management, functioning and development of the common markets of oil and petroleum products (Annex 23 to this Treaty) shall be valid until the entry into force of the international treaty referred in paragraph 7 of this Article.

#### Article 105

#### Transitional Provisions for Section XXIV

1. The Member States shall ensure the entry into force of the international treaty within the Union referred to in paragraph 7 of the Protocol on the common rules for the provision of industrial subsidies (Annex 28 to this Treaty) on January 1, 2017.

Starting from the date of entry into force of the international treaty, the provisions of sub-paragraphs 3 and 4 of paragraph 6 of Article 93 of this Treaty and paragraphs 6, 15, 20, 87 and 97 of the Protocol on the common rules for the provision of industrial subsidies (Annex 28 to this Treaty) shall come into force.



2. The provisions of Article 93 of this Treaty and the Protocol on the common rules for the provision of industrial subsidies (Annex 28 to this Treaty) shall not apply to subsidies granted on the territories of the Member States before January 1, 2012.

Article 106  
Transitional Provisions for Section XXV

1. With respect to the provisions of the first indent of paragraph 8 of the Protocol on measures of state support for agriculture (Annex 29 to this Treaty), a transitional period until 2016 shall be determined for the Republic of Belarus, during which the Republic of Belarus shall be committed to reduce the allowed amount of state support for agriculture as follows:

in 2015 – by 12 percent;

in 2016 – by 10 percent.

2. The methodology for calculating the permitted level of support measures affecting the trade, stipulated in the second indent of paragraph 8 of the Protocol on measures of state support for agriculture (Annex 29 to this Treaty), shall be developed and approved before January 1, 2016.

3. Obligations stipulated in the third indent of paragraph 8 of the Protocol on measures of state support for agriculture (Annex 29 to this Treaty) shall enter into force for the Republic of Belarus not later than on January 1, 2025.

Section XXVIII  
FINAL PROVISIONS

Article 107  
Social Guarantees, Privileges and Immunities

On the territory of each Member State of the Union, all members of the Council of the Commission and Board, judges of the Court of the Union, officials and employees of the Commission and the Court of the Union shall enjoy all social guarantees, privileges and immunities required for the implementation of their powers and service duties. The scope of these social guarantees, privileges and immunities shall be determined in accordance with Annex 32 to this Treaty.

Article 108  
Accession to the Union

1. The Union shall be open for accession to any state sharing its objectives and principles on the terms agreed upon by the Member States.
2. In order to obtain the status of a candidate state for accession to the Union, the state concerned shall send a corresponding appeal to the Chairman of the Supreme Council.
3. The decision on granting a state the status of a candidate for accession to the Union shall be made by the Supreme Council by consensus.
4. Based on the decision of the Supreme Council, a working group shall be formed consisting of representatives of the candidate state, the Member States and Bodies of the Union (hereinafter “the working group”) for examining the degree of preparation of the candidate to assume the obligations resulting from the law of the Union, drafting an action

programme for accession of the candidate state to the Eurasian Economic Union, as well as for drafting an international agreement on the accession of the state to the Union, which shall determine the extent of the rights and obligations of the candidate state, as well as the format of its participation in the work of the Bodies of the Union.

5. The action programme for the accession of a candidate state to the Eurasian Economic Union shall be approved by the Supreme Council.

6. The working group shall regularly submit to the Supreme Council a report on the implementation of the action programme by the candidate for its accession to the Eurasian Economic Union. When the working group concludes that the candidate has fulfilled the obligations arising from the law of the Union in full, the Supreme Council shall adopt a decision on the signing an international agreement of accession to the Union with the candidate state. This agreement shall be subject to ratification.

#### Article 109 Observer States

1. Any state may request the Chairman of the Supreme Council for the provision of the status of an observer state within the Union.

2. The decision to grant or refuse the observer status within the Union shall be made by the Supreme Council in the interests of integration development and achievement of the objectives of this Treaty.

3. Authorised representatives of an observer state of the Union may be present at meetings of the Bodies of the Union by invitation and obtain those documents adopted by the Union that do not contain any confidential information.

4. The observer status within the Union shall not entitle any state to participate in decision-making process conducted by Bodies of the Union.

5. Any state obtaining the observer status within the Union shall be obliged to refrain from any action that may infringe the interests of the Union and its Member States, as well as the object and purpose of this Treaty.

#### Article 110

##### Working Language of the Bodies of the Union.

##### Language of International Treaties within the Union and Decisions of the Commission

1. Russian language shall be the working language of the Bodies of the Union.

2. International treaties within the Union and decisions of the Commission that are binding on the Member States shall be adopted in Russian with subsequent translation into the official languages of the Member States, if it is provided for by their legislation, in the procedure determined by the Commission.

Translations of documents into national languages of the Member States shall be performed at the expense of the funds allocated in the budget of the Union for this purpose.

3. In case of conflicts between versions of international treaties and decisions referred to in paragraph 2 of this Article with regard to their interpretation, the Russian version shall prevail.

Article 111  
Access and Publication

1. International treaties within the Union, international treaties with a third party and decisions of the Bodies of the Union shall be officially posted on the official website of the Union in the procedure determined by the Intergovernmental Council.

The date of posting a decision of a Body of the Union on the official website of the Union on the Internet shall be deemed the date of its official publication.

2. No decision referred to in paragraph 1 of this Article shall enter into force before its official publication.

3. Each decision of the Bodies of the Union shall be forwarded to the Member States no later than within 3 calendar days from the date of the decision.

4. Bodies of the Union shall ensure preliminary publication of draft decisions on the official website of the Union on the Internet at least 30 calendar days prior to the planned adoption date. Draft decisions of the Bodies of the Union taken in exceptional cases requiring a rapid response may be published under other terms.

All interested persons may submit to the Bodies their comments and suggestions.

The procedures for the collection, analysis and consideration of such comments and suggestions shall be set out in the operating rules of the relevant Bodies of the Union.

5. It shall not be required to officially publish draft and final decisions of the Bodies of the Union containing classified information.

6. The provisions of this Article shall not apply to decisions of the Court of the Union, the entry into force and publication of which shall be governed by the Statute of the Court of the Eurasian Economic Union (Annex 2 to this Treaty).

7. The provisions of paragraph 4 of this Article shall not apply to decisions of the Bodies of the Union in cases where preliminary publication of drafts decisions may prevent their execution or is otherwise contrary to the public interest.

#### Article 112 Settlement of Disputes

Any disputes relating to the interpretation and/or application of provisions of this Treaty shall be settled through consultations and negotiations.

If no agreement is reached within 3 months from the date the formal written request for consultations and negotiations sent by one party to another party to the dispute, unless otherwise provided for by the Statute of the Court of the Eurasian Economic Union (Annex 2 to this Treaty), the dispute may be referred by either party to the Court of the Union, if the parties do not agree on the use of other resolution procedures.

#### Article 113 Entry of the Treaty into Force

This Treaty shall enter into force on the date of receipt by the depositary of the last written notification of the fulfilment by the Member States of the internal legal procedures required for its entry into force.

Upon the entry into force of this Treaty, all international treaties concluded within the establishment of the Customs Union and the Common Economic Space shall be terminated, according to Annex 33 to this Treaty.

Article 114  
Correlation between this Treaty  
and other International Treaties

1. This Treaty shall not preclude the conclusion by the Member States of international treaties that are not inconsistent with the objectives and principles of this Treaty.

2. Bilateral international treaties between the Member States envisaging deeper integration as compared to the provisions of this Treaty or international treaties within the Union or stipulating any additional benefits for their natural and/or juridical persons shall be applied in the relations between the contracting states and may be concluded only provided that they do not affect the their rights and obligations and rights and obligations of other Member States under this Treaty and international treaties within the Union.

Article 115  
Amendments to the Treaty

This Treaty may be amended and supplemented in the form of protocols which shall form an integral part of this Treaty.

Article 116  
Treaty Registration with the Secretariat  
of the United Nations

This Treaty shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 117  
Reservations

No reservations to this Treaty shall be allowed.

Article 118  
Withdrawal from Treaty

1. Any Member State may withdraw from this Treaty by sending to the Depositary of this Treaty via diplomatic channels a written notice of its intention to withdraw from this Treaty. The effect of this Treaty in respect of such state shall cease after 12 months from the date of receipt of the notice by the Depositary of this Treaty.

2. A Member State which has notified in accordance with paragraph 1 of this Article its intention to withdraw from this Treaty shall be obliged to settle all financial obligations incurred in connection with its participation in this Treaty. This obligation shall remain in force even after the withdrawal of the state from this Treaty, until its full implementation.

3. On the basis of the notice referred to in paragraph 1 of this Article, the Supreme Council shall decide to begin the process of settlement of obligations arising in connection with the participation of a Member State in this Treaty.



4. Withdrawal from this Treaty automatically entails termination of membership in the Union and withdrawal from all international treaties within the Union.

This Treaty is executed in the city of Astana on May 29, 2014, in a single copy in Belarusian, Kazakh and Russian languages, all texts being equally authentic.

In case of divergence of interpretations of the Treaty, the text in the Russian language shall prevail.

The original of this Treaty shall be stored by the Eurasian Economic Commission, which, being the Depositary of this Treaty, shall send each Party a certified copy thereof.

**For the Republic of  
Belarus**

**For the Republic of  
Kazakhstan**

**For the Russian  
Federation**

ANNEX 1  
to the Treaty on the Eurasian  
Economic Union

**REGULATION**  
**on the Eurasian Economic Commission**

I. General provisions

1. In accordance with paragraph 1 of Article 18 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty"), the Commission shall be a permanent regulating body of the Union.

The basic objectives of the Commission shall be to enable the functioning and development of the Union, as well as to develop proposals in the sphere of economic integration within the Union.

2. The Commission shall carry out its activities based on the following principles:

- 1) ensuring mutual benefit, equality and respect for the national interests of the Member States;
- 2) economic justification of all decisions adopted;
- 3) transparency, publicity and objectivity.

3. The Commission shall operate within the powers provided for by the Treaty and international treaties within the Union in the following areas:

- 1) customs tariff and non-tariff regulation;
- 2) customs regulations;
- 3) technical regulations;

- 4) sanitary, veterinary-sanitary and phytosanitary quarantine measures;
- 5) transfer and distribution of import customs duties;
- 6) establishment of trade regimes for third parties;
- 7) statistics of foreign and mutual trade;
- 8) macroeconomic policy;
- 9) competition policy;
- 10) industrial and agricultural subsidies;
- 11) energy policy;
- 12) natural monopolies;
- 13) state and/or municipal procurement;
- 14) mutual trade in services and investments;
- 15) transport and transportation;
- 16) monetary policy;
- 17) intellectual property;
- 18) labour migration;
- 19) financial markets (banking, insurance, the currency market, the securities market);
- 20) other spheres as specified in the Treaty and other international treaties within the Union.

4. The Commission shall, within its powers, ensure the implementation of international treaties that form the Union law.

5. The Commission shall act as a depositary of international treaties within the Union and decisions of the Supreme Council and the Intergovernmental Council.

6. The Supreme Council may vest into the Commission the power to sign international treaties on matters within the competence of the Commission.

7. In order to ensure efficient functioning of the Union, the Commission shall have the right to establish advisory bodies for holding consultations on specific issues governed by decisions of the Commission.

8. The Commission shall be entitled to request from the Member States their opinion on any issue examined by the Commission. Respective requests shall be sent to the governments of the Member States. The Commission shall also be entitled to request from executive authorities of the Member States, juridical and natural persons any information required by the Commission for the exercise of its powers. Copies of requests sent by the Commission to such juridical and natural persons, with the exception of requests containing confidential information, shall be simultaneously directed to the authorised executive authority of a Member State. A request for information or opinion shall be sent on behalf of the Commission by the Chairman or a member of the Board of the Commission, unless otherwise provided by the Treaty.

Executive authorities of the Member States shall provide the information requested within the period prescribed in the Rules of Procedure of the Commission, on condition that it does not contain any data classified in accordance with the legislation of the Member States as a State secrecy (State secrets) or restricted information.

The procedure for the exchange of information containing data classified in accordance with the legislation of the Member States as a State secret (State secrets) or restricted information shall be determined by international treaties within the Union.

9. The Commission shall be responsible for the preparation of the Budget of the Union and reports on its implementation and shall manage funds of the Commission's budget estimate.

10. The Commission shall have the rights of a juridical person.

11. The Commission shall consist of the Council of the Commission and the Board of the Commission. Operating procedures of the Council of the Commission and the Board of the Commission shall be as specified in the Rules of Procedure of the Eurasian Economic Commission approved by the Supreme Council (hereinafter "the Rules of Procedure").

12. The Council of the Commission shall have the right to form structural subdivisions (hereinafter "the Departments of the Commission").

13. The Commission shall, within its powers, adopt decisions with regulatory and binding effect for the Member States, organisational and administrative dispositions and non-binding recommendations.

Decisions of the Commission shall form part of the Union law and shall be directly applicable on the territories of the Member States.

14. Decisions, dispositions and recommendations of the Commission shall be adopted by the Council of the Commission and the Board of the Commission within the powers determined by the Treaty and other international treaties within the Union, in the manner prescribed by the Treaty and the Rules of Procedure.

The separation of powers and functions between the Council of the Commission and the Board of the Commission shall be as determined in the Rules of Procedure.

15. All decisions of the Commission that may influence the business environment shall be adopted based on the results of regulatory impact assessments of their draft versions.

The procedure for regulatory impact assessments of such draft decisions of the Commission shall be determined in the Rules of Procedure.

16. Unless otherwise provided for by the Treaty and other international treaties within the Union, decisions of the Commission shall take effect at least 30 calendar days after their official publication.

Decisions of the Commission referred to in paragraph 18 of this Regulation, as well as any decisions of the Commission taken in exceptional cases requiring rapid response, may have different dates of entry into force, but not less than 10 calendar days after their official publication.

The procedure for the adoption and entry into force of the decision of the Commission referred to in the second indent of this paragraph shall be as determined by the Rules of Procedure.

Decisions of the Commission containing restricted information shall enter into force on the dates specified therein.

Dispositions of the Commission shall enter into force on the dates specified therein.

17. Any decisions of the Commission worsening the situation of natural and/or juridical persons shall have no retroactive effect.

18. Decisions of the Commission improving the situation of natural and/or juridical persons may be retroactive, if it is expressly provided therein.

19. Decisions of the Commission shall be published and made available in accordance with the procedure determined by Article 111 of the Treaty.

20. All decisions shall be adopted by the Commission in accordance with Article 18 of the Treaty and this Regulation through the voting of members of the Council of the Commission or members of the Board of the Commission.

21. The distribution of votes in the Commission shall be as follows:

1) in the Council of the Commission, a single vote of the Council member shall be equal to one vote;

2) in the Board of the Commission, a single vote of the Board member shall be equal to one vote;

## II. Council of the Commission

22. The Council of the Commission shall carry out the general regulation of integration processes in the Union, as well as of the general management of the Commission's activities.

23. The Council of the Commission shall be composed of one representative from each Member State. Each representative shall be the Deputy Head of the Government of the state, duly authorised in accordance with the legislation of the state.

The Member States shall notify each other, as well as the Board of the Commission, of their representative to the Council of the Commission in the manner prescribed by the Rules of Procedure.

24. The Council of the Commission shall exercise the following functions and powers:

1) organising the work to improve legal regulation of activities of the Union;

2) submitting for the approval of the Supreme Council main integration directions within the Union;

3) considering the cancellation of the Commission's decisions taken by the Board of the Commission or the introduction of amendments thereto in accordance with paragraph 30 of this Regulation;

4) considering the results of monitoring and control of the implementation of international treaties that form the Union law;

5) introducing to the Intergovernmental Council annual reports on the monitoring of regulatory impact assessment procedure;

6) upon recommendation of the Chairman of the Board of the Commission, approving a list of the Departments of the Commission, their structure and total staffing, as well as their distribution between the members of the Board of the Commission;

7) approving qualification requirements to officials and employees of the Commission;

8) deciding on the withdrawal of privileges and immunities from members of the Commission on the grounds stipulated in the Regulation on Social Guarantees, Privileges and Immunities within the Eurasian Economic Union (see Annex 32 to the Treaty);

9) approving the draft Budget of the Union;

10) approving remuneration procedures for members of the Board of the Commission, officials and employees of the Commission;

11) approving the total maximum staffing of the Departments of the Commission;

12) approving the plan to create and develop an integrated information system of the Union;

13) in order to ensure observance of the rights of nationals of the Member States for employment in Departments of the Commission, as envisaged by the Treaty, establishing the Commission on Ethics under the Council of the Commission and approve the regulation thereon;

14) instructing the Board of the Commission;

15) exercising other functions and powers in accordance with the Treaty, international treaties within the Union and the Rules of Procedure.



25. Prior to adoption of a decision of the Council of the Commission or the Board of the Commission, the Council of the Commission shall be entitled to specify the issues on which the Board of the Commission shall hold consultations within the advisory body established in accordance with paragraph 44 of this Regulation.

26. Meetings of the Council of the Commission shall be conducted in accordance with the Rules of Procedure. Any member of the Council of the Commission may initiate a meeting of the Council of the Commission and make proposals on the agenda.

A meeting of the Council of the Commission shall be considered valid if attended by all members of the Council of the Commission.

27. Meetings of the Council of the Commission shall be attended by the Chairman of the Board of the Commission and, at the invitation of the Council of the Commission, by members of the Board of the Commission. Members of the Council of the Commission may invite representatives of the Member States and other persons to meetings of the Council of the Commission.

Meetings of the Council of the Commission may be attended by representatives of third States in the manner and on the terms specified in the Treaty.

28. Chairmanship of the Council of the Commission shall be arranged in accordance with paragraph 4 of Article 8 of the Treaty.

In the event of early termination of powers of the Chairman of the Council of the Commission, the new member of the Council of the Commission representing the presiding Member State shall exercise the powers of the Chairman of the Council of the Commission within the remaining period.

The Chairman of the Council of the Commission shall:  
generally manage the preparation of issues submitted for consideration at the next meeting of the Council of the Commission;  
determine the agenda;  
open, close and chair meetings of the Council of the Commission.

29. The Council of the Commission shall adopt decisions, dispositions and recommendations within its powers.

The Council of the Commission shall adopt decisions, dispositions and recommendations by consensus.

If no consensus is reached, the issue shall be referred for consideration to the Supreme Council or the Intergovernmental Council following the proposal of any Council of the Commission member.

30. Any Member State or Council of the Commission member shall be entitled to, within 15 calendar days from the date of publication of a decision of the Board of the Commission, submit to the Board of the Commission a proposal for its cancellation or amendment.

On the day of receipt of such a proposal, the Chairman of the Board of the Commission shall send to Council of the Commission members the appropriate materials regarding the decision.

Upon receipt of such materials, the Council of the Commission shall consider them and adopt a decision within 10 calendar days.

In case of disagreement with the decision adopted by the Council of the Commission following consideration of cancellation or amendment of a decision of the Board of the Commission, or upon expiry of the period specified in the third indent of this paragraph, a Member State may, no later than 30 calendar days from the date of the official publication of the decision of the Council of the Commission, submit to the Commission a letter signed

by the head of its government with a proposal for the introduction of the issue for consideration to the Intergovernmental Council and/or the Supreme Council.

The head of government of a Member State may apply to the Commission with a proposal to introduce issues regarding the Commission's decisions referred to in the second indent of paragraph 16 of this Regulation for consideration to the Intergovernmental Council and/or the Supreme Council at any stage prior to the date of their entry into force.

The decision of the Board of the Commission the cancellation or amendment of which was requested in accordance with this paragraph shall not come into force and shall be suspended for the time required for consideration thereof by the Intergovernmental Council and/or the Supreme Council and for taking appropriate decision following this consideration.

### III. Board of the Commission

31. The Board of the Commission shall be the executive body of the Commission.

The Board of the Commission shall be composed of Board members, one of whom shall be the Chairman of the Board of the Commission.

The Board of the Commission shall be comprised of representatives of the Member States based on the principle of equal representation of the Member States.

The number of Board of the Commission members and the allocation of responsibilities between the Board members shall be determined by the Supreme Council.

The Board of the Commission shall manage the Departments of the Commission.

32. A member of the Board of the Commission shall be a national of the Member State represented.

Members of the Board of the Commission shall meet the following requirements: have professional training (qualifications) corresponding to their official duties, as well as professional experience in the area related to his or her official duties of at least 7 years, including at least one year in a senior management position at a public authority of a Member State.

33. Members of the Board of the Commission shall be appointed by the Supreme Council for a term of 4 years with a possible prolongation of powers.

The Chairman of the Board of the Commission shall be appointed by the Supreme Council for a term of 4 years on a rotational basis, without the right of prolongation. Rotation shall be held alternately in the Russian alphabetical order by names of the Member States.

34. Members of the Board of the Commission shall work in the Commission on a permanent basis. When exercising their powers, members of the Board of the Commission shall be independent of all public authorities and officials of the Member States and may not request or receive instructions from government authorities or officials of the Member States.

The procedure for interaction between members of the Board of the Commission and the Member States with regard to international activities shall be in accordance with the Procedure for International Cooperation of the Eurasian Economic Union approved by the Supreme Council.

35. Members of the Board of the Commission shall not be entitled to combine their work in the Board of the Commission with any other work or

engage in any other paid activities, except for teaching, research and creative activities, throughout the term of their office.

36. Members of the Board of the Commission may not:

1) participate on a paid basis in the activities of a management body of a commercial entity;

2) engage in business activities;

3) receive remuneration in connection with the exercise of their powers from any natural and juridical persons (gifts, monetary rewards, loans, services, payment for entertainment or recreation, transportation costs and other remunerations). All gifts received by a member of the Board of the Commission in connection with protocol events, official business and other official events (except for symbolic gifts) shall be recognised as the property of the Commission and transferred to the Commission under a certificate. A member of the Board of the Commission having transferred such a gift to the Commission shall be entitled to buy it out in the manner approved by the Council of the Commission;

4) travel in exercise of their official duties at the expense of natural and juridical persons;

5) use any logistical and other support facilities or any other property of the Commission for purposes not related to the exercise of their powers or transfer them to other persons;

6) disclose or use for purposes not related to the exercise of their powers any confidential or proprietary information that has become known to such members in connection with the exercise of their powers;

7) use the powers of a member of the Board of the Commission in the interests of political parties and other public associations, religious groups and other organisations, as well as publicly express their attitude towards

these associations and organisations as a member of the Board of the Commission, unless it is within the scope of their powers;

8) create within the Commission any structural subdivisions of political parties, other public associations (except for trade unions, unions of veterans and other local community groups) and religious associations or facilitate the creation of these structures.

37. If a member of the Board of the Commission owns any income-generating securities and/or shares (shares in the authorised capital of organisations), this member shall within a reasonable time place the securities and/or shares (shares in the authorised capital of organisations) owned into trust.

38. The restrictions determined in paragraphs 35–37 of this Regulation shall also be applied to officials and employees of the Commission.

39. Any violation of the restrictions determined in paragraphs 35–37 of this Regulation shall be grounds for early termination of office of the member of the Board of the Commission or termination of an employment agreement (contract) with the official or employee of the Commission.

40. Each Member State shall nominate candidates for membership in the Board of the Commission to the Supreme Council.

The list of members of the Board of the Commission, including the Chairman, shall be approved by the Supreme Council on the proposal of the Member States.

In case of non-approval of a candidate for the Board of the Commission by the Supreme Council, the Member State shall nominate a new candidate within 30 calendar days.

41. The Member States shall not be entitled to recall a member of the Board of the Commission, except in cases of unfair performance of his/her duties or in cases specified in paragraphs 35–37 of this Regulation.

Early termination of office of a member of the Board of the Commission (except in the case of voluntary resignation) shall be performed upon request from a Member State on the basis of a decision of the Supreme Council.

In the event of early termination of office of a member of the Board of the Commission, a new member of the Board of the Commission shall be appointed for the unexpired term of office of the previous member of the Board of the Commission on the request of the same Member State that nominated the member whose powers were terminated.

42. Distribution of responsibilities between the Board of the Commission members, as well as the total staffing of the Department of the Commission and remuneration procedures for members of the Board of the Commission, officials and employees of the Commission (including their salaries) shall be approved by the Supreme Council.

43. The Board of the Commission shall exercise the following functions and powers:

1) developing own proposals and compiling proposals submitted by the Member States in the field of integration within the Union (including the development and implementation of the main directions of integration);

2) adopting decisions, dispositions and recommendations;

3) implementing decisions and dispositions adopted by the Supreme Council and the Intergovernmental Council and decisions adopted by the Council of the Commission;

4) monitoring and controlling the implementation of international treaties that form the Union law and decisions of the Commission as well notifying the Member States of the requirement for their implementation;

5) submitting annual progress reports for consideration by the Council of the Commission;

6) developing recommendations on issues relating to the formation, functioning and development of the Union;

7) preparing expert reports (in writing) regarding all proposals from the Member States received by the Commission;

8) assisting the Member States in the settlement of disputes within the Union before applying to the Court of the Union;

9) ensuring representation of the interests of the Commission in courts, including the Court of the Union;

10) within its powers, interacting with public authorities of the Member States;

11) considering incoming requests to the Commission;

12) upon request by the Chairman of the Board of the Commission, approving foreign business trip plans for members of the Board, officials and employees of the Commission for the next year;

13) upon request by the Chairman of the Board of the Commission, approving the scientific research plan for the next year reviewed by advisory committees and informing the Council of the Commission of the plan;

14) developing a draft Budget of the Union and draft reports on its implementation, ensuring implementation of the budget estimates of the Commission;



15) drafting international treaties and decisions of the Commission adopted by the Council of the Commission, as well as other documents required for the exercise of powers by the Commission;

16) in due course, conducting regulatory impact assessments and preparing annual reports on monitoring of these procedures;

17) ensuring the holding of meetings of the Council of the Commission, the Intergovernmental Council, the Supreme Council and auxiliary bodies established in accordance with paragraph 3 of Article 5 of the Treaty;

18) submitting to the Council of the Commission proposals for the withdrawal of privileges and immunities from officials and employees of the Commission;

19) placing orders and concluding contracts for the supply of goods, performance of works and provision of services required by the Commission in accordance with the procedure approved by the Council of the Commission;

20) ensuring compliance with the procedures for handling restricted documents (confidential and for internal use only) approved by the Council of the Commission.

44. The Board of the Commission shall be entitled to establish advisory bodies under the Board of the Commission, the activities and operation procedures of which shall be specified in the relevant regulation approved by the Board of the Commission. Appropriate advisory bodies required for the consideration of issues identified by the Council of the Commission shall be created by the Board of the Commission on a mandatory basis.

45. Advisory bodies under the Board of the Commission shall be composed of authorised representatives of public authorities of the Member States.

If suggested by the Member States, advisory bodies under the Board of the Commission shall include representatives of the business community, scientific and non-governmental organisations, and other independent experts.

46. Advisory bodies under the Board of the Commission shall, within their powers, issue recommendations for the Commission on matters within their competence . Proposals introduced by members of advisory bodies at meetings of the advisory bodies may not be regarded as the final opinions of the Member States.

47. Organisational and technical support of advisory bodies under the Board of the Commission shall be ensured by the Commission.

The costs associated with the participation of authorised representatives of public authorities of the Member States in advisory bodies under the Board of the Commission shall be incurred by the Member States. The costs associated with the participation of representatives of the business community, scientific and non-governmental organisations and other independent experts in advisory bodies under the Board of the Commission shall be incurred independently by the said persons.

48. The Board of the Commission shall, within its powers, adopt decisions, dispositions and recommendations.

Decisions, dispositions and recommendations of the Commission adopted by the Board of the Commission shall be signed by the Chairman of the Board of the Commission.

49. Meetings of the Board of the Commission shall, as a rule, be held at least once a week.

Members of the Board of the Commission shall take part in the meeting of the Board of the Commission in person, without the right of substitution. In case of objective impossibility of participation in a meeting of the Board of the Commission, the member of the Board of the Commission shall be entitled, subject to the procedure determined by the Rules of Procedure, to state his/her opinion in writing or by proxy and, with the consent of the Chairman of the Board of the Commission, to delegate the right to represent this opinion to the Director of the Department of the Commission who is in charge of the issue in question. In this case, the Director of the Department of the Commission shall not be entitled to vote.

Meetings of the Board may be attended by one representative from each Member State.

Extraordinary meetings may be held at the request of at least one Board of the Commission member, based on the decision of the Chairman of the Board of the Commission. The procedure for holding meetings of the Board of the Commission and the voting procedure shall be as determined by the Rules of Procedure.

50. A set of documents and materials for each item in the draft agenda of meetings of the Board of the Commission shall be, on a mandatory basis, circulated to all the Member States in accordance with the Rules of Procedure at least 30 calendar days before the date of the meeting.

51. The Chairman of the Board of the Commission shall:

1) organise the activities of the Board of the Commission and bear responsibility for the exercise of its functions;

2) duly compile draft plans of meetings of the Board of the Commission and the Council of the Commission for the next period and the agenda for meetings of the Board of the Commission and the Council of the Commission, as well as draft agenda for the meetings of the Supreme Council and the Intergovernmental Council, subject to approval at meetings of the Council of the Commission and distribution between the Member States no later than 20 calendar days before the date of the relevant meeting with all necessary materials included;

3) report to the Council of the Commission, the Intergovernmental Council and the Supreme Council on matters requiring their decisions and on other documents with respective proposals following their consideration at meetings of the Board of the Commission;

4) determine operation procedure for the Departments of the Commission and matters within their competence ;

5) organise the preparation of meetings of the Board of the Commission, the Council of the Commission, the Intergovernmental Council and the Supreme Council;

6) chair meetings of the Board of the Commission;

7) participate in the meetings of the Council of the Commission;

8) represent the Board of the Commission in the Council of the Commission;

9) upon agreement with members of the Board of the Commission, introduce to the Council of the Commission proposals for assigning the Departments of the Commission to specific Board of the Commission members;

10) determine the procedure for cooperation with representatives of the media, the rules of public speaking for officials and employees of the Commission as well the rules of providing official information;

11) act on behalf of the Commission as the administrator of the Budget of the Union , manage funds within the budget estimates of the Commission and financial resources of the Commission, conclude civil law contracts and appear in court;

12) following the results of respective competition, appoint Directors of the Departments of the Commission and their deputies and conclude contracts with them;

13) following the results of respective competition, conclude employment agreements (contracts) with Commission employees on behalf of the Commission;

14) approve regulations on the Departments of the Commission;

15) appoint the Acting Chairman of the Board of the Commission from among the members of the Board of the Commission;

16) exercise the powers of employer's representative in respect of officials and employees of the Commission, approve official regulations (job descriptions) and leave schedules, grant leave and decide on business trips;

17) ensure verification of facts specified in a request of a Member State to revoke a member of the Board of the Commission on the grounds specified in paragraphs 35–37 of this Regulation, in accordance with the procedure approved by the Council of the Commission;

18) exercise other functions required for the operation of the Board of the Commission and the Departments of the Commission in accordance with the Rules of Procedure.

52. In accordance with the division of responsibilities, a member of the Board of the Commission shall:

- 1) prepare proposals on matters within his/her competence ;
- 2) report at meetings of the Board of the Commission and the Council of the Commission on matters within his/her competence ;
- 3) coordinate and control activities of the supervised Departments of the Commission;
- 4) prepare draft decisions, dispositions and recommendations of the Board of the Commission on matters within his/her competence;
- 5) monitor the implementation by the Member States of international treaties that form the Union law on matters within his/her competence;
- 6) monitor the enforcement by the Member States of Commission decisions on matters within his/her competence;
- 7) prepare draft expert opinions (in writing) in response to proposals from the Member States on matters within his/her competence received by the Commission;
- 8) within the powers of the Board of the Commission, cooperate with public authorities of the Member States on matters within his/her competence (including request from public authorities of the Member States, juridical and natural persons any information required to exercise his/her powers);
- 9) ensure the drafting of international treaties, decisions, dispositions and recommendations of the Commission adopted by the Council of the Commission, as well as other documents required to exercise the powers of the Commission on matters within his/her competence;
- 10) ensure due participation of the supervised Departments of the Commission in regulatory impact assessment procedure;

11) submit to the Board of the Commission proposals for the establishment of advisory bodies under the Board of the Commission on matters within his/her competence .

53. Issues relating to the provision of privileges, immunities and social security to members of the Board of the Commission, as well as issues related to labour relations and compulsory state social security and pensions shall be governed by the Regulation on Social Guarantees, Privileges and Immunities within the Eurasian Economic Union (see Annex 32 to the Treaty).

#### IV. Departments of the Commission

54. Activities of the Council of the Commission and the Board of the Commission shall be supported by the Departments of the Commission.

Departments of the Commission shall consist of officials and employees.

Officials and employees of the Commission shall be employed in accordance with Article 9 of the Treaty.

Directors of Departments of the Commission and their deputies shall be appointed by the Chairman of the Board of the Commission on the basis of recommendations of the competition commission for a term of 4 years.

Directors of Departments of the Commission and their deputies shall meet the following requirements:

be nationals of the Member States;

have appropriate professional training (qualifications) for their official duties and professional experience in the area related to their official duties of at least 5 years.

Employees of Departments of the Commission shall be selected on a competitive basis from among the nationals of the Member States meeting the qualification requirements for the position approved by the Council of the Commission.

Commission employees shall be recruited under employment agreements (contracts) concluded with the Chairman of the Board of the Commission.

The procedure for concluding employment agreements (contracts), their extension and grounds for their termination shall be approved by the Council of the Commission.

Additional requirements specified in the competition procedures may be applied to candidates.

Commission employees shall be certified in accordance with the procedure approved by the Council of the Commission.

55. Departments of the Commission shall exercise the following functions:

1) preparing materials, draft decisions, dispositions and recommendations on issues of functioning of the Union (including proposals for the conclusion and amendment of international treaties) for their subsequent consideration by members of the Board of the Commission;

2) monitoring implementation by the Member States of international treaties that form the Union law, decisions and dispositions of the Board of the Commission, the Council of the Commission, the Intergovernmental Council and the Supreme Council for the purposes of introducing the results to members of the Board of the Commission;



3) preparing proposals for consideration by members of the Board of the Commission following the results of monitoring and analysis of the legislation of the Member States in the areas governed by the Union law;

4) preparing draft international treaties and other documents required for the functioning of the Union;

5) cooperating with the public authorities of the Member States;

6) preparing drafts of the Budget of the Union and reports on their implementation, developing draft budget estimates of the Commission and ensuring their implementation;

7) ensuring performance by the Commission of the functions of a depositary with regard to international treaties within the Union;

8) duly participating in regulatory impact assessment procedures and monitoring these procedures;

9) exercising other functions specified in the international treaties that form the Union law, decisions of the Supreme Council, the Intergovernmental Council and the Commission (including those aimed at organising the work of the Bodies of the Union and information and technical support of the Commission activities).

56. Officials and employees of the Commission shall be deemed international civil servants.

In the performance of their official duties, officials and employees of the Commission shall be independent from all public authorities and officials of the Member States and may not request or receive instructions from government authorities or officials of the Member States.

Each Member State shall respect the status of officials and employees of the Commission and shall not influence the performance of their duties.

Officials and employees of the Commission shall not have the right to combine their work in the Commission with any other work or engage in any other paid activities, except for teaching, research and creative activities, throughout the term of their office and exercise of their duties.

57. Members of the Board of the Commission, officials and employees of the Commission shall annually submit to the Commission information on their income, assets and material liabilities, as well as the income, assets and material liabilities of their family members (spouses and minor children) in the manner and time determined by the Council of the Commission.

58. All information on the income, assets and material liabilities submitted by members of the Board of the Commission and officials and employees of the Commission in accordance with this Regulation shall be deemed confidential.

59. Any persons found guilty of disclosing the information specified in paragraphs 57 and 58 of this Regulation shall be liable in accordance with the legislation of the Member States.

60. The accuracy and completeness of the information specified in paragraphs 57 and 58 of this Regulation shall be verified in the manner approved by the Intergovernmental Council.

61. Members of the Board of the Commission, officials and employees of the Commission shall take measures to prevent or resolve any conflict of interest that may arise due to the presence of personal interests of such members of the Board of the Commission, officials or employees of the Commission.

62. Issues relating to the provision of privileges, immunities and social security to officials and employees of the Commission, as well as issues related to labour relations and compulsory state social security and pensions

shall be governed by the Regulation on Social Guarantees, Privileges and Immunities within the Eurasian Economic Union (see Annex 32 to the Treaty).

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ANNEX 2  
to the Treaty on the Eurasian  
Economic Union

**STATUTE**  
**of the Court of the Eurasian Economic Union**

CHAPTER I. General Provisions Legal Status of the Court

1. The Court of the Eurasian Economic Union (hereinafter "the Court") shall be the judicial body of the Eurasian Economic Union (hereinafter "the Union") and shall be formed and operate on a permanent basis in accordance with the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and this Statute.

2. The objective of the Court's activities shall be to ensure, in accordance with the provisions of this Statute, uniform application by the Member States and Bodies of the Union of the Treaty, international treaties within the Union, international treaties of the Union with a third party and decisions of the Bodies of the Union.

For the purpose of this Statute, Bodies of the Union shall include all Bodies of the Union, except for the Court.

3. The Court shall have the rights of a juridical person.

4. The Court shall maintain its documentation, have a seal and letterheads, establish its official website and publish an official bulletin.

5. The Court shall develop proposals for the funding of the Court activities and shall administer the funds allocated to ensure its activities in accordance with the Regulation on the Budget of the Union.

6. The terms of remuneration for judges, officials and employees of the Court shall be determined by the Supreme Eurasian Economic Council.

## CHAPTER II. Composition of the Court

7. The Court shall include two judges from each Member State.

8. The term of office of a judge shall be 9 years.

9. All judges shall be of high moral character, highly qualified in the field of international and domestic law, and shall usually meet the requirements applicable to judges of the highest judicial authorities of the Member States.

10. Judges shall be appointed by the Supreme Eurasian Economic Council on the proposal of the Member States. When assuming the office, all judges shall take the oath.

11. Judges shall be dismissed by the Supreme Eurasian Economic Council.

12. Powers of a judge may be terminated on the following grounds:

- 1) termination of the Court;
- 2) expiration of the term of office of the judge;
- 3) a written statement of resignation filed by the judge due to his/her transfer to another job or for other reasons;
- 4) inability to exercise the powers of a judge due to poor health or other valid reasons;
- 5) participation in activities incompatible with the office of a judge;
- 6) termination of membership in the Union of the state represented by the judge;

7) if the judge no longer has the status of a national of the Member State represented;

8) in case of serious misconduct incompatible with the high status of a judge;

9) in case of entry into force of a judgment of conviction against the judge or a court decision on the application of compulsory medical measures with regard to the judge;

10) in case of entry into force of a court decision on the limited capacity or incapacity of the judge;

11) in case of death of the judge or entry into force of a court decision declaring him/her dead or missing.

13. The initiative to terminate the powers of a judge on the grounds provided for in paragraph 12 of this Statute may be put forward by a Member State represented by the judge, the Court or the judge concerned.

The procedure for the initiative to terminate the powers of a judge shall be determined by the Rules of Procedure of the Court of the Eurasian Economic Union approved by the Supreme Eurasian Economic Council (hereinafter - "the Rules of Procedure").

14. All activities of the Court shall be managed by the Chairman of the Court. The Chairman of the Court shall have a Deputy Chairman.

In case of temporary inability of the Chairman of the Court to participate in the activities of the Court, his/her duties shall be performed by the Deputy Chairman of the Court.

15. The Chairman of the Court and the Deputy Chairman shall be elected to their positions from among the judges of the Court by Court judges in accordance with the Rules of Procedure subject to approval by the Supreme Eurasian Economic Council.

The Chairman of the Court and the Deputy Chairman may not be nationals of the same Member State.

Upon termination of office, the new Chairman of the Court or Deputy Chairman shall be elected from among the judges representing other Member States, different from those represented by the former Chairman of the Court and the Deputy Chairman respectively.

16. The term of office for the Chairman of the Court and the Deputy Chairman shall be 3 years.

17. The Chairman of the Court shall:

- 1) approve the structure and activities of the Court and judges;
- 2) organise activities of the Court;
- 3) within his/her powers, ensure cooperation between the Court and authorised authorities of the Member States, foreign and international courts;
- 4) appoint and dismiss employees and officials of the Court in accordance with the procedure envisaged in this Statute;
- 5) arrange the provision of information on the activities of the Court to the media;
- 6) exercise other powers within the this Statute.

18. Judges may not represent the interests of any state or interstate authorities and organisations, businesses, political parties and movements, as well as territories, nations, nationalities, social and religious groups and individuals.

Judges may not engage in any income-generating activities, except for scientific, creative and teaching work.

19. A judge may not participate in the resolution of any case where he/she has participated as a representative, counsel or lawyer of one of the

parties to the dispute, a member of a national or international court or an inquiry commission, or in any other capacity.

20. In the administration of justice, all judges shall be equal and have equal status. The Chairman of the Court and the Deputy Chairman shall not be entitled to take actions aimed at obtaining any undue advantage over other judges.

21. Both in the exercise of their powers and in off-duty relationship, the judges shall avoid conflicts of interest, as well as anything that may diminish the authority of the judiciary power and the dignity of the judges or call into question their objectivity, fairness and impartiality.

### CHAPTER III. Administration of the Court Status of Officials and Employees

22. Activities of the Court shall be ensured by the Administration of the Court.

23. The structure of the Administration of the Court shall include the secretariats of judges and the Secretariat of the Court.

24. The secretariat of a judge shall consist of an advisor and a judicial assistant.

25. Legal, organisational, logistical and other support for Court activities shall be provided by the Secretariat of the Court.

26. The structure and staffing of the Secretariat of the Court shall be approved by the Supreme Eurasian Economic Council.

27. The Secretariat of the Court shall be managed by the Head of the Secretariat. The Head of the Secretariat of the Court shall have two deputies. The Head of the Secretariat of the Court and his/her deputies shall be officials of the Court appointed and dismissed in accordance with this Statute



and the Treaty. The Head of the Secretariat of the Court and his/her deputies may not be nationals of the same Member State.

28. All labour relations shall be governed by the Treaty, applicable international treaties within the Union and the legislation of the state of residence of the Court.

29. An advisor to the judge shall be an official of the Court appointed and dismissed by the Chairman of the Court on the proposal of the respective judge.

30. An advisor to the judge shall provide information and analytical support to the judge.

31. An advisor to the judge shall be of high moral character and an experienced specialist in the field of international law and/or foreign economic activities.

32. A judicial assistant shall be an employee of the Court appointed and dismissed by the Chairman of the Court on the proposal of the respective judge.

33. A judicial assistant shall provide organisational support to the judge.

34. Candidates for the positions of the Head of the Secretariat of the Court and his/her deputies shall be selected on a competitive basis by the competition commission of the Court with account of the principle of equal representation of the Member States.

Candidates to participate in the competition for these positions shall be nominated by the Member States.

35. The Secretariat of the Court shall be formed on a competitive basis, with account of share participation of the Member States in the Budget of the Union, from among nationals of the Member States.

Employees of the Secretariat of the Court shall be employed on the basis of employment agreements (contracts).

36. The competition commission of the Court for the selection of candidates for positions in the Secretariat of the Court shall include all judges of the Court, except for the Chairman of the Court.

Members of the competition commission shall elect the chairman of the competition commission.

The competition commission shall adopt its decisions in the form of recommendations by a majority vote and submit them to the Chairman of the Court for appointment.

37. The competition procedure for vacant positions in the Secretariat of the Court shall be determined by the Court and approved by the Chairman of the Court in accordance with the basic rules of competition determined by the Supreme Eurasian Economic Council.

38. Technical staff of the Secretariat of the Court shall be employed by the Head of the Secretariat on the basis of employment agreements (contracts).

#### CHAPTER IV. Jurisdiction of the Court

39. The Court shall resolve disputes arising in connection with the implementation of the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union:

1) at the request of a Member State:

on compliance of an international treaty within the Union or its certain provisions with the Treaty;

on observance by another Member State (other Member States) of the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union, as well as certain provisions of these international treaties and/or decisions;

on compliance of a decision of the Commission or its certain provisions with the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union;

on challenging actions (omissions) of the Commission;

2) at the request of an economic entity:

on compliance of a decision of the Commission or its certain provisions directly affecting the rights and legitimate interests of the economic entity in the sphere of business and other economic activities with the Treaty and/or international treaties within the Union, if such a decision or its certain provisions entailed a violation of any rights and legitimate interests of the economic entity envisaged by the Treaty and/or international treaties within the Union;

on challenging actions (omissions) of the Commission directly affecting the rights and legitimate interests of the economic entity in the sphere of business and other economic activities, if such actions (omissions) entailed a violation of any rights and legitimate interests of the economic entity envisaged by the Treaty and/or international treaties within the Union.

For the purpose of this Statute, an economic entity shall refer to a juridical person registered under the legislation of a Member State or a third State or a natural person registered as an individual entrepreneur in accordance with the legislation of a Member State or a third State.

40. The Member States may include in the jurisdiction of the Court any other disputes, the resolution of which by the Court is expressly provided for

by the Treaty, international treaties within the Union, international treaties of the Union with a third party or other international treaties between the Member States.

41. All matters regarding the Court's jurisdiction to resolve a dispute shall be resolved by the Court. In determining whether the Court has jurisdiction to resolve a dispute, the Court shall be governed by the Treaty, international treaties within the Union and/or international treaties of the Union with a third party.

42. The jurisdiction of the Court shall not include extension of the competence of Bodies of the Union in excess of that expressly provided for by the Treaty and/or international treaties within the Union.

43. Any dispute may be accepted for examination by the Court only following a prior appeal of an applicant to a Member State or the Commission to address the issue in the pretrial order through consultation, negotiation or other means provided for by the Treaty and international treaties within the Union, except as expressly provided for by the Treaty.

44. If, within 3 months from the date of receipt of an applicant's appeal, a Member State or the Commission have not taken any steps towards pretrial resolution of the issue, the application on resolution of the dispute may be referred to the Court.

45. By mutual consent of the parties to the dispute, it may be referred to the Court before the expiry of the period specified in paragraph 44 of this Statute.

46. At the request of a Member State or a Body of the Union, the Court shall provide clarifications to provisions of the Treaty, international treaties within the Union and decisions of the Bodies of the Union and, at the request of employees and officials of the Bodies of the Union and the Court, to

provisions of the Treaty, international treaties within the Union and decisions of the Bodies of the Union regarding labour relations (hereinafter "the clarifications").

47. Providing clarifications by the Court shall mean providing an advisory opinion and shall not deprive the Member States of the right for joint interpretation of international treaties.

48. The Court shall provide clarifications to provisions of an international treaty of the Union with a third party, if it is provided in the international treaty.

49. An appeal with a request to resolve a dispute or a request for clarification shall be lodged with the Court on behalf of a Member State by its authorised authorities and organisations, the list of which shall be compiled by each Member State and sent to the Court via diplomatic channels.

50. In the exercise of justice, the Court shall apply:

1) the generally recognised principles and regulations of international law;

2) the Treaty, international treaties within the Union and other international treaties to which the states that are parties to the dispute are participants;

3) decisions and dispositions of the Bodies of the Union;

4) the international custom as evidence of the general practice accepted as a rule of law.

51. Provisions of the Treaty, international treaties within the Union and international treaties of the Union with a third party relating to the settlement of disputes, clarifications and interpretations shall apply to the extent not inconsistent with this Statute.

## CHAPTER V. Judicial Proceedings

### Section 1 Dispute Resolution Proceedings

52. The procedure for dispute resolution by the Court shall be determined by the Rules of Procedure.

53. The Court shall conduct its proceedings based on the following principles:

- independence of judges;
- transparency of proceedings;
- publicity;
- equality of the parties to the dispute;
- competitiveness;
- collegiality.

The procedure for implementing these principles shall be determined in the Rules of Procedure.

54. The receipt of an appeal to the Court in respect of any international treaty within the Union and/or decision of the Commission shall not be regarded as grounds for suspension of such international treaty and/or decision and/or any certain provisions thereof, except as otherwise expressly provided for by the Treaty.

55. The Court may request any materials required for the examination of cases from the economic entities, authorised authorities and organisations of the Member States and Bodies of the Union having applied to the Court.

56. Restricted information may be obtained by the Court or submitted by a person involved in the case in accordance with the Treaty, international treaties within the Union, the Rules of Procedure and the legislation of the

Member States. The Court shall take appropriate measures to ensure security of such information.

57. Proceedings before the Court shall be carried out with the participation of the parties to the dispute, the applicant, their representatives, and experts, including experts from specialised groups, technicians, witnesses and interpreters.

58. All persons involved in the case shall enjoy the procedural rights and bear procedural obligations in accordance with the Rules of Procedure.

59. Experts of specialised groups shall have immunity with regard to administrative, civil and criminal jurisdiction in respect of all words spoken or written in connection with their participation in examination of cases by the Court. These persons shall lose their immunity in case of violation of the procedure established for the use and protection of restricted information as specified in the Rules of Procedure.

60. If a Member State or the Commission considers that a decision on the dispute may affect their interests, the Member State or the Commission may apply for permission to intervene as a concerned party to the dispute.

61. The Court shall dismiss without prejudice all claims for damages or other material claims.

62. All appeals of economic entities lodged with the Court shall be subject to charges.

63. The charges shall be paid by the economic entity prior to lodging an application with the Court.

64. If the Court grants the claims of the economic entity stated in the application, the charges shall be refunded.

65. The amount, the currency, the procedure, the use and return of the charges shall be established by the Supreme Eurasian Economic Council.

66. During the proceedings on a case, each party to the dispute shall bear its own court costs.

67. At any stage of the proceedings, the dispute may be settled by the parties through conclusion of a friendly settlement agreement, applicant's revocation of its claims or withdrawal of the application.

## Section 2 Clarification Proceedings

68. Clarification proceedings shall be conducted as specified in the Rules of Procedure.

69. The Court shall conduct all clarification proceedings based on the principles of judicial independence and collegiality.

## Section 3 Composition of the Court

70. The Court shall examine cases when composed of the Grand Panel of the Court, the Panel of the Court and the Appeals Chamber of the Court.

71. The Court shall conduct dispute resolution proceedings at meetings of the Grand Panel of the Court in the cases envisaged in sub-paragraph 1 of paragraph 39 of this Statute.

72. The Grand Panel shall examine procedural matters prescribed by the Rules of Procedure.

73. The Court shall conduct clarification proceedings at meetings of the Grand Panel of the Court.

74. The Grand Panel of the Court shall include all judges of the Court.

75. A session of the Grand Panel of the Court shall be deemed valid in the presence of all judges of the Court.



76. The Court shall be in session composed of the Panel of the Court in the cases envisaged in sub-paragraph 2 of paragraph 39 of this Statute.

77. The Panel of the Court shall include at least one judge from each Member State participating alternately by the names of the judges, beginning with the first letter of the Russian alphabet.

78. A session of the Panel of the Court shall be deemed valid in the presence of one judge from each Member State.

79. The Court shall be in session composed of the Appeals Chamber when examining appeals against decisions of the Panel of the Court.

80. The Appeals Chamber of the Court shall include judges of the Court from Member States who did not participate in the proceedings that resulted in the decision of the Panel of the Court in question.

81. A session of the Appeals Chamber of the Court shall be deemed valid in the presence of one judge from each Member State.

## CHAPTER VI. Specialised Groups

82. Specialised groups shall be created when examining particular disputes concerning the provision of industrial subsidies, agricultural state support measures, the application of safeguard, anti-dumping and countervailing measures.

83. A specialised group shall consist of three experts, one from each list submitted by each Member State for the respective type of disputes.

84. The composition of a specialised group shall be approved by the Court.

85. Each specialised group shall be dissolved after the examination of the case.

86. Each Member State shall, not later than 60 calendar days after the entry into force of the Treaty, submit to the Court a list containing at least three experts willing and able to act as members of specialised groups for each type of disputes referred to in paragraph 82 of this Statute.

The Member States shall regularly update their lists of experts, but not less than once a year.

87. Experts may be represented by individuals who are highly qualified specialists with expertise and experience in matters that are the subjects of disputes referred to in paragraph 82 of this Statute.

88. All experts shall act in their personal capacity and operate independently, shall not be related to either party to the dispute and may not obtain any instructions from them.

89. An expert may not be a member of a specialised group in the case of a conflict of interest.

90. A specialised group shall prepare a report containing an unbiased assessment of the facts of the case and submit the report to the Court within the time limits determined by the Rules of Procedure.

91. The opinion of a specialised group shall be non-binding, except in cases stipulated in the third indent of paragraph 92 of this Statute, and shall be assessed by the Court in making one of the decisions envisaged in paragraphs 104-110 of this Statute.

92. An opinion of a specialised group prepared with regard to a dispute concerning the provision of industrial subsidies or agricultural state support measures shall contain a conclusion on the presence or absence of violations and on the application of appropriate compensatory measures in case of violations.

The part of the opinion of a specialised group regarding the presence or absence of a violation shall be non-binding and shall be assessed by the Court in making one of the decisions envisaged in paragraphs 104-110 of this Statute.

The part of the opinion of a specialised group regarding the relevant compensatory measures shall be binding for the Court in issuing the decision.

93. The procedure for the selection and operation of specialised groups shall be determined by the Rules of Procedure.

94. The procedure for payment for the services of experts of specialised groups shall be determined by the Supreme Eurasian Economic Council.

## CHAPTER VII. Acts of the Court

95. The Court shall, within the time limits determined by the Rules of Procedure, adopt judgments on procedural matters of the Court, including judgments on:

- 1) admission or rejection of an application;
- 2) suspension or resumption of proceedings;
- 3) termination of proceedings.

96. Within 90 days of the date of receipt of an application, having examined the dispute, the Court shall issue its decision and provide an advisory opinion following a request for clarification.

97. The term of the decision may be extended in the cases provided for by the Rules of Procedure.

98. Advisory opinion issued following clarification requests shall be non-binding.

99. Having reviewed the disputes envisaged in sub-paragraph 1 of paragraph 39 of this Statute, the Court shall issue a decision that shall be binding on the parties to the dispute.

100. Having reviewed the disputes provided for in sub-paragraph 2 of paragraph 39 of this Statute, the Court shall issue a decision that shall be binding on and enforceable by the Commission.

101. No decision of the Court may extend beyond the issues stated in the application.

102. No decision of the Court may alter and/or override the effective rules of the Union law and the legislation of the Member States, nor may it create new ones .

103. Without prejudice to the provisions of paragraphs 111-113 of this Statute, the parties to the dispute shall be free to determine the form and manner of execution of the Court's decision.

104. Following the proceedings on an appeal lodged by a Member State regarding compliance of an international treaty within the Union or its certain provisions with the Treaty, the Grand Panel of the Court shall issue one of the following decisions:

1) a decision on non-compliance of an international treaty within the Union or its certain provisions with the Treaty;

2) a decision on compliance of an international treaty within the Union or its certain provisions with the Treaty.

105. Following the proceedings on an appeal lodged by a Member State regarding observance by another Member State (other Member States) of the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union, as well as of certain provisions of these international treaties

and/or decisions, the Grand Panel of the Court shall issue one of the following decisions:

1) a decision on the finding of observance by Member State (Member States) of the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union, as well as certain provisions of these international treaties and/or decisions;

2) a decision on the finding of non-observance by Member State (Member States) of the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union, as well as certain provisions of these international treaties and/or decisions.

106. Following the proceedings on an appeal lodged by a Member State regarding compliance of a decision of the Commission or its certain provisions with the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union, the Grand Panel of the Court shall issue one of the following decisions:

1) a decision on non-compliance of a decision of the Commission or its certain provisions with the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union;

2) a decision on compliance of a decision of the Commission or its certain provisions with the Treaty, international treaties within the Union and/or decisions of the Bodies of the Union.

107. Following the proceedings on an appeal lodged by a Member State challenging actions (omissions) of the Commission, the Grand Panel of the Court shall issue one of the following decisions:

1) a decision on the recognition of the disputed actions (omissions) as non-conforming to the Treaty and/or international treaties within the Union;

2) a decision on the recognition of the disputed action (omission) as conforming to the Treaty and/or international treaties within the Union.

108. Following the proceedings on an appeal lodged by an economic entity on compliance of a decision of the Commission or its certain provisions directly affecting the rights and legitimate interests of the economic entity in the sphere of business and other economic activities with the Treaty and/or international treaties within the Union, if such a decision or its certain provisions entailed a violation of any rights and legitimate interests of the economic entity envisaged by the Treaty and/or international treaties within the Union, the Panel of the Court shall issue one of the following decisions;

1) a decision on the recognition of the decision of the Commission or its certain provisions as conforming to the Treaty and/or international treaties within the Union;

2) a decision on the recognition of the decision of the Commission or its certain provisions as non-conforming to the Treaty and/or international treaties within the Union.

109. Following the proceedings on an appeal lodged by an economic entity challenging any actions (omissions) of the Commission, the Panel of the Court shall issue one of the following decisions:

1) on the recognition of the disputed actions (omissions) of the Commission as non-conforming to the Treaty and/or international treaties within the Union and violating the rights and legitimate interests of the economic entity in the sphere of business and other economic activities;

2) on the recognition of the disputed actions (omissions) of the Commission as conforming to the Treaty and/or international treaties within

the Union and not violating any rights and legitimate interests of the economic entity in the sphere of business and other economic activities.

110. Following the proceedings on an appeal lodged by an economic entity against any decision of the Panel of the Court, the Appeals Chamber of the Court shall issue one of the following decisions:

1) on upholding the decision of the Panel of the Court and dismissal of the appeal;

2) on reversal, in whole or in part, or amendment of the decision of the Panel of the Court and delivering of a new decision on the case in accordance with paragraphs 108 and 109 of this Statute.

111. All decisions of the Commission or its certain provisions recognised by the Court as non-conforming to the Treaty and/or international treaties within the Union shall continue in effect after the entry into force of the relevant decision of the Court until the execution of the decision by the Commission.

Any decision of the Commission or certain provisions thereof found by the Court to be non-conforming to the Treaty and/or international treaties within the Union, shall be brought in compliance with the Treaty and/or international treaties within the Union by the Commission within a reasonable time not exceeding 60 calendar days from the date of entry into force of the decision of the Court, unless a different term is established in the decision of the Court.

Subject to the provisions of the Treaty and/or international treaties within the Union, in its decision, the Court may establish a different term for bringing the Commission's decision in compliance with the Treaty and/or international treaties within the Union.

112. Upon a reasonable request by a party to the dispute, a decision of the Commission or its certain provisions recognised by the Court as non-conforming to the Treaty and/or international treaties within the Union may be suspended by the Court on the date of entry into force of such decision of the Court.

113. The Commission shall execute the effective decision of the Court, establishing nonconformity of the disputed actions (omissions) of the Commission to the Treaty and/or international treaties within the Union and violation thereby of the rights and legitimate interests of economic entities envisaged in the Treaty and/or international treaties within the Union, within a reasonable time not exceeding 60 calendar days from the date of entry into force of the respective decision of the Court, unless a different term is specified in the decision of the Court.

114. In case of failure to execute the decision of the Court, the respective Member State shall be entitled to apply to the Supreme Eurasian Economic Council for measures required for its execution .

115. Should the Commission fail to execute the decision of the Court, the respective economic entity may apply to the Court requesting measures required for its execution.

Following such a request of the economic entity, the Court shall, within 15 calendar days from the date of its receipt, appeal to the Supreme Eurasian Economic Council for resolution of the matter.

116. Acts of the Court shall be published in the official bulletin of the Court and on the official website of the Court.

117. Any decision of the Court may be clarified without changing its essence or content only by the Court upon a reasonable request from the parties in the case.



## CHAPTER VIII. Final Provisions

118. Judges, officials and employees of the Court, all persons involved in a case and experts of specialised groups shall not disclose or transmit to third parties any information acquired in the course of the proceedings without the prior written consent of the person providing such information.

119. The procedure for the use and protection of restricted information shall be specified in the Rules of Procedure.

120. The Court shall submit to the Supreme Eurasian Economic Council annual reports on its activities.

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ANNEX 3  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Information and Communication Technologies and Information**  
**Exchange within**  
**the Eurasian Economic Union**

1. This Protocol has been developed in accordance with Article 23 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") in order to set out the basic principles of information exchange and coordination of communications within the Union, as well as to establish the procedure for the creation and development of an integrated information system.

2. The terms used in this Protocol shall have the following meanings:

"hard copy of an electronic document" means a copy of an electronic document printed on paper and certified in accordance with the legislation of the Member States;

"trusted third party" means an organisation vested in accordance with the legislation of the Member States with powers to undertake activities to verify digital signatures (e-signatures) in electronic documents at a fixed moment in time in respect of the person signing an electronic document;

"customer in the national segment of a Member State" means a public authority of a Member State acting as a customer and organiser of work aimed at the creation, development and operation of the national segment of the Member State, selected in accordance with the legislation of the Member State;

"information security" means adoption and implementation of legal, organisational and technical measures to identify, achieve and maintain the confidentiality, integrity and availability of information and its processing in order to avoid or minimise unacceptable risks to the subjects of information exchange;

"integrated information system of the Union" means a set of geographically distributed state information resources and information systems of authorised authorities, information resources and information systems of the Commission, combined by the national segments of the Member States and the integration segment of the Commission;

"information system" means a set of information technologies and hardware used for the processing of information resources;

"information and communication technologies" means a set of methods and means of information technologies and telecommunications processes;

"information technologies" means processes and methods of search, collection, accumulation, filing, storage, specification, processing, supply, distribution and disposal (destruction) of information and ways to implement such processes and methods;

"information resource" means an ordered set of documented information (databases, other data arrays) contained in information systems;

"classifier" means a systematic, structured and codified list of names of classification items;

"national segment of a Member State", "the integration segment of the Commission" means information systems ensuring the information exchange between information systems of authorised authorities and information systems of the Commission in the framework of the integrated information system of the Union;

"regulatory and reference information" means a set of directories and classifiers used in the information exchange between authorised authorities;

"the common infrastructure for documenting information in electronic form" means a set of information technology, organisational and legal measures, regulations and decisions required to give legal effect to electronic documents used within the Union;

"common information resource" means an information resource of the Commission with centralised operation or based on the information exchange between the Member States;

"common process within the Union" means operations and procedures governed (established) by international treaties and acts constituting the law of the Union and the legislation of the Member States and initiating on the territory of one Member State and ending (changing) on the territory of another Member State;

"directory" means a systematic, structured and codified list of information that is homogeneous in its content or essence;

"subjects of electronic interaction" means state authorities, natural or juridical persons interacting in the process of compiling, sending, transmitting, receiving, storage and use of electronic documents and information in electronic form;

"transboundary space of trust" means a set of legal, organisational and technical terms agreed by the Member States in order to ensure confidence in the interstate exchange of data and electronic documents between authorised authorities;

"unified system of classification and coding of information" means a set of directories and classifiers regulatory and reference data, as well as the procedure and methodology for their development, management and use;

"authorised authority" means a state authority of a Member State or a designated organisation with powers to implement the state policy in certain spheres;

"accounting system" means an information system containing information from the documents of title of the subjects of electronic interaction used to compile or issue legally relevant electronic documents;

"electronic communications" means a method of information exchange based on the application of information and communication technologies;

"document in electronic format" means any information presented in a form suitable for human perception using electronic computers and for transmitting and processing using information and communication technologies in compliance with the established requirements for its format and structure;

"electronic document" means a document in electronic form certified by a digital signature (e-signature) and meeting the requirements of the common infrastructure for documenting information in electronic form.

3. With the extension of the functionality of the integrated information system for foreign and mutual trade, work shall be conducted on the creation, functioning and development of the integrated information system of the Union (hereinafter – "the integrated system") to ensure information support in the following areas:

- 1) customs tariff and non-tariff regulations;
- 2) customs regulations;
- 3) technical regulations, application of sanitary, veterinary-sanitary and phytosanitary quarantine measures;
- 4) transferring and distribution of import customs duties;

5) transferring and distribution of anti-dumping and countervailing duties;

6) statistics;

7) competition policy;

8) energy policy;

9) monetary policy;

10) intellectual property;

11) financial markets (banking, insurance, the currency market, the securities market);

12) support for the activities of the Bodies of the Union;

13) macroeconomic policy;

14) industrial and agricultural policy;

15) circulation of medicinal products and medical devices;

16) other matters within the powers of the Union (included in the scope of the integrated system as it develops).

4. The basic objectives for the creation of the integrated system shall be as follows:

1) to create and maintain a single system of regulatory and reference data of the Union based on the unified system of classification and coding;

2) to create an integrated information structure for the interstate exchange of data and electronic documents within the Union;

3) to establish information resources common to all the Member States;

4) to ensure information exchange under the provisions of the Treaty to enable the formation of common information resources, information support of authorised authorities exercising state control, as well as the implementation of common processes within the Union;

5) to provide access to the texts of international treaties and acts constituting the law of the Union and draft international treaties and acts constituting the law of the Union, as well as to common information resources and information resources of the Member States;

6) to establish and maintain a common infrastructure for documenting information in electronic form.

5. Within the integrated system, common information resources shall be formed containing the following:

1) legislative and other regulatory legal acts of the Member States, international treaties and acts constituting the law of the Union;

2) regulatory and reference information generated through the centralised maintenance of a database or based on the exchange of information between the Member States;

3) registries formed on the basis of the information exchange between the Member States and the Commission;

4) official statistical information;

5) information and methodical, scientific, technical and other reference and analytical materials of the Member States;

6) other information to be included in the common information resources, as the integrated system develops.

6. When forming the integrated system, the Member States shall be based on the following principles:

1) common interests and mutual benefit;

2) application of unified methodological approaches to the preparation of information for the integrated system based on a common data model;

3) availability, reliability and completeness of information;

4) timely provision of information;

- 5) correspondence to the current level information technologies;
- 6) integration with information systems of the Member States;
- 7) ensuring equal access of the Member States to information resources contained in the integrated system;
- 8) the use of information provided only for the specified purposes, without harming the providing Member State;
- 9) transparency of the integrated system to all categories of users subject to the use of information in accordance with the stated purpose;
- 10) free of charge exchange of information between authorised authorities and between authorised authorities and the Commission using the integrated system.

7. The structure and contents of directories and classifiers included in the regulatory and reference data in accordance with the Treaty and international treaties within the Union shall be determined by the Commission in agreement with authorised authorities.

8. When forming an integrated system, the Member States shall be guided by international standards and recommendations.

9. In order to create common information resources, ensure the implementation of common processes within the Union and effective exercise of various types of state control with the use of the integrated system, electronic interaction shall be ensured between authorised authorities, authorised authorities and the Commission as well as between the Commission and integration associations and international organisations. A list of common processes within the Union, the technology for their implementation, the procedure and regulations for sending and receiving messages (requests) in the interaction process, as well as the requirements for



documents in electronic format (electronic documents) shall be determined by the Commission in the procedure specified in the Treaty.

10. The list of electronic information to be provided in the process of interaction shall be determined by the Treaty or international treaties within the Union.

11. In order to ensure equal conditions for economic entities and individuals in terms of the submission of information to authorised authorities and coordinated development of electronic forms of communication between authorised authorities, economic entities and individuals, the Commission shall be entitled to determine for these types of interaction single and unified within the Union requirements with regard to documents in electronic format (electronic documents) and the procedure for sending and receiving messages (requests) in the interaction process or recommend them for application.

12. Electronic interaction with the use of electronic documents and their processing in information systems shall comply with the following principles:

1) if the legislation of a Member State requires execution of a document in the form of a hard copy, the electronic document issued by the rules and requirements for documentation as approved by the Council of the Commission shall be deemed to conform to these rules and requirements;

2) the electronic document issued under the rules and requirements for documentation approved by the Council of the Commission shall be deemed to have equal legal force with the similar signed or signed and sealed document executed on paper;

3) the document may not be denied legal effect solely on the grounds that it is made in the form of an electronic document;

4) for extracting data from electronic documents, including with conversion of formats and structures, for their processing in information systems, their equivalence with the information provided in electronic documents shall be ensured;

5) in the cases provided for by international treaties and acts constituting the law of the Union or the legislation of the Member States, hard copies of electronic documents may be issued using the accounting system.

13. The transboundary space of trust shall be developed by the Commission and the Member States in accordance with the strategy and concept of application of legally binding electronic documents and services in interstate information exchange.

14. The common infrastructure for documenting information in electronic form shall be composed of state components and the integration component.

15. The Commission shall be in charge of operation of the integration component of the common infrastructure for documenting information in electronic form.

16. State components of the common infrastructure for documenting information in electronic form shall be operated by authorised authorities or organisations assigned by such authorities in accordance with the legislation of the Member State.

17. The integration component of the common infrastructure for documenting information in electronic form shall represent a set of elements of the transboundary space of trust ensuring transboundary electronic document exchange on the basis of agreed standards and infrastructure solutions.

18. The requirements for the creation, development and functioning of the transboundary space of trust shall be developed by the Commission in cooperation with the authorised authorities and shall be approved by the Commission. The compliance of components of the common infrastructure for documenting information in electronic form with the specified requirements shall be verified by a commission consisting of representatives of the Member States and the Commission. The Regulation on the commission, including the procedure for its formation and operation, shall be determined by the Council of the Commission.

19. The information exchange of electronic documents between subjects of electronic interaction using different mechanisms for the protection of electronic documents shall be ensured using the services provided by operators of the common infrastructure for documenting information in electronic form, including the services of a trusted third party.

20. Trusted third party services shall be provided by the Member States and the Commission. The operators of trusted third party services of the Member States shall be represented by authorised authorities or organisations assigned (accredited) by the authorities. Trusted third party services of the Commission shall be operated by the Commission. The Member States shall enable the subjects of electronic interaction to use trusted third party services.

21. The basic objectives for a trusted third party shall be as follows:

- 1) legalisation (authentication) of electronic documents and electronic signatures (e-signatures) of subjects of information exchange at a fixed time;
- 2) ensuring confidence in the international (transboundary) exchange of electronic documents;

3) ensuring the legality of the use of electronic signatures (e-signatures) in outgoing and/or incoming electronic documents in accordance with the legislation of the Member States and acts of the Commission.

22. The procedure for the maintenance and use of information resources within the accounting system shall be determined by the legislation of the Member States.

23. The basic objectives of the Commission with regard to the electronic interaction with the use of electronic documents shall be as follows:

1) providing the mutually acceptable to the Member States level of information security in the integration segment of the Commission;

2) development of decisions to ensure information security in the accounting systems and the common infrastructure for documenting information in electronic form, including access for the subjects of information interaction;

3) selection of components for the common infrastructure for documenting information in electronic form on the basis of international standards of the Member States, international standards and recommendations;

4) coordination of the development and testing of model information technology solutions, software and hardware systems within the overall infrastructure of documenting information in electronic form;

5) coordination of the development of rules for documenting information in electronic form, regulations on the operation of certain components and services of the common infrastructure for documenting information in electronic form, as well as recommendations for their use by subjects of electronic interaction;

6) development of recommendations for the harmonisation of legislation of the Member States using electronic documents in the process of information exchange within the Union, as well as to unify information interaction interfaces between accounting systems;

7) coordination of cooperation between the Member States and third parties on specific issues regarding the formation of the transboundary space of trust.

24. The Member States shall ensure the protection of information contained in the information resources, information systems, and information and telecommunication networks of authorised authorities in accordance with the legislation of the Member States.

25. The exchange of information constituting, under the legislation of the Member States, State secrecy (State secrets) or restricted information shall be carried out in compliance with the legislation of the Member States for the protection of such information.

26. The procedure for the exchange of information containing data classified in accordance with the legislation of the Member States as State secrecy (State secrets) or restricted information shall be determined by international treaties within the Union.

27. The creation of the integrated system shall be coordinated by the Commission, which shall ensure its functioning and development in cooperation with the customers of national segments of the Member States, with account of the development strategy of the integrated system to be prepared by the Commission and approved by the Council of the Commission. Works on creation, maintenance and development of the integrated system shall be carried out on the basis of respective plans (including the terms and cost of the works on creation, maintenance and

development of the integration segment of the Commission) to be developed by the Commission in cooperation with authorised authorities and approved by the Council of the Commission.

28. The Commission shall exercise the rights and fulfil the obligations of the owner in respect of such components of the integrated system as the integration segment of the Commission, information resources and information systems of the Commission, and shall organise their design, development and implementation, acceptance of the results and further support.

29. The Commission shall order (purchase) goods (works, services), evaluate bids submitted in the implementation of the orders (purchases) of goods (works, services) and acquire property rights with respect to the components of the integrated system referred to in paragraph 28 of this Protocol.

30. In order to ensure unification of organisational and technical solutions applied for the creation, development and operation of segments of the integrated system and to maintain adequate information security, the Commission shall coordinate the drafting of technical, technological, methodological and organisational documents and approve them.

31. A Member State shall select a customer for the national segment of the Member State to exercise the rights and fulfil the obligations related to its creation, maintenance and development.

32. The Member States shall have equal rights to use the integrated system.

33. The creation, development and operation of the components of the integrated system referred to in paragraph 28 of this Protocol shall be funded from the Budget of the Union. The funding of their creation and development

shall be based on the amounts required to implement the plans referred to in paragraph 27 of this Protocol.

34. The creation, development and operation of state information resources and information systems of authorised authorities, as well as of the national segments of the Member States, shall be funded from the budgets of the Member States allocated for the operations of their authorised authorities.

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ANNEX 4  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on the Procedure for Compilation and Dissemination**  
**of Official Statistics of**  
**the Eurasian Economic Union**

1. This Protocol has been developed in accordance with Article 24 of the Treaty on the Eurasian Economic Union in order to specify the procedure for compilation and dissemination of official statistics of the Union.

2. The terms used in this Protocol shall have the following meanings:

"official statistics of the Member States" means statistical information compiled by authorised authorities within their national statistical programmes and/or in accordance with the legislation of the Member States;

"official statistics of the Union" means statistical information compiled by the Commission on the basis of the official statistics of the Member States, the official statistical information of international organisations and other information obtained from sources that are not prohibited by the legislation of the Member States;

"authorised authorities" means state authorities of the Member States, including national (central) banks, in charge of compiling official statistics of the Member States.

3. In order to provide the Member States and the Commission with official statistics on goods moved between the Member States in mutual trade, authorised authorities shall maintain statistical records on mutual trade in goods with other Member States.



4. Authorised authorities shall maintain the statistical records of mutual trade in goods in accordance with the methodology approved by the Commission.

5. Authorised authorities shall submit to the Commission official statistics of the Member States according to the list of statistical indicators.

6. The list of statistical indicators, timelines and formats of presentation of official statistics of the Member States shall be approved by the Commission in agreement with authorised authorities.

7. The Commission may request from authorised authorities other official statistics of the Member States not included in the list of statistical indicators.

8. Authorised authorities shall take measures to ensure completeness, accuracy and timely presentation of official statistics of the Member States to the Commission and shall inform the Commission on the impossibility of presenting official statistical information in a timely manner.

9. The provisions of this Protocol shall not apply to any official statistics of the Member States constituting State secrecy (State secrets) or restricted information in accordance with the legislation of the Member States.

10. The Commission shall collect, store, systematise, analyse and disseminate the official statistics of the Union, provide the respective information at the request of authorised authorities and coordinate informational and methodological interaction between authorised authorities in the sphere of statistics under this Protocol.

11. The Commission shall develop and approve the methodology for compiling official statistics of the Union based on the official statistics of the Member States submitted to the Commission.

12. The Commission shall take measures to ensure comparability of the official statistics of the Member States by issuing respective recommendations for authorised authorities on the use of common, internationally comparable standards, including for classification and methodology.

13. The official statistics of the Union shall be disseminated by the Commission in accordance with the statistical programme approved by the Commission through publication in official bulletins of the Commission and posting on the official website of the Union on the Internet.

14. Jointly with authorised authorities, the Commission shall develop and approve a programme of integration in the sphere of statistics.

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## ANNEX 5

to the Treaty on the Eurasian  
Economic Union

### **PROTOCOL** **on the Procedure for Transfer and Distribution of Import Customs** **Duties (Other Duties, Taxes and Fees Having Equivalent Effect) and** **their Transfer to the Budgets of the Member States**

#### I. General Provisions

1. This Protocol has been developed in accordance with Article 26 of the Treaty on the Eurasian Economic Union in order to specify the procedure for transfer and distribution of the amounts of import customs duties between the Member States due under the obligations to pay for goods imported into the customs territory of the Union starting from September 1, 2010.

This Protocol shall also apply to the amounts of penalties (interest) accrued on the amounts of import customs duties in the cases and manner envisaged by international treaties and acts constituting the law of the Union and governing customs legal relations.

2. The terms used in this Protocol shall have the following meanings:

"single account of an authorised authority" means an account opened for an authorised authority in the national (central) bank or in an authorised authority with a correspondent account in the national (central) bank for transfer and distribution of revenues between the budgets of the respective Member State;

"reporting day" means business day in a Member State on which the amounts of import customs duties are transferred to the single account of its authorised authority;

"default interest" means the amount to be transferred by one Member State to other Member States for any violation of the provisions of this Protocol if it has caused a failure, incomplete and/or untimely fulfilment of the obligations of a Member State to transfer the amounts from distribution of import customs duties;

"foreign currency account" means an account opened for an authorised authority of a Member State in the national (central) bank in the currency of another Member State for transferring proceeds from the distribution of import customs duties by that other Member State;

"current day" means the next business day after the reporting day of a Member State on which the operations are performed on the distribution of the amounts of import customs duties for the reporting day;

"authorised authority" means a state authority of a Member State in charge of cash services for the implementation of the budget of the Member State.

Other terms used in this Protocol shall have the meanings determined by the Treaty on the Eurasian Economic Union and the Customs Code of the Eurasian Economic Union.

## II. Procedure for Transfer and Distribution of Import Customs Duties between the Member States

3. The amounts of import customs duties shall be transferred to the single account of the authorised authority in the national currency of the Member State in which they are payable in accordance with international

treaties and acts constituting the law of the Union governing customs legal relations, including the recovery of import customs duties.

Import customs duties shall be paid to the single account of the authorised authority under separate settlement (payment) documents (instructions).

Taxes and fees as well as other payments (excluding safeguard, anti-dumping and countervailing duties) payable in accordance with the legislation of the Member State and received on the single account of the authorised authority may be offset for payment of import customs duties.

In cases envisaged by the Regulation on Transfer and Distribution of Safeguard, Anti-Dumping and Countervailing Duties (see Annex to Annex 8 to the Treaty on the Eurasian Economic Union), safeguard, anti-dumping and countervailing duties may be offset against arrears of payers for import customs duties.

The amounts of import customs duties shall be refunded (offset) in accordance with the legislation of the Member States, unless otherwise provided by international treaties and acts constituting the law of the Union and governing customs legal relations, with account of the provisions in this Protocol.

The amounts of import customs duties may not be offset against any other payments, except for the offset of outstanding customs fees, safeguard, anti-dumping and countervailing duties as well as penalties (interest) (hereinafter "offset against arrears").

4. No funds may be recovered from the single account of the authorised authority in execution of judicial decisions or otherwise, except for paying arrears of payers for customs fees, safeguard, anti-dumping and countervailing duties as well as penalties (interest).

5. Authorised authorities of the Member States shall separately register the following revenues:

inpayments (refunds, offsets against arrears) of import customs duties on the single account of the authorised authority;

distributed import customs duties transferred to foreign currency accounts of other Member States;

revenues transferred to the budget of the Member State from distribution of import customs duties by the Member State;

amounts of import customs duties received in the budget of a Member State from other Member States;

default interest received in the budget of a Member State as determined by this Protocol;

distributed import customs duties the transfer of which to foreign currency accounts of other Member States has been suspended.

These amounts shall be reported separately in the reports on implementation of the budget of each Member State.

6. Amounts of import customs duties received on the single account of an authorised authority of a Member State for the last business day of a calendar year shall be included in the report on implementation of the budget of the Member State for the reporting year.

Distributed import customs duties for the last business day of the calendar year of a Member State shall be transferred no later than on the second business day of the current year of the Member State to the budget of this Member State and to foreign currency accounts of other Member States and shall be included in the budget performance report for the reporting year.

Revenues from the distribution of import customs duties received in the budget of a Member State from authorised authorities of other Member States

for the last business day of a calendar year of other Member States shall be included in the budget performance report for the current year.

7. The amounts of import customs duties shall be refunded to the payer or offset against arrears from the single account of the authorised authority on the current day up to the amounts of import customs duties received on the single account of the authorised authority as well as amounts offset against import customs duties on the reporting day, with account of the refund of import customs duties not approved by the national (central) bank for execution on the reporting day.

The amounts of import customs duties shall be refunded to the payer or offset against arrears from the single account of the authorised authority of the Republic of Kazakhstan on the reporting day up to the amounts of import customs duties received (offset) to the single account of the authorised authority on the day of the refund (offset).

8. The amount of import customs duties to be refunded and/or offset against arrears in the current day shall be determined prior to the distribution of amounts of import customs duties received between the Member States.

9. In case of insufficient funds for the refund of import customs duties and/or their offset against arrears in accordance with paragraph 7 of this Protocol, the refund (offset) shall be carried out by a Member State in subsequent business days.

Penalties (interest) for the late refund of import customs duties shall be paid to the payer from the budget of this Member State and shall not be included in the import customs duties.

10. The amounts of import customs duties shall be distributed between the Member States by the authorised authority of the Member State on the next business day of the Member State following the reporting day when the

import customs duties are transferred to the single account of the authorised authority.

The amounts of import customs duties shall be distributed between the Member States by the authorised authority of the Republic of Kazakhstan on the reporting day when the amounts of the import customs duties are transferred to the single account of the authorised authority.

11. The amount of import customs duties to be transferred from the single account of the authorised authority of a Member State to the budget of the Member State as well as foreign currency accounts of other Member States shall be calculated by multiplying the total amount of import customs duties to be distributed between the Member States by the distribution ratios established as a percentage.

The total amount of import customs duties to be distributed between the Member States shall be determined by deducting the amounts of import customs duties to be refunded to the payers and offset against arrears on the current day from the amounts of import customs duties received (offset by the authorised authority) on the reporting day with regard to settlement (payment) documents (instructions) for the transfer of the refunds of import customs duties not approved for execution by the national (central) bank on the reporting day.

If a settlement (payment) document (instruction) for the refund of import customs duties to the payer, to be executed in the current day, has not been approved for execution by the national (central) bank, the respective amount shall be distributed between the Member States on the next business day of the Member State. In this case, the amount of import customs duties not transferred to foreign currency accounts of other Member States in accordance with this paragraph shall be recognised as overdue by one day.



12. The distribution ratios for the amounts of import customs duties of each Member State shall be as follows:

the Republic of Belarus – 4.70 percent;

the Republic of Kazakhstan – 7.33 percent;

the Russian Federation – 87.97 percent.

13. The amounts of import customs duties shall be transferred by authorised authorities of the Member States to foreign currency accounts of other Member States on the next working day of the respective Member State following the date of transferring funds to the single account of the authorised authority.

A settlement (payment) document (instruction) on the transfer of the amounts of import customs duties to the Member States shall be sent by the authorised authority to the national (central) bank for the subsequent transfer of funds to foreign currency accounts of other Member States on a daily basis not later than at 2 p.m. local time. The settlement (payment) document (instruction) shall indicate the date of distribution of import customs duties and the amount to be distributed between the Member States in the national currency.

If the specified settlement (payment) document (instruction) is sent to the national (central) bank of the Member State in the current day later than 2 p.m. local time, the corresponding payment shall be deemed overdue by one day.

14. The procedure for the transfer to the budget of a Member State of the amounts of import customs duties received from authorised authorities of the Member States on their foreign currency accounts shall be governed by section III of this Protocol.

15. The amounts of import customs duties distributed and transferred to the budgets of the Member States shall be accounted by authorised authorities of the Member States.

16. The authorised authority of a Member State shall, no later than 10 calendar days before the beginning of the next calendar year, notify authorised authorities of other Member States of all non-business days determined in accordance with the legislation of the Member State.

In case of any changes in non-business days, the authorised authority of the respective Member State shall notify authorised authorities of other Member States of such changes no later than 2 calendar days prior to their entry into force.

17. In case of changes in the details of the foreign currency account used for transferring due amounts of import customs duties, the authorised authority of the respective Member State shall notify authorised authorities of other Member States of the new details of the account no later than 10 calendar days prior to the effective date of such changes.

In case of changes in any other data required for the implementation of this Protocol, the authorised authority shall notify authorised authorities of other Member States thereof no later than 3 calendar days prior to the effective date of such changes.

18. If there are no amounts of import customs duties to be distributed between the Member States, the authorised authority of the Member State shall, within the period prescribed by this Protocol for the submission to the national (central) bank of the settlement (payment) document (instruction) on the transfer of funds to foreign currency accounts of other Member States, send the respective information to authorised authorities of other Member States in electronic form using the integrated information system of the

Union and, prior to the introduction of the system, via electronic communication channels as a graphical electronic copy of the document containing this information.

19. Central customs authorities of the Member States shall ensure the application of uniform principles for accounting import customs duties on an accrual basis in accordance with the rules approved by the Commission.

20. In case of a failure to transfer or incomplete transfer of funds to a foreign currency account of any Member State within the periods specified in this section and non-provision by the authorised authority of the Member State of information on the absence of the amounts of import customs duties to be distributed, the authority of the Member State on the foreign currency account of which no funds were received shall notify the authorised authorities of the Member States and the Commission of the failure to transfer or incomplete transfer of funds.

21. The Member State that has failed to transfer to any other Member States any distributed import customs duties shall pay other Member States the default interest with regard to the entire outstanding amount at a rate of 0.1 percent for each calendar day of delay, including the day on which the amount of distributed import customs duties was not transferred to another (other) Member State (Member States).

22. If a Member State informs other Member States of the absence of import customs duties to be distributed when the respective amounts are, in fact, available, as well as in the case of an incomplete transfer of funds from the single account of an authorised authority to foreign currency accounts of other Member States, the Member State that has committed such a violation shall be obliged to transfer to other Member States the amounts of distributed import customs duties due to charge to the budgets of such other Member

States in accordance with this section, based on the amounts that have not been transferred to foreign currency accounts of other Member States, not later than on the next business day of the Member State.

In this case, the Member State that has committed such a violation shall pay the default interest at the rate established in paragraph 21 of this Protocol for each calendar day of delay. The period of delay, for this purpose, shall start on the date of the violation and shall not include the date of the transfer of funds to the Member States in accordance with this paragraph.

23. In case of non-receipt (incomplete receipt) of funds by any Member State and non-notification by the authorised authority of the Member State on the absence of the amounts of import customs duties to be distributed between the Member States, the authorised authority of the Member State on the foreign currency account of which no funds were received shall be entitled to suspend the transfer of the amounts of import customs duties from its single account to the foreign currency account of the defaulting Member State on the third business day of the Member State following the date of such non-receipt (incomplete receipt) of funds.

24. If a Member State decides to suspend the transfer of the amounts of import customs duties, the funds to be transferred to the foreign currency account of another Member State shall be transferred to the budget of the first Member State pending cancellation of the decision to suspend transfers and shall be separately accounted for in the budget of that Member State.

The authorised authority of the Member State suspending the transfer of the amounts of import customs duties to the foreign currency account of another Member State shall immediately inform authorised authorities of other Member States and the Commission of the adopted decision.

25. The Commission shall, no later than on the next business day following the day of adoption of the decision to suspend the transfer of the amounts of import customs duties, consult with the executive authorities of the Member States to ensure prompt restoration of proper distribution of the amounts of import customs duties in full.

26. If the consultations referred to in paragraph 25 of this Protocol fail to lead to a decision to resume the distribution of the amounts of import customs duties, the matter shall be referred to the Commission.

Should the Commission fail to restore the distribution of the amounts of import customs duties, the matter shall be referred to the Intergovernmental Council.

27. Upon resumption of the transfer of the amounts of import customs duties, the amounts specified in paragraph 24 of this Protocol shall be transferred, no later than on the next business day of the Member State following the date of receipt of the notification of the respective decision to the foreign currency accounts of the Member States to which they were intended in accordance with this Protocol. In this case, no default interest shall be imposed on these amounts.

28. The amounts of distributed import customs duties that have not been transferred by any Member State to foreign currency accounts of other Member States, as well as the amounts of unfulfilled obligations of national (central) banks of the Member States to transfer funds in US dollars envisaged in section III of this Protocol shall be included in the national debt.

### III. Procedure for the Transfer to the Budget of a Member State of the Amounts of Import Customs Duties Received from Authorised Authorities of the Member States in Foreign Currency

29. The national (central) bank of a (first) Member State shall be obliged to sell to the national (central) bank of another (second) Member State the funds in US dollars for an amount of the national currency of the first Member State equal to the amount of the national currency of the first Member State transferred in accordance with this Protocol to the foreign currency account of the authorised authority of the second Member State. The amount in US dollars to be sold shall be calculated at the official exchange rate of the currency of the first Member State to the US dollar as set by the national (central) bank of the first Member State on the business day following the date of the transfer of funds in the national currency of the first Member State to the foreign currency account of the second Member State.

The obligation to sell the funds in US dollars shall be fulfilled by the national (central) bank of the first Member State not later than on the next business day after the date of the transfer of the equivalent amount in the national currency of the first Member State to the foreign currency account of the second Member State.

The national (central) bank of each Member State shall fulfil its obligation to sell the funds in US dollars regardless of the exercise of similar rights and performance of obligations in relations between other Member States.

National (central) banks of any two of the Member States may determine in an agreement that the execution of their mutual obligations to transfer funds in US dollars, including any obligations that are not executed

within the period specified in the second indent of this paragraph and obligations to pay penalties in accordance with paragraph 31 of this Protocol, shall be fulfilled by the transfer by the national (central) bank the amount of liabilities of which in US dollars exceeds the reciprocal obligations in USD of the other national (central) bank of cash in US dollars to the other national (central) bank in the amount equal to the difference between the amounts of these mutual liabilities.

The requirements in this paragraph regarding the obligations to transfer funds in US dollars shall be met in the following order:

first, claims to pay penalties in accordance with paragraph 31 of this Protocol shall be fulfilled;

second, claims regarding outstanding obligations shall be fulfilled that are not overdue;

third, claims regarding overdue obligations that have not been fulfilled within the period specified in the second indent of this paragraph shall be fulfilled.

The first Member State shall be jointly and severally with the national (central) bank of the first Member State liable to the second Member State under the obligations of the national (central) bank of the first Member State to sell funds in US dollars to the national (central) bank of the second Member State as specified in this paragraph.

30. For the purpose of further settlements between the first Member State and the second Member State in the event of non-performance or improper performance of the obligations of the national (central) bank of the first Member State to sell funds in US dollars to the national (central) bank of the second Member State referred to in paragraph 29 of this Protocol, the requirements to the national (central) bank of the first Member State shall be

recorded in US dollars at the official rate set by the national (central) bank of the first Member State on the business day following the date of the transfer of funds in the national currency of the first Member State to the foreign currency account of the second Member State.

31. In case of non-performance or improper performance of the obligations of the national (central) bank of the first Member State to sell funds in US dollars to the national (central) bank of the second Member State specified in paragraph 29 of this Protocol, the first Member State or the national (central) bank of the first Member State shall pay a penalty the amount of which shall be calculated according to the following formula:

$$Penalties = Amount_{USD} \times \frac{LIBOR_{USD,o/n} + 2\%}{360} \times Days ,$$

where:

$Amount_{USD}$  – the amount (in US dollars) to be transferred by the national (central) bank of the first Member State to the national (central) bank of the second Member State;

$LIBOR_{USD,o/n}$  – one-day LIBOR rate for US dollars (per annum) established by the British Bankers Association (BBA) for the first day of non-performance or improper performance of the obligation;

$Days$  – the number of calendar days, counting from the date of non-performance or improper performance of the obligation (inclusive) till the date of proper fulfilment of the obligation (excluding the date of proper performance of the obligation).

32. In the case of non-performance or improper performance by the first Member State of the obligation referred to in paragraph 29 of this Protocol, the national (central) bank of the second Member State suffering



from such non-performance or improper performance of the obligation shall have the right to transfer, on a reimbursable basis, the claims regarding non-performance or improper performance of the obligation, including the requirement to pay penalties in accordance with paragraph 31 of this Protocol, to the second Member State without the consent and prior notification of the first Member State and the national (central) bank of the first Member State.

33. The national (central) bank of a Member State shall not be liable to the Government or the authorised authority of such Member State for non-performance or improper performance of obligations by another Member State, including for non-performance or improper performance of obligations by the national (central) bank of another Member State.

34. All costs and damages incurred by the national (central) bank of the first Member State in connection with the execution of calculations provided for by this section, including the costs and damages arising from any fluctuations in currency exchange rates, non-performance or improper performance of obligations by other Member States and national (central) banks of other Member States, shall not be refundable by other Member States. The terms and procedure for the reimbursement of such costs and damages to the national (central) bank of the first Member State shall be established by the first Member State.

35. For the purposes of this section, the business day of settlements between two the Member States (including transactions between national (central) banks of two the Member States) shall refer to a day that is a business day for both of the two the Member States and for the United States of America.

36. With regard to the correspondent account of the national (central) bank of a (first) Member State opened in the national (central) bank of another (second) Member State for carrying out settlements in accordance with this Protocol, as well as with regard to the funds held in this correspondent account, the judicial and other authorities of the second Member State may not apply the arrest, blocking, and other security, prohibitive or restrictive measures preventing the use of funds in this correspondent account.

37. No funds may be withdrawn from the correspondent account of the national (central) bank of a (first) Member State opened in the national (central) bank of another (second) Member State for carrying out settlements in accordance with this Protocol without the consent of the national (central) bank of the first Member State, unless otherwise provided in the terms of the agreement on the correspondent account.

38. If the obligation to sell funds in US dollars specified in paragraph 29 of this Protocol has not been fulfilled by the national (central) bank of the first Member State within 30 calendar days, in full or in part, the national (central) bank of the second Member State shall be entitled to freely use the funds in the national currency of the first Member State held in the correspondent account of the national (central) bank of the second Member State opened in the national (central) bank of the first Member State for carrying out settlements in accordance with this Protocol until the full execution of its obligation by the national (central) bank of the first Member State.

39. The national (central) bank of the (first) Member State shall, free of charge, exercise the rights and fulfil obligations under agreements concluded

with the national (central) bank of another (second) Member State pursuant to and in accordance with this Protocol.

#### IV. Procedure for the Exchange of Information between authorised authorities of the Member States

40. The authorised authority of a Member State shall on a daily basis not later than at 4 p.m. local time (for the Republic of Belarus – Minsk time; for the Republic of Kazakhstan – Astana time, for the Russian Federation – Moscow time) of the current day send to authorised authorities of other Member States the following information for the reporting day:

1) the amounts of import customs duties transferred to the single account of the authorised authority of a Member State;

2) the amounts of offsets against import customs duties executed by the authorised authority on the reporting day;

3) the amounts of import customs duties offset against arrears on the reporting day and, separately, the amounts of import customs duties offset against arrears on the current day;

4) the amounts of import customs duties refunded on the reporting day and, separately, the amounts of import customs duties to be refunded on the current day;

5) the amounts of refunded import customs duties not approved by the national (central) bank for execution on the reporting day;

6) the amounts of import customs duties to be distributed between the Member States;

7) distributed import customs duties transferred to foreign currency accounts of other the Member States;

8) the amounts of revenues to the budget of a Member State from distribution of import customs duties transferred from the single account of the authorised authority of that Member State;

9) the amounts of revenues to the budget of a Member State from distribution of import customs duties received on the foreign currency accounts of the authorised authority of the Member State;

10) distributed import customs duties the transfer of which to foreign currency accounts of other Member States has been suspended;

11) the amount of default interests received by a Member State from other Member States in cases of violations of the requirements provided for by this Protocol.

41. Every month, on the fifth business day of the month following the reporting month, the authorised authority of a Member State shall send to authorised authorities of other Member States and the Commission the information determined by paragraph 40 of this Protocol on an accrual basis from the beginning of the calendar year in electronic form using the integrated information system of the Union and, prior to the introduction of the system, via electronic communication channels as graphical electronic copies of documents containing this information.

42. The form of presentation of the information required by paragraphs 40 and 41 of this Protocol shall be agreed upon by the authorised authorities and approved by the Commission.

43. Authorised authorities of the Member States shall conduct operational verification of the data obtained in accordance with paragraphs 40 and 41 of this Protocol.

In case of discrepancies, a protocol shall be executed, and the Member States shall take measures to eliminate the discrepancies identified.

44. All information sent by the authorised authority of a Member State to the authorised authorities of other Member States and the Commission in accordance with paragraphs 40 and 41 of this Protocol shall be signed by the head of the authorised authority or a person duly authorised by him/her.

#### V. Procedure for the Exchange of Information Related to the Payment of Import Customs Duties

45. Central customs authorities of the Member States shall regularly submit to each other as well as to the Commission the information in electronic form on the payment of import customs duties that does not constitute State secrecy (State secrets).

46. Information related to the payment of import customs duties shall be obtained from the following sources:

1) the database of electronic copies of declarations for goods executed by customs authorities of the Member States;

2) the database of electronic copies of customs credit slips executed by customs authorities of the Member States if used by a Member State to reflect the payment of import customs duties;

3) the database of personal accounts, registers and other documents containing information on the amounts of import customs duties actually paid and transferred to the budget of the Member States and executed by customs authorities of the Member States in accordance with the uniform accounting principles for import customs duties, on an accrual basis, in accordance with the rules approved by the Commission.

47. The information referred to in paragraph 46 of this Protocol shall not include any information on the import of goods and payments of customs fees by natural persons moving goods for personal use.

48. Information related to the payment of import customs duties (reference unit – US dollars, amounts in the national currency shall be converted into US dollars using the monthly average US dollar exchange rate to the national currency of the national (central) bank of the Member State in the reporting month) shall be presented free of charge in the Russian language (the use of the Latin alphabet shall be allowed for certain items) and shall include the following information for the reporting period:

- 1) the amounts of vested remainders for import customs duties at the beginning and end of the reporting period;
- 2) the documented amounts of import customs duties stated in customs payment (recovery) documents;
- 3) the amounts of import customs duties offset against arrears;
- 4) the amounts of import customs duties refunded to the payers;
- 5) the amounts of payment deferrals and extensions granted with regard to import customs duties;
- 6) other information related to the payment of import customs duties.

49. Process regulations on the exchange of information on the payment of import customs duties shall be developed and approved by the Commission.

These process regulations shall determine the structure and format of the information specified in paragraph 48 of this Protocol as well as the procedure, time and method of exchange of information.

50. The exchange of information shall be conducted electronically between central customs authorities of the Member States as well as its submission to the Commission upon the technical readiness of the customs authorities and the Commission, of which they shall notify each other in writing. After the introduction of the integrated information system of the

Union, the exchange of information between central customs authorities of the Member States and its submission to the Commission shall be carried out in electronic form using the said system.

51. Prior to the approval of process regulations on the exchange of information related to the payment of import customs duties, central customs authorities of the Member States shall, not later than on the last day of the month following the reporting month, submit to each other and to the Commission the information stated in paragraph 48 of this Protocol in the form approved by the Commission.

52. Central customs authorities of the Member States and the Commission shall take all necessary measures to protect the information received in accordance with this section against unauthorised dissemination.

Central customs authorities of the Member States shall limit the number of persons with access to such information and ensure its security in accordance with the legislation of the Member States.

The Commission shall use the information obtained in accordance with this section for the purposes of paragraph 54 of this Protocol.

## VI. Monitoring and Control

53. Within joint control activities, the State Control Committee of the Republic of Belarus, the Accounts Committee for Control over Execution of the Republican Budget of the Republic of Kazakhstan, and the Accounts Chamber of the Russian Federation shall annually verify observance of the provisions of this Protocol by authorised authorities of the Member States.

54. The Commission shall submit annual reports to the Intergovernmental Council regarding the transfer and distribution of import customs duties.

55. By decision of the Commission, a special committee may be established to be composed of officers of authorised, customs and other state authorities of the Member States and experts. The committee shall control (audit) the observance by the Member States of the procedure for the transfer and distribution of import customs duties received.

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ANNEX 6  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Common Customs Tariff Regulation**

I. General Provisions

1. This Protocol has been developed in accordance with Section IX of the Treaty on the Eurasian Economic Union and determines the principles and procedure for applying measures of customs tariff regulation on the customs territory of the Union.

2. The terms used in this Protocol shall have the following meanings:

"like products" means goods that are, in terms of their functional purpose, application, qualitative and technical characteristics, fully identical to goods imported into the customs territory of the Union under the tariff quota or (in the absence of fully identical goods) goods the characteristics of which are similar to the characteristics of goods imported into the customs territory of the Union within the tariff quota, allowing to use these goods for the same functional purpose as goods imported into the customs territory of the Union within the tariff quota, which may commercially replace such goods;

"major suppliers from third countries" means suppliers of goods having a share in the import of goods into the customs territory of the Union of 10 percent or more;

"tariff quota volume" means the quantity of goods in kind or in value that may be imported within the tariff quota;

"preceding period" means a period for which the consumption rates of goods on the customs territory of the Union and the production rates of like products on the customs territory of the Union are analysed;

"actual import volume" means the volume of import in the absence of any restrictions thereof;

"agricultural goods" means goods rated as Groups 1 – 24 in CN of FEA EAEU, as well as such goods as mannitol, D-glucitol (sorbitol), essential oils, casein, albumins, gelatin, dextrans, modified starch, sorbitol, hides, skins, raw furskins, raw silk, silk waste, animal hair, raw cotton, cotton waste, brushed cotton fibre, raw flax and raw hemp;

"tariff quota" means a measure to control the import into the customs territory of the Union of certain types of agricultural goods originating in third countries envisaging the application of differential rates of CCT EAEU import customs duties in respect of goods imported within a specified period up to the specified amount (in kind or in value) and in excess of this amount.

## II. Tariff Exemptions

3. Tariff exemptions in the form of exemption from import customs duty shall be granted in respect of the following goods imported into the customs territory of the Union from third countries:

1) goods that represent contributions of foreign founders into the authorised (share) capital (fund) within the time limits determined in the founding documents for the formation of such capital (fund). The procedure

for the application of tariff exemptions in respect of such goods shall be determined by the Commission;

2) goods imported within the international cooperation in the field of exploration and use of outer space, including the provision of services to launch spacecraft, in accordance with the list approved by the Commission;

3) products of deep sea fishing of vessels of the Member States, and vessels leased (chartered) by juridical persons and/or natural persons of the Member States;

4) currencies of the Member States, currencies of third countries (except for those used for numismatic purposes), and securities in accordance with the legislation of the Member States;

5) goods imported as humanitarian aid and/or in order to eliminate the effects of natural disasters, accidents or catastrophes;

6) all goods, except for excisable goods (except for passenger cars specially designed for medical purposes), imported by third countries, international organisations and governments for charitable purposes and/or recognised in accordance with the legislation of the Member States as gratuitous aid (assistance), including technical aid (assistance).

4. Tariff exemptions with regard to goods imported into the customs territory of the Union from third countries may be granted in other cases determined by the Treaty on the Eurasian Economic Union, international treaties of the Union with a third party and decisions of the Commission.

### III. Terms and Mechanisms of Applying Tariff Quotas

5. The tariff quota volume in respect of a certain type of agricultural goods originating from third countries and imported into the customs territory of

the Union shall be determined by the Commission and shall not exceed the difference between the volume of consumption of such goods on the customs territory of the Union and the production of like products on the customs territory of the Union.

If the production of like products in a single Member State is equal to or exceeds the volume of consumption of such goods, this difference may be disregarded when calculating the amount of the tariff quota for the customs territory of the Union.

6. If the production of like product on the customs territory of the Union is equal to or exceeds the volume of consumption of such products on the customs territory of the Union, no tariff quota shall be allowed.

7. The following conditions shall be met when setting the tariff quota:

1) the setting of tariff quota for a certain period (regardless of the results of consideration of the distribution of the tariff quota volume between third countries);

2) notification of all interested third countries of the tariff quota volume assigned thereto (when a decision to distribute the tariff quota volume between third countries is adopted);

3) publication of information on the setting of tariff quota, its duration and volume, including the tariff quota volume allocated to third countries (when a decision to distribute the tariff quota volume between third countries is adopted), as well as on import customs duty rates applicable to goods imported within the tariff quota volume.

8. The distribution of the tariff quota volume between the participants of foreign trade activities of a Member State shall be based on their equal

rights in respect of obtaining the tariff quota and non-discrimination on the grounds of the form of ownership, place of registration or market position.

9. The tariff quota volume between the Member States shall be distributed within the difference between the volumes of production and consumption in each Member State taken into account in the calculation of the tariff quota volume for the customs territory of the Union in accordance with paragraphs 5 and 6 of this Protocol.

The tariff quota volume for a Member State that is a member of the World Trade Organisation may be set on the basis of the obligations of the Member State to the World Trade Organisation.

10. The tariff quota volume shall be distributed between third countries by the Commission or, in accordance with the decision of the Commission, by a Member State following consultations with all major suppliers from third countries, unless otherwise determined by international treaties within the Union, international treaties of the Union with a third party or decisions of the Supreme Council.

Should it be impossible to distribute the tariff quota volume in consultations with major suppliers from third countries, the decision on the distribution of tariff quota volume between third countries shall be made with account of the volume of deliveries of goods from these countries in the preceding period .

The preceding period, for this purpose, shall generally be represented by the preceding 3 years for which information is available reflecting the actual volume of import.

If it is impossible to select a preceding period, the tariff quota volume shall be distributed on the basis of assessment of the most likely distribution of the actual volume of import.

11. With regard to the supply of goods within the period of validity of the tariff quota, no conditions and/or formalities may be set to prevent any third country from fully utilising the tariff quota volume allocated thereto.

12. At the request of a third country interested in supplying goods, the Commission shall hold consultations on the following:

- 1) redistribution of the allocated tariff quota volume;
- 2) changing of the preceding period selected;
- 3) cancellation of any conditions, formalities or other provisions determined unilaterally in relation to the distributed tariff quota volume or its unrestricted use.

13. In connection with the setting of tariff quotas, the Commission shall:

1) at the request of a third country interested in supplying goods, provide information concerning the method and procedure of distribution of tariff quota volume between the participants of foreign trade activities, as well as the tariff quota volume in respect of which licenses are issued;

2) publish information on the total amount or value of goods intended for supply within the allocated tariff quota volume, the date of commencement and expiry of the tariff quota and any changes thereof.

14. Except for the distribution of the tariff quota volume between third countries, the Commission shall not be entitled to demand the use of licenses for the import of goods from a particular third country.

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ANNEX 7  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Non-Tariff Regulatory Measures in Relation to Third Countries**

I. General Provisions

1. This Protocol has been developed in accordance with Section IX of the Treaty on the Eurasian Economic Union and determines the procedure and cases for application of non-tariff regulatory measures by the Union in respect of third countries.

This Protocol shall not apply to relations concerning the issues of technical regulation, application of sanitary, veterinary and phytosanitary requirements, measures in the field of export control and military-technical cooperation.

2. The terms used in this Protocol shall have the following meanings:

"automatic licensing (surveillance)" means a temporary measure introduced in order to monitor the dynamics of export and/or import of certain types of goods;

"general license" means a license granted to participants of foreign trade activities for the right to export and/or import certain kinds of licensed goods in a certain licensed amount;

"ban" means a measure prohibiting the import and/or export of certain types of goods;

"import" means importation of goods into the customs territory of the Union from third countries without the obligation of re-export;

"exclusive license" means a license granted to participants of foreign trade activities for the exclusive right to export and/or import certain types of goods;

"exclusive right" means the right of participants of foreign trade activities to export and/or import certain types of goods granted under an exclusive license;

"quantitative restrictions" means quantitative restrictions on foreign trade in goods introduced through setting quotas;

"licensing" means a set of administrative measures determining the procedure for issuing licenses and/or permits;

"license" means a special document granting the right to export and/or import goods;

"single-use license" means a license issued to participants of foreign trade activities on the basis of a foreign trade transaction concerning licensed goods, granting the right to export and/or import these goods in a certain amount;

"permit" means a special document issued to a participant of foreign trade activities on the basis of a foreign trade transaction concerning goods requiring automatic licensing (surveillance);

"authorisation" means a document issued to participant of foreign trade activities or natural person for the right to import and/or export goods in the cases determined by the respective act of the Commission;

"authorised authority" means an executive authority of a Member State with the power to issue licenses and/or permits;

"participants of foreign trade activities"— juridical persons and organisations that are not juridical persons registered in one of the Member



States and established under the legislation of this state, natural persons having permanent or primary residence on the territory of one of the Member States who are nationals of this state or have the right of permanent residence therein, or persons registered as individual entrepreneurs in accordance with the legislation of that state;

"export" means export of goods from the customs territory of the Union to third countries without the obligation of re-import.

## II. Introduction and Application of Non-Tariff Regulatory Measures

3. Common non-tariff regulatory measures (hereinafter – "the measures") shall apply in trade with third countries on the territory of the Union.

4. All decisions on the introduction, application, extension and cancellation of these measures shall be adopted by the Commission.

Goods in respect of which it is decided to apply measures shall be included in the common list of goods subject to non-tariff regulatory measures in trade with third countries (hereinafter "the common list of goods").

The common list of goods shall also include all goods in respect of which the Commission has adopted a decision to establish tariff quotas or import quotas as a safeguard measure and to issue licenses.

5. Proposals on the introduction or cancellation of the measures may be submitted both by a Member State and by the Commission.

6. In preparation of Commission's decision on the introduction, application, extension or cancellation of the measures, the Commission shall inform all participants of foreign trade activities of the Member States,

economic interests of which may be affected by such a decision, of the possibility to submit to the Commission their suggestions and comments on this issue and to hold consultations.

7. The Commission shall determine the method and form of such consultations, as well as the method and form of communication of information on the progress and results of these consultations to interested persons having submitted their suggestions and comments.

A failure to hold consultations may not constitute grounds for cancelling any decision of the Commission affecting the right to conduct foreign trade activities as invalid.

8. The Commission may decide not to hold consultations under any of the following conditions:

1) measures envisaged by the draft decision of the Commission affecting the right to conduct foreign trade activity shall remain secret until the date of its entry into force, when holding of consultations will or may result in the failure to achieve any goals of the decision;

2) consultations will cause a delay in the adoption of the Commission's decision affecting the right to conduct foreign trade activities, which may substantially damage the interests of the Member States;

3) when a draft decision of the Commission affecting the right to conduct foreign trade activities provides an exclusive right.

9. The procedure for making proposals for the introduction or cancellation of the measures shall be determined by the Commission.

10. A decision of the Commission on the introduction of a measure may specify the customs procedure used by the customs authorities to control

compliance with the measure as well as the customs procedure that shall not be applicable to goods affected by the measure.

### III. Bans and Quantitative Restrictions on the Export and Import of Goods

11. The export and import of goods shall be carried out without the use of bans and quantitative restrictions, except as provided for in paragraph 12 of this Protocol.

12. In exceptional cases, the following may be introduced:

1) temporary bans or temporary quantitative restrictions on export in order to prevent or reduce any critical shortage in the internal market of food products or other goods that are essential for the internal market of the Union;

2) bans or quantitative restrictions on export and import required due to the application of standards or rules for the classification, sorting and sale of goods in international trade;

3) restrictions on the import of aquatic biological resources when imported in any form, if it is required:

to restrict the production or sale of like products originating from the territory of the Union;

to restrict the production or sale of goods originating from the territory of the Union that may be directly replaced by imported goods, if the Union does not have significant production capacities for like products;

to remove from the market a temporary surplus of like products originating from the territory of the Union by offering the surplus to certain consumer groups free of charge or at below-market prices;

to remove from the market a temporary surplus of goods originating from the territory of the Union that may be directly replaced by imported goods, if the Union does not have significant production capacities for like products, by offering the surplus to certain consumer groups free of charge or at below-market prices.

13. Introduction of quantitative restrictions by the Commission on the territory of the Union requires the application of export and/or import quotas.

Quantitative restrictions shall apply:

to export – only in respect of goods originating from the territories of the Member States;

to import – only in respect of goods originating from third countries.

No quantitative restrictions shall apply to import of goods from the territory of a third country or export of goods intended for the territory of a third country, unless such quantitative restrictions apply to import from all third countries or export to all third countries. This provision shall not preclude the Member States from fulfilling their obligations under international treaties.

14. Export bans or quantitative export restrictions may only be imposed in respect of the goods included in the list of goods that are essential for the internal market of the Union and with regard to which, in exceptional cases, temporary export bans or quantitative export restrictions may be introduced as approved by the Commission on the basis of proposals from the Member States.

15. When a ban or quantitative restriction on export of agricultural goods that are essential for the internal market of the Union are introduced in

accordance with sub-paragraph 1 of paragraph 12 of this Protocol, the Commission shall:

take into account the impact of the ban or quantitative restrictions on the food security of third countries that import such agricultural goods from the territory of the Union;

in due time notify the Committee on Agriculture of the World Trade Organisation on the nature and duration of the ban or quantitative restriction on export;

at the request of any importing country hold consultations or provide all the required information on issues related to the measure in question.

In this paragraph, an importing country refers to a country in the import of which the share of agricultural goods that originate from the territory of the Member States and are subject to the ban or quantitative restrictions is at least 5 percent.

16. The Commission shall distribute the volumes of the export and/or import quotas between the Member States and specify the method of distribution of shares of export and/or import quotas between the participants of foreign trade activities of the Member States and, when required, distribute the volume of the import quota between third countries.

The Commission shall distribute the volumes of the export and/or import quotas between the Member States depending on the problems to be solved by the introduction of quantitative restrictions, taking into account the proposals of the Member States and based on the output and/or consumption of goods in each Member State.

17. When deciding to apply export and/or import quotas, the Commission shall:

1) set export and/or import quotas for a specific term (regardless of whether they are distributed between third countries);

2) inform all interested third countries on the volume of import quota allocated to them (if the import quota is distributed between third countries);

3) publish information on the application of export and/or import quotas, their volumes and effective periods, as well as on the distribution of import quota between third countries.

18. The Commission generally shall distribute import quotas between third countries following consultations with all major suppliers from third countries.

Major suppliers from third countries, for this purpose, shall refer to all suppliers with shares of 5 percent or more in the import of specific goods into the territory of the Union.

19. Should it be impossible to distribute import quotas in consultation with all major suppliers from third countries, the decision of the Commission on the distribution of the quotas between third countries shall be made with account of the volume of deliveries of goods from these countries in the preceding period.

20. The Commission may not establish any conditions or formalities that may prevent any third country from fully utilising the allocated import quota, provided that all respective goods are supplied during the effective period of the import quota.

21. The preceding period for determining the volume of deliveries of goods for the introduction of export and/or import quotas shall be selected by the Commission. As a rule, this period is taken equal to any previous 3 years for which information is available reflecting the actual volumes of export

and/or import. Should it be impossible to select a preceding period, export and/or import quotas shall be distributed on the basis of assessment of the most likely distribution of the actual volumes of export and/or import.

In this paragraph, the actual volumes of export and/or import refer to the volumes of export and/or import in the absence of any restrictions.

22. At the request of any third country interested in supplying goods, the Commission shall hold consultations with the country on the following:

- 1) the need for redistribution of import quota;
- 2) changing of the preceding period selected;
- 3) cancellation of any conditions, formalities or other provisions determined unilaterally in relation to the distribution of the import quota or its unrestricted use.

23. Shares of export and/or import quotas shall be distributed between the participants of foreign trade activities by the Member States on the basis of the method established by the Commission and based on the equality of participants of foreign trade activity in respect of shares of export and/or import quotas and non-discrimination on the grounds of the form of ownership, place of registration or market position.

24. Except for the distribution of import quota between third countries, it shall not be allowed to demand the use of licenses for the export and/or import of respective goods to and/or from any particular country.

25. In connection with the use of export and/or import quotas, the Commission shall:

- 1) at the request of a third country interested in the trade of certain type of goods, provide all information regarding the procedure for distribution of

export and/or import quotas, the mechanism of their distribution between the participants of foreign trade activities and the volumes of licensed quotas;

2) publish information on the total amount or value of the goods the export and/or import of which shall be allowed within a certain period of time in the future, as well as on the start and end dates of the effective period of export and/or import quotas and any changes thereof.

#### IV. Exclusive Right

26. Foreign trade activities may be restricted by granting the exclusive right.

27. Goods for the export and/or import of which the exclusive right is granted, as well as the procedure for determining by the Member States of participants of foreign trade activities to be granted such exclusive right shall be determined by the Commission.

The list of participants of foreign trade activities to be granted the exclusive right by the Member States based on the decision of the Commission shall be published on the official website of the Union on the Internet.

28. A decision to impose restrictions on foreign trade activities through the granting of the exclusive right shall be adopted by the Commission on proposal from a Member State.

The rationale for the introduction of the exclusive right shall include financial and economic calculations and other information confirming feasibility of the measure.

29. Participants of foreign trade activities who are granted the exclusive right by the Member States based on the decision of the Commission shall



conduct export and/or import transactions with respective goods based on the principle of non-discrimination and guided only by commercial considerations, including the purchase or sale terms, and shall adequately (in accordance with normal business practices) enable organisations of third countries to compete for participation in such purchases or sales.

30. Goods in respect of which participants of foreign trade activities are granted the exclusive right shall be exported and/or imported under exclusive licenses issued by the authorised authority.

#### V. Automatic Licensing (Surveillance)

31. In order to monitor the dynamics of export and/or import of certain types of goods, the Commission may impose automatic licensing (surveillance).

32. Automatic licensing (surveillance) shall be imposed by initiative of a Member State or the Commission.

The rationale for the introduction of automatic licensing (surveillance) shall contain information about the impossibility of tracking quantitative indicators of export and/or import of certain types of goods and changes thereof using other means.

33. A list of certain types of goods in respect of which automatic licensing (surveillance) is introduced, as well as the effective period of such automatic licensing (surveillance), shall be determined by the Commission.

The goods in respect of which automatic licensing (surveillance) is introduced shall be included in the common list of goods.

34. The goods in respect of which automatic licensing (surveillance) is introduced shall be exported and/or imported upon availability of permits issued by the authorised authority in the manner determined by the Commission.

35. Permits for the export and/or import of goods included in the common list of goods shall be issued in accordance with the rules set out in the Annex.

## VI. Authorisation-Based Procedure

36. The authorisation-based procedure for the import and/or export of goods shall be implemented through the introduction of licensing or application of other administrative measures to regulate foreign trade activities.

37. All decision on the introduction, implementation and cancellation of the authorisation-based procedure shall be adopted by the Commission.

## VII. General Exceptions

38. With regard to the import and/or export of certain types of goods, measures may be introduced, including on grounds other than those specified in sections III and IV of this Protocol, if these measures are:

- 1) required to comply with public morality or public order;
- 2) required to protect human life and health, the environment, animals and plants;
- 3) related to the export and/or import of gold or silver;
- 4) used for the protection of cultural values and cultural heritage;

5) required to prevent the exhaustion of non-renewable natural resources and are conducted simultaneously with restrictions on domestic production or consumption associated with the use of non-renewable natural resources;

6) related to a restriction of export of goods originating from the territories of the Member States in order to ensure a sufficient supply of such goods for the domestic manufacturing industry during periods of low domestic prices for such goods as compared to the world prices, as a result of the Government's stabilisation plan;

7) required for the acquisition or distribution of goods in cases of their general or local short supply;

8) required for the fulfilment of international obligations;

9) required for ensuring national defence and security;

10) required to ensure compliance with legal acts related to the application of customs legislation, environmental protection, intellectual property protection that are not inconsistent with the international obligations, and other legal acts.

39. The measures referred to in paragraph 38 of this Protocol shall be introduced on the basis of a respective decision of the Commission and may not serve as a means of arbitrary or unjustifiable discrimination of third countries, as well as a disguised restriction on foreign trade in goods.

40. For the purposes of introduction or cancellation of measures with regard to a certain type of goods on the grounds provided for by paragraph 38 of this Protocol, a Member State shall submit to the Commission documents containing information on the name of the product, its code in CN of FEA

EAEU, the nature of measures proposed and their expected duration as well as a rationale for the introduction or cancellation of such measures.

41. If the Commission refuses to impose measures proposed by a Member State on the grounds provided for by paragraph 38 of this Protocol, the Member State which initiated their introduction may introduce such measures unilaterally in accordance with section X of this Protocol.

#### VIII. External Financial Status Protection and Ensuring Balance-of-Payments Equilibrium

42. When importing certain types of goods, measures may be introduced, including on grounds other than those specified in sections III and IV of this Protocol, when it is required to protect the external financial status and ensure the balance-of-payments equilibrium.

These measures may be introduced only in case of a critical balance of payments when no other measures are able to stop the sharp deterioration of the status of settlements of foreign accounts.

43. All measures, including those introduced on grounds other than those specified in sections III and IV of this Protocol, may be imposed only if payments for the supply of imported goods are performed in the currencies in which the foreign exchange reserves of the Member States referred to in paragraph 44 of this Protocol are formed.

44. Any restrictions on import shall only be imposed to the extent required to prevent an imminent threat of a serious reduction in foreign exchange reserves of the Member States or to restore a reasonable growth rate of foreign exchange reserves of the Member States.

45. The Commission shall consider each proposal of a Member State to introduce the measures referred to in paragraph 42 of this Protocol.

46. If the Commission refuses to accept the proposal of a Member State to impose such measures, the Member State may decide to impose the measures specified in paragraph 42 of this Protocol unilaterally in accordance with section X of this Protocol.

### IX. Licensing in Foreign Trade in Goods

47. Licensing shall be applied in the cases determined by the Commission to the export and/or import of certain types of goods, if the following is imposed in respect of such goods:

quantitative restrictions;

exclusive right;

authorisation-based procedure;

tariff quota;

import quotas as a safeguard measure.

Licensing shall be implemented through the issuance by the authorised authority to participants of foreign trade activities of licenses to export and/or import of goods.

Licenses issued by the authorised authority of a Member State shall be recognised by all other Member States.

48. Export and/or import licensing of goods included in the common list of goods shall be carried out in accordance with the rules provided for by the Annex to this Protocol.

49. Authorised authorities shall issue the following types of licenses:

single-use license;  
general license;  
exclusive license.

General and exclusive licenses shall be issued in cases determined by the Commission.

## X. Unilateral Imposition of Measures

50. In exceptional cases, on the grounds specified in sections VII and VIII of this Protocol, the Member States in trade with third countries may unilaterally impose temporary measures, including on grounds other than those specified in sections III and IV of this Protocol.

51. A Member State introducing a temporary measure shall, in advance, but not later than 3 calendar days prior to the date of its introduction, notify the Commission thereof and submit a proposal to introduce this measure on the customs territory of the Union.

52. The Commission shall consider the proposal of the Member State to impose the temporary measure and may subsequently decide to impose this measure on the customs territory of the Union.

53. The validity period of such a measure in this case shall be established by the Commission.

54. If no decision to introduce the temporary measure on the customs territory of the Union is taken, the Commission shall inform the Member State that has introduced the temporary measure and the customs authorities of the Member States of the fact that the temporary measure shall be effective for up to 6 months from the date of its introduction.

55. Based on the notification on the introduction of a temporary measure received from a Member State, the Commission shall immediately inform the customs authorities of the Member States on the introduction of the temporary measure by one of the Member States, indicating:

1) the name of the regulatory legal act of the Member State governing the introduction of the temporary measure;

2) the name of the goods and its code in CN of FEA EAEU;

3) the date of the introduction of the temporary measure and its validity period.

56. Upon the receipt of the information specified in paragraph 55 of this Protocol, the customs authorities of the Member States shall not allow the following:

the export of the respective goods originating from the territory of the Member State that has applied the temporary measure, the details of which are contained in this information, without a license issued by the authorised authority of that Member State;

the import of the respective goods destined for the Member State that has applied the temporary measure, the details of which are contained in this information, without a license issued by the authorised authority of that Member State. In this case, the Member States that do not apply the temporary measure shall make the required efforts aimed at preventing the import of the respective goods into the territory of the Member State that has applied the temporary measure.

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Annex  
to the Protocol on Non-Tariff  
Regulatory Measures  
in Relation to Third Countries

**Rules for  
Issuing Licenses and Permits  
for the Export and/or Import of Goods**

I. General Provisions

1. These Rules specify the procedure for issuing licenses and permits for the export and/or import of goods included in the common list of goods subject to non-tariff regulatory measures in trade with third countries.

2. These Rules use the terms defined in the Protocol on Non-Tariff Regulatory Measures in Relation to Third Countries (see Annex 7 to the Treaty on the Eurasian Economic Union), as well as the following terms:

"applicant" means a participant of foreign trade activities who submits the required documents to the authorised authority in order to execute a license or permit;

"completion of a license" means the actual import into the customs territory of the Union or export from the customs territory of the Union of goods cleared by the customs authorities upon presentation of an issued (executed) license.

3. For the issuance (execution) of license and duplicate license, the authorised authority shall charge the state fee (license fee) in the manner and amount stipulated by the legislation of the respective Member State.

4. Licenses and permits shall be issued for each good classified in CN of FEA EAEU subject to licensing or automatic licensing (surveillance).



5. Sample signatures of officials of the authorised authorities entitled to sign licenses and permits, as well as sample stamps of the authorised authorities shall be sent to the Commission for notifying customs authorities of the Member States.

6. Documents submitted for execution of a license or permit as well as documents confirming the completion of a license shall be stored by the authorised authorities for 3 years after the expiration date of the license or permit or after the date of the decision to cancel or suspend the license.

Thereafter, the documents shall be destroyed in accordance with the legislation of the Member State that has issued the license or permit.

7. The authorised authorities shall maintain data bases of licenses and permits issued and shall submit respective information to the Commission in the manner and time established by the Commission. The Commission shall submit data on the licenses issued to the customs authorities of the Member States.

## II. License Issuance Procedure

8. Applications for licenses and licenses shall be executed in accordance with the instructions on the execution of applications for licenses to export and/or import certain types of goods and on the issuance such licenses, as approved by the Commission.

A license may be issued (executed) in the form of an electronic document according to the procedure approved by the Commission and, prior to its approval, in the procedure determined by the legislation of the Member State.

The structure and format of a license issued in the form of an electronic document shall be approved by the Commission and, prior to their approval, shall be determined in accordance with the legislation of the Member State.

9. The period of validity of a single-use license may not exceed 1 year from its effective date. The effective period of a single-use license may be limited to the duration of a foreign trade contract (agreement) or to the validity period of the document serving as the basis for the issuance of the license.

For all goods subject to active quantitative restrictions on export and/or import or import quota introduced as a safeguard measure, or tariff quotas, the validity period of the license shall end in the calendar year for which the quota is set.

The effective period of a general license may not exceed 1 year from its effective date, and for goods subject to active quantitative restrictions on export and/or import and tariff quotas, shall end in the calendar year for which the quota is set, unless otherwise provided by the Commission.

The effective period of an exclusive license shall be determined by the Commission on a case-by-case basis.

10. In order to execute a license, the applicant or its representative having a written confirmation of respective authority shall submit to the authorised authority the following documents and information:

1) a license application filled in and arranged in accordance with the instructions on the execution of applications for licenses to export and/or import certain types of goods and on the issuance such licenses (hereinafter – "the application");

2) an electronic copy of the application in a format approved by the Commission and, prior to its approval, in the procedure determined by the legislation of the Member State;

3) a copy of the foreign trade agreement (contract), annexes and/or amendments thereto (for a single-use license), and in the absence of a foreign trade agreement (contract), a copy of the document confirming the intent of the parties;

4) a copy of the document (information, if provided for by the legislation of the Member State) on registration with the tax authority or state registration;

5) a copy of the license for carrying out licensed activities or information on the availability of the license for licensed activities (if provided by the legislation of the Member State), if such activities are associated with the circulation of goods subject to licensing on the customs territory of the Union;

6) other documents (information) if determined by the decision of the Commission used as the basis for the introduction of licensing of respective goods.

11. Each page of copies of documents submitted shall be signed and sealed by the applicant, or copies of documents shall be bound and their last pages shall be signed and sealed by the applicant.

Documents submitted by the applicant shall be registered with the authorised authority.

The application and documents (information) may be submitted in electronic form in the procedure provided for by the legislation of the Member State. It shall be allowed to submit documents (information) in the

form of scanned documents certified using electronic digital signatures of the applicant, if provided for by the legislation of the Member State.

The license shall be issued after the submission by the applicant of a document confirming payment of the state fee (license fee) charged for the issuance (arrangements) of the license in the procedure and amount provided for by the legislation of the Member State.

12. In cases provided for by the decision of the Commission, prior to its submission to the authorised authority, the application shall be sent by the applicant or the authorised authority, if provided for by the legislation of the Member State, for approval to the relevant executive authority of the Member State assigned by the Member State.

13. The license shall be issued or refused by the authorised authority on the basis of the documents specified in paragraph 10 of these Rules within 15 business days from the date of submission, unless otherwise determined by decision of the Commission.

14. Grounds for refusal of a license are:

1) presentation of incomplete or inaccurate information in the documents submitted by the applicant to obtain the license;

2) failure to comply with the requirements provided for by paragraphs 10-12 of these Rules;

3) cancellation or suspension of one or more documents that serve as the basis for issuance of the license;

4) violation of international obligations of the Member States, which may occur as a result of execution of the agreement (contract) for the implementation of which the license is requested;

5) exhaustion of the quota and tariff quota, or lack thereof (in the case of execution of a license for goods limited by quotas);

6) other grounds provided for by the act of the Commission.

15. Any decision to refuse to issue a license shall be motivated and submitted to the applicant in writing or in electronic form if it is provided by the decision of the Commission, and in the absence of such a decision, in accordance with the legislation of the Member State.

16. The authorised authority shall execute the original license to be issued to the applicant. Prior to the customs declaration of goods, the applicant shall submit the original license to the relevant customs authority, which, when placing the license under control, shall issue to the applicant a copy thereof with a stamp of the customs authority on placing under control.

If the authorised authority has issued (executed) a license in the form of an electronic document, the applicant shall not be required to submit the original license in hard copy to its domestic customs authority.

The procedure for the interaction between the authorised authorities and the customs authorities for controlling the completion of licenses issued in the form of electronic documents shall be determined by the legislation of the Member States.

17. It shall not be allowed to introduce changes in any licenses issued, including for technical reasons.

18. In case of changes in the founding documents of the applicant registered as a juridical person (a change of the legal form, name or location) or in the passport data of the applicant as natural person, the applicant shall request termination of the license issued and arrangements of a new license, providing an application and documents confirming these changes.

19. The authorised authority may decide to terminate or suspend any license in the following cases:

1) by request of the applicant submitted in writing or in electronic form, if provided for by the legislation of the Member State;

2) upon changes in the founding documents of the applicant registered as a juridical person (a change of the legal form, name or location) or changes in the passport data of the applicant as a natural person;

3) identification of false information in the documents submitted by the applicant in order to obtain the license;

4) termination or suspension of one or more documents that serve as the basis for issuance of the license;

5) violation of international obligations of the Member State in the performance of the agreement (contract), on the basis of which the license was issued;

6) revocation of a license for a licensed activity, if such activity is connected with the circulation of goods in respect of which licensing was introduced;

7) identification of any violations committed in the issuance of the license that resulted in the issuance of a license that should have been issued under the determined procedure;

8) non-observance by the license holder of any licensing conditions determined by international regulations or regulatory legal acts of the Member State;

9) availability of a respective judicial decision;

10) failure by the licensee to comply with paragraph 22 of these Rules.

20. A license shall be suspended on the date of the respective decision of the authorised authority.

A suspended license may be renewed by the authorised authority upon elimination of the causes for the suspension. Suspension of a license shall not constitute grounds for its extension.

The procedure for suspension or termination of licenses shall be determined by the Commission.

21. In case of loss of a license, the authorised authority shall, upon a written request of the applicant and payment of the state fee (license fee) in the procedure and amount provided by the legislation of the Member State, issue a duplicate license executed similarly to the original license and containing a 'Duplicate' entry.

An application stating the causes and circumstances of the loss of a license may be drawn up in any form.

The duplicate license shall be issued by the authorised authority within 5 business days from the date of the request.

22. Holders of general and exclusive licenses shall be required to submit to the authorised authority reports on the completion of the license on a quarterly basis, by the 15th day of the month following the reporting quarter.

Holders of single-use licenses shall within 15 calendar days after the expiration of the license submit to the authorised authority a certificate of completion of the license.

23. Upon de-registration of a license, the appropriate customs authority of a Member State shall issue to the applicant, on the basis of a written request, a certificate of completion of the license within 5 business days.

The form and procedure for issuing certificates shall be determined by the Commission.

24. Customs authorities shall present information on completion of licenses in electronic form directly to the authorised authority, if the presentation of such information by customs authorities is provided for by the legislation of the Member State.

If information on the completion of licenses is submitted by the customs authorities in electronic form directly to the authorised authority, license holders shall not be required to submit to the authorised authority the reports on and certificates of completion of licenses.

### III. Permits Issuance Procedure

25. A permit shall be executed in accordance with the instructions on the execution of the permit for export and/or import of certain types of goods as approved by the Commission.

A permit may be issued (arranged) in the form of an electronic document according to the procedure approved by the Commission and, prior to its approval, in the procedure determined by the legislation of the Member State.

The structure and format of a permit issued in the form of an electronic document shall be approved by the Commission and, prior to their approval, shall be determined in accordance with the legislation of the Member State.

Permits issued by the authorised authority of a Member State shall be recognised by all other Member States.

26. The period for issuing a permit may not exceed 3 business days from the date of application.



Permits shall be issued without restriction to any participants of foreign trade activities on the basis of the following documents to be submitted to the authorised authority:

written application;

draft permit on paper;

an electronic copy of the draft permit in a format approved by the Commission and, prior to its approval, in the format determined by the legislation of the Member State;

27. The permit shall be limited to the calendar year in which the permit has been issued.

28. The authorised authority shall arrange the original permit to be issued to the participant of foreign trade activities or its representative upon presentation of a written confirmation of the respective authority.

Prior to the customs declaration of goods, the participant of foreign trade activities shall present the original permit to the relevant customs authority, which, when placing the permit under control, shall issue to the participant of foreign trade activities a copy thereof with a stamp of the customs authority on placing under control.

If the authorised authority has issued (arranged) a permit in the form of an electronic document, the participant of foreign trade activities shall not be required to present the original permit on paper to its domestic customs authority.

The procedure for the interaction between the authorised authorities and the customs authorities for controlling the completion of permits issued in the form of electronic documents shall be determined by the legislation of the Member States.

29. Issued permits may not be re-issued to other participants of foreign trade activities.

It shall not be allowed to introduce changes to any permits issued.

30. In case of loss of a permit, the authorised authority may, upon a respective written request of the participant of foreign trade activity, within 3 business days, issue a duplicate permit arranged similarly to the original and including a 'Duplicate' entry. The respective request shall state the causes and circumstances of the loss of the permit. The request may be drawn up in any form.

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ANNEX 8  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on the Application of Safeguard,**  
**Anti-Dumping and Countervailing Measures**  
**to Third Countries**

I. General Provisions

1. This Protocol has been developed in accordance with Articles 48 and 49 of the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”) and lays down provisions pertinent to the application of safeguard, anti-dumping and countervailing measures to third countries with a view to defend economic interests of producers in the Union.

2. The terms used in this Protocol shall have the following meanings:

“like product” means a product which is completely identical to the product subject to investigation or to the product that may become the product subject to investigation, including reviews, or in the absence of such a product, another product that has characteristics closely resembling those of the product subject to investigation or the product that may become the product subject to investigation (review);

“anti-dumping measure” means a measure to offset the dumped imports that is applied pursuant to the decision of the Commission through the imposition of the anti-dumping duty, including provisional anti-dumping duty, or the approval of the price undertakings accepted by the exporter;

“anti-dumping duty” means a duty that is applied pursuant to the imposition of anti-dumping measure that is levied by the customs authorities of the Member States irrespective of an import customs duty;

“dumping margin” means the percentage ratio of the normal value of the product deducting export price of the product to the export price or the difference between the normal value of the product and its export price in absolute terms;

“import quota” means a restriction to imports of the product to the customs territory of the Union with respect to the quantity and (or) value;

“countervailing measure” means a measure to offset the effect of the specific subsidy of the exporting third country on the domestic industry of the Member States that is applied pursuant to the decision of the Commission through the imposition of the countervailing duty, including the provisional countervailing duty, or the approval of the price undertakings accepted by the competent authorities of the third country granting the subsidy or the exporter;

“countervailing duty” means a duty that is applied pursuant to the imposition of countervailing measure and is levied by the customs authorities of the Member States irrespective of an import customs duty;

“material injury to the domestic industry of the Member States” means confirmed by positive evidence deterioration in the position of the domestic industry of the Member States, which may be expressed, in particular, in decline in production of the like product in the Member States and the sales in the market of the Member States, in decline in profitability, as well as in negative effect on the inventories, employment, wages, and the level of investment into the domestic industry of the Member States;

“directly competitive product” means a product that is comparable with the product subject to investigation or with the product that may become the product subject to investigation (review) in its intended use, application, quality or physical characteristics, as well as other main properties so that a consumer substitutes or is willing to substitute it during the consumption with the product subject to investigation or the product that may become the product subject to investigation (review);

“ordinary course of trade” means the sales of the like product in the market of the exporting third country at a price not below the weighted average cost of production defined on the basis of the weighted average costs of production plus weighted average selling, administrative and general costs;

“payers” means persons defined in accordance with the Customs Code of the Eurasian Economic Union;

“provisional anti-dumping duty” means a duty applied on imports to the customs territory of the Union of the product subject to investigation in relation to which during the course of the investigation the investigating authority has made a preliminary determination on dumped imports that causes material injury to the domestic industry of the Member States, threatens to cause material injury or materially retards the establishment of the domestic industry of the Member States;

“provisional countervailing duty” means a duty applied on imports to the customs territory of the Union of the product subject to investigation in relation to which during the course of the investigation the investigating authority has made a preliminary determination on subsidized imports that causes material injury to the domestic industry of the Member States,

threatens to cause material injury or materially retards the establishment of the domestic industry of the Member States;

“provisional safeguard duty” means a duty applied on imports to the customs territory of the Union of the product subject to investigation in relation to which during the course of the investigation the investigating authority has made a preliminary determination on increased imports that causes or threatens to cause serious injury to the industry of the Member States;

“previous period” means 3 calendar years immediately preceding the date of filing the application for the investigation and for which the necessary statistical data is available;

“related parties” means persons that meet one or more of the following criteria:

each of these persons is an employee or head of an organization established with the participation of another person;

persons are business partners, i.e. bound by contractual relations, operate for profit and jointly bear the costs and losses associated with the implementation of joint activities;

persons are employers and employees of one organisation;

one of them directly or indirectly owns, controls or is a nominee shareholder of 5 or more percent of the voting shares or shares of both persons;

one of them directly or indirectly controls the other;

both of them are directly or indirectly controlled by a third person;

together they directly or indirectly control a third person;

persons are in marital relations, kindred relations, or are an adoptive parent and an adoptee, as well as a trustee and a ward.

The direct control is understood as the possibility of the juridical person or natural person to determine the decisions made by the juridical person through one or more of the following actions:

exercising of the functions of its executive body;

receiving the right to determine the conditions of the entrepreneurial activity of the juridical person;

the disposal of more than 5 percent of the total number of votes that refer to the shares that represent authorised (joint) capital (fund) of the juridical person.

The indirect control is understood as the possibility of the juridical person or natural person to determine the decisions made by the juridical person through the juridical person or natural person or through a number of juridical persons between which there is a direct control.

“serious injury to the domestic industry of the Member States” means confirmed by positive evidence overall impairment in the situation related to production of the like or directly competitive product in the Member States that is expressed in significant impairment in the industrial, commercial and financial position of the industry of the Member States and is determined as a general principle for the previous period;

“safeguard measure” means measure to offset the increased imports to the customs territory of the Union that is applied pursuant to the decision of the Commission through the imposition of the import quota, safeguard quota or safeguard duty, including provisional safeguard duty;

“safeguard quota” means fixing of a particular volume of imports of a product entering to the customs territory of the Union, within which the product enters to the customs territory of the Union without the payment of the safeguard duty and above which – with the payment of the safeguard duty;

“safeguard duty” means a duty that is applied pursuant to the imposition of safeguard measure and is levied by the customs authorities of the Member States irrespective of the import customs duty;

“subsidized imports” means imports of the product into the customs territory of the Union in production, export and transportation of which the specific subsidy of the exporting third country was used;

“third countries” means countries and (or) groups of countries that are not the Members of the Union, as well as the territories included into the classification of the countries of the world that is approved by the Commission;

“granting authority” means a government authority or a local government authority of the exporting third country or a person who acts pursuant to the instruction of the relevant government authority or a local government authority or authorised by the relevant government authority or local government authority in accordance with a legal act or based upon factual circumstances;

“threat of material injury to the domestic industry of the Member States” means confirmed by positive evidence imminence of material injury to the domestic industry of the Member States;



“threat of serious injury to the domestic industry of the Member States” means confirmed by positive evidence imminence of serious injury to the domestic industry of the Member States;

“export price” means a price that is paid or shall be paid, when importing a product into the customs territory of the Union.

## II. Investigation

### 1. Investigation Objectives

3. Safeguard, anti-dumping or countervailing measure on imports of a product may only be imposed pursuant to investigations conducted to determine:

the existence of increased imports into the customs territory of the Union that causes or threatens to cause serious injury to the domestic industry of the Member States;

the existence of dumped or subsidized imports into the customs territory of the Union that causes or threatens to cause material injury to the domestic industry of the Member States or materially retards the establishment of the domestic industry of the Member States.

### 2. Investigating Authority

4. Investigating authority acts within its powers delegated by international treaties and acts constituting the law of the Union.

5. As a result of the investigation investigating authority presents the report to the Commission that contains a proposal on application or prolongation of the period of application of safeguard, anti-dumping or countervailing measure or review or suspension of safeguard, anti-dumping

or countervailing measure with the draft of a relevant decision of the Commission.

6. Review of the safeguard, anti-dumping or countervailing measure provides for its modification, suspension or liberalization as a result of the review.

7. In cases specified in paragraphs 15-22, 78-89, 143-153 of this Protocol investigating authority until the end of the investigation presents to the Commission a report that contains a proposal on imposition or application of provisional safeguard, anti-dumping or countervailing measure with the draft of a relevant decision of the Commission.

8. The provision of evidence and information to the investigating authority, as well as the written correspondence with the investigating authority is maintained in Russian, the original documents that were prepared in foreign language shall be accompanied with the certified translation into the Russian language.

### III. Safeguard Measures

#### 1. General Principles of Application of a Safeguard Measure

9. Safeguard measure is applied to a product imported into the customs territory of the Union from an exporting third country, irrespective of the country of its origin, except:

1) product originating in a developing or a least developed third country using the common system of tariff preferences of the Union as long as the share of imports of the product subject to investigation from this country does not exceed 3 percent of total imports of the product subject to investigation into the customs territory of the Union, provided that the total

share of imports from developing and least developed countries, which individual share of imports of the product subject to investigation does not exceed 3 percent of total imports of the product subject to investigation into the customs territory of the Union, collectively account for not more than 9 percent of total imports of the product subject to investigation into the customs territory of the Union;

2) product originating in a Participating State of Commonwealth of Independent States, which is a party to the Treaty on a Free Trade Area of October 18, 2011 provided the fulfillment of the conditions specified in Article 8 of the Treaty on a Free Trade Area of October 18, 2011.

10. The Commission takes a decision on the extension of the safeguard measure to a product originating in a developing or a least developed third country and excluded from the application of a safeguard measure in accordance with paragraph 9 of this Protocol in case if, pursuant to a review conducted by the investigating authority in accordance with paragraphs 31, 33 or 34 of this Protocol, it is determined that the share of imports of this developing or least developed third country exceeds the shares specified in paragraph 9 of this Protocol.

11. The Commission takes a decision on the extension of the safeguard measure to a product originating in a Participating State of Commonwealth of Independent States, which is a party to the Treaty on a Free Trade Area of October 18, 2011 and excluded from the application of a safeguard measure in accordance with paragraph 9 of this Protocol in case if, pursuant to a review conducted by the investigating authority in accordance with paragraphs 31, 33 or 34 of this Protocol, it is determined that the conditions

specified in Article 8 of the Treaty on a Free Trade Area of October 18, 2011 are no longer fulfilling.

2. Determination of serious injury or threat thereof to the domestic industry of the Member States caused by increased imports

12. For the purpose of determination of serious injury or threat thereof to the domestic industry of the Member States caused by the increased imports into the customs territory of the Union the investigating authority in the course of the investigation evaluates all objective factors of quantifiable nature that the economic situation of the domestic industry of the Member States, including the following:

1) the rate and amount of the increase in imports of the product subject to investigation in absolute and relative terms to domestic production or consumption of like or directly competitive product in the Member States;

2) the share of the imported product subject to investigation in the total sales of this product and like or directly competitive product in the market of the Member States;

3) the level of prices for the imported product subject to investigation in comparison with the level of prices for like or directly competitive product produced in the Member States;

4) changes in the level of sales of like or directly competitive product produced in the Member States on the market of Member States;

5) changes in the volume of production of like or directly competitive product, productivity, capacity utilization, amount of profits and losses, and employment in the domestic industry of Member States.

13. Serious injury or threat thereof to the domestic industry of the Member States caused by the increased imports shall be determined on the results of examination of all relevant evidence and information available to the investigating authority.

14. Besides increased imports the investigating authority examines other known factors which at the same time are causing or threatening to cause serious injury to the domestic industry of Member States. Such injury shall not be attributed to the serious injury or threat thereof caused by increased imports into the customs territory of the Union.

### 3. Imposition of a Provisional Safeguard Duty

15. In critical circumstances where delay would cause damage to domestic industry of the Member States which it would be difficult to repair, the Commission until the completion of appropriate investigation may take a decision on application of a provisional safeguard duty for a period not exceeding 200 calendar days on the basis of preliminary determination of the investigating authority that there is clear evidence that increased imports of the product subject to investigation have caused or are threatening to cause serious injury. The investigation shall be continued in order to obtain the final determination of the investigating authority.

16. The investigating authority notifies in writing the competent authority of the exporting third country as well as other interested parties known to it about the possible imposition of a provisional safeguard duty.

17. At the request of the competent authority of the exporting third country to hold consultations on the imposition of provisional safeguard duty such consultations shall be initiated after the decision to apply a provisional

safeguard duty is taken by the Commission.

18. In cases where as a result of the investigation the investigating authority determined that there are no grounds for the imposition of safeguard measure or the decision on non-application of the safeguard measure in accordance with paragraph 272 of this Protocol was taken, the amount of provisional safeguard duty shall be refunded to the payer in a manner specified in the Annex to this Protocol.

The investigating authority timely informs the customs authorities of the Member States on the absence of grounds for the imposition of the safeguard measure, or on the decision on non-application taken by the Commission.

19. In cases where as a result of the investigation the decision to apply a safeguard measure (including in the form of import or safeguard quota) is taken, the duration of provisional safeguard duty shall be counted as a part of the overall period of application of the safeguard measure, and from the date of entry into force decision to apply the safeguard measure taken by the results of the investigation the amounts of provisional safeguard duty shall be transferred and distributed in accordance with the procedure specified in the Annex to this Protocol, taking into account the provisions of paragraphs 20 and 21 of this Protocol.

20. In cases where as a result of investigation it is considered reasonable to impose the safeguard duty at a rate less than the provisional safeguard duty, the amount of the provisional safeguard duty equal to the amount of a safeguard duty shall be transferred and distributed in accordance with the procedure specified in the Annex to this Protocol.

The amounts of provisional safeguard duty that exceed the amount of a

definitive safeguard duty shall be refunded to a payer in accordance with the procedure specified in the Annex to this Protocol.

21. In cases where as a result of investigation it is considered reasonable to impose the safeguard duty at a rate higher than the provisional safeguard duty, the difference between the amount of the provisional safeguard duty and the amount of a safeguard duty is not collected.

22. The decision to impose the provisional safeguard duty is taken as a rule not later than 6 months from the initiation of the investigation.

#### 4. Application of Safeguard Measure

23. Safeguard measure is applied by the decision of the Commission in the amount and within the time period necessary to prevent or remedy serious injury or threat thereof to the domestic industry of the Member States, and to facilitate the adjustment of the domestic industry of the Member States to the changing economic conditions.

24. In cases where safeguard measure is applied in form of import quota, the level of such quota shall not be lower than the average annual volume of imports of the product subject to investigation (in quantity or in value terms) for the previous period, except in cases where a lower level of import quota is necessary to remedy serious injury or threat thereof to domestic industry of the Member States.

25. In cases in which a quota is allocated among exporting third countries, those of them that are interested in supplying the product subject to investigation into the customs territory of the Union shall be provided an opportunity to hold consultations on the allocation of import quota among them.

26. In cases where the of consultations provided for in paragraph 25 of this Protocol is not practicable or in the course of consultation an agreement on such an allocation was not reached, import quota shall be allocated among exporting third countries having an interest in exporting the product subject to investigation into the customs territory of the Union in proportions of this product supplied by such third countries during the previous period, on the basis of the total quantity or value of imports of such product into the customs territory of the Union.

Any special factors which may have affected or may be affecting the trade in the product shall be taken into account.

27. In cases where imports of the product subject to investigation from certain exporting third countries have increased in disproportionate percentage in relation to the total increase of imports of the product subject to investigation in the 3 years, immediately preceding the date of filing the application for the investigation, the Commission may allocate import quota among such exporting third countries taking into account the absolute and relative increase in import of this product from such exporting third countries.

The provisions of this paragraph are applied only in cases where the investigating authority has determined existence of serious injury to the domestic industry of Member States.

28. Procedure of application of a safeguard measure in the form of the import quota shall be determined by the Commission. If such decision provides for licensing of imports, licenses shall be issued in the manner specified by the article 46 of the Treaty.

29. In cases where safeguard measure is applied in the form of



safeguard quota, volume, allocation and application of such quota shall be made in the manner specified for import quota in the paragraphs 24-28 of this Protocol.

## 5. Duration and Review of Safeguard Measure

30. The period of application of a safeguard measure shall not exceed 4 years, unless it is extended in accordance with paragraph 31 of this Protocol.

31. The period of application of a safeguard measure specified in paragraph 30 of this Protocol may be extended by the decision of the Commission provided that pursuant to a review conducted by the investigating authority it is determined that it is necessary to extend the application of a safeguard measure to prevent or remedy serious injury or threat thereof and that there is evidence that the industry of the Member States is adjusting to the changing economic conditions.

32. When the Commission takes a decision on extension of the safeguard measure, such safeguard measure shall not be more restrictive than the safeguard measure that was in force on the date when this decision was taken.

33. In case when the duration of the safeguard measure exceeds 1 year, the Commission shall progressively liberalize it at regular intervals during the period of application.

If the duration of the safeguard measure exceeds three years, not later than the mid-term of the measure, the investigating authority shall conduct a review pursuant to which the safeguard measure may be maintained, liberalized or withdrawn.

For the purpose of this paragraph, liberalization of a safeguard measure

means an increase in the volume of import quota or safeguard quota, or a reduction of safeguard duty rate.

34. Without prejudice to the provisions on review specified in the paragraph 33 of this Protocol, on the initiative of the investigating authority or upon request of an interested party, review can be conducted in order to:

1) determine the need to modify, liberalize or withdraw the safeguard measure due to changed circumstances, including clarification of the product subject to the safeguard measure if there is a reason to assume that such a product cannot be produced in the Union in course of application of this safeguard measure;

2) determine the share of developing or least developed third countries in the total volume of imports of the product into the customs territory of the Union;

3) determine the fact of fulfilling the conditions specified in Article 8 of the Treaty on a Free Trade Area of October 18, 2011 for a Participating State of Commonwealth of Independent States, which is a party to the Treaty on a Free Trade Area of October 18, 2011.

35. Request for review for the purposes specified in the subparagraph 1 of the paragraph 34 of this Protocol can be accepted by the investigating authority provided that at least 1 year has elapsed since the imposition of the safeguard measure.

36. The provisions regarding the conduction of investigations shall be applied *mutatis mutandis* to the reviews.

37. The total period of application of a safeguard measure, including the period of application of a provisional safeguard duty, and any extension of the safeguard measure shall not exceed 8 years.

38. No safeguard measure shall be applied again to the import of a product, which has been subject to such a measure, for a period of time equal to the period of duration of the previous safeguard measure. The period of such non application shall be not less than 2 years.

39. Safeguard measure, the duration of which is 180 calendar days or less, regardless of provisions set by the paragraph 38 of this Protocol, may be applied again for the same product, if at least 1 year has elapsed since the date of introduction of previous safeguard measure and safeguard measure has not been applied for the same product more than twice in the five-year period preceding the date of introduction of new safeguard measure.

#### IV. Anti-dumping Measures

##### 1. General Principles of Application of an Anti-dumping Measure

40. A product is to be considered as being dumped if the export price of the product is less than its normal value.

41. The period of investigation for the examination of data to determine the existence of dumped imports is established by the investigating authority. Such period is established normally equal to 12 months preceding the date of filing of the application for investigation and for which the statistical data is available but in any case this period shall not be less than 6 months.

##### 2. Determination of the Margin of Dumping

42. The margin of dumping is determined by the investigating authority on the basis of comparison of:

1) weighted average normal value of the product and weighted average export price of the product;

2) normal value of the product in individual transactions and prices of individual export transactions;

3) weighted average normal value of the product and prices of individual export transactions provided that there are significant differences in prices of the product among purchasers, regions or time periods.

43. The comparison of export price and normal value shall be made at the same level of trade and in respect of sales made at as nearly as possible the same time.

44. In comparing of export price and normal value allowances shall be made for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability.

Investigating authority shall ensure that the allowances with due account for the aforementioned differences do not duplicate each other and do not distort the result of comparison of export price and normal value. Investigating authority may request the interested parties to provide information necessary to ensure a proper comparison of export price of the product with its normal value.

45. When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting third country or in case of low volume of the sales in the domestic market of the exporting third country or when, because of the particular market situation, such sales do not permit a proper comparison of export price of the product and the price of the like

product sold in the market of exporting third country, export price of the product is compared either with a comparable price of the like product imported from the exporting third country to another third country, provided that the price of the like product is representative, or with the cost of production in the country of origin plus a necessary amount for administrative, selling and general costs and for profits.

46. In the case where the product is imported into the customs territory of the Union from the third country, which is not its country of origin, the export price for that product shall be compared with the comparable price for the like product on the market of the third country.

Export price for the like product may be compared with the comparable price of the like product in its country of origin, if the product is merely transhipped through the third country, from which it is exported to the customs territory of the Union, or it is not produced in this third country, or there is no comparable price for the like product.

47. In the case where the comparison of the export price of the product with its normal value requires a conversion of currencies, such conversion is made using the official rate of exchange on the date of sale.

In the case where the sale of foreign currency was directly linked to the export sale involved and done on forward markets, the rate of exchange in the forward sale shall be used.

The investigating authority ignores the fluctuations in exchange rates and in the course of the investigation allows exporters at least 60 calendar days to adjust their export prices to reflect sustained movements in the exchange rates during the period of investigation.

48. The investigating authority, as a rule, determines an individual

margin of dumping for each known exporter and/or producer of the product, that have provided necessary information, which allows to determine an individual margin of dumping.

49. In the case where the investigating authority concludes that it is impracticable to determine an individual margin of dumping for each known exporter due to a total number of exporters, producers or importers of the product, product variety or any other reason, it may use the limitation on the determination of an individual dumping margin based on reasonable number of interested parties or it may determine the margin of dumping in relation to a sample of the product originating in each exporting country that on the basis of information available to the investigating authority is statistically valid and can be investigated without impeding the investigation.

The selection of interested parties to determine individual margins of dumping shall preferably be chosen by the investigating authority in consultation and with the consent of the respective exporters, producers and importers of the product subject to investigation.

In the case where the investigating authority uses the limitation in accordance with this paragraph, it also determines an individual margin of dumping in relation to each foreign exporter or foreign producer, which initially had not been chosen by the investigating authority, but provided necessary information that allows to determine an individual margin of dumping in time for that information to be considered, except where a number of foreign exporters and/or foreign producers is so large that individual examination may prevent the timely completion of the investigation by the investigating authority.

Voluntary responses of such foreign exporters and/or foreign producers

shall not be discouraged by the investigating authority.

50. In the case where the investigating authority uses the limitation, as provided in paragraph 49 of this Protocol, to determine an individual margin of dumping, the margin of dumping, calculated in relation to the foreign exporters or foreign producers of the dumped product, that have not been selected but have submitted necessary information within the established time period, shall not exceed the weighted average margin of dumping determined in relation to foreign exporters or foreign producers of the dumped product, that have been selected for the determination of an individual margin of dumping.

51. If the exporters or producers of the dumped product do not submit requested type of information to the investigating authority within the established time period or submitted information is not verifiable or is inaccurate, the investigating authority may determine the margin of dumping on the basis of facts available.

52. Besides the determination of the individual margin of dumping for each known exporter and/or producer of the product that submitted necessary information that allows to determine individual margin of dumping, the investigating authority may determine a single margin of dumping for all other exporters and/or producers of dumped product based upon the highest dumping margin determined during the course of the investigation.

### 3. Determination of the Normal Value

53. The investigating authority shall determine normal value on the basis of prices for the like product sold during the period of investigation in

the domestic market of the exporting third country in the ordinary course of trade to the buyers, that are not related to the producers and exporters, which are residents of this third country, for the use on the customs territory of the exporting third country.

For the purposes of determination of normal value prices for the like product sold in the domestic market of the exporting third country to the buyers that are related to producers and exporters, which are residents of this third country, may be taken into account in case where it is determined that the mentioned relation does not affect the pricing policy of foreign producer and/or exporter.

54. Sales of the like product in the ordinary course of trade in the domestic market of the exporting third country shall be considered as sufficient for the determination of the normal value, if such sales constitute not less than 5 percent of the total volume of exports of the product to the customs territory of the Union from the exporting third country.

A lower volume of sales of the like product in the ordinary course of trade is considered as acceptable for the determination of the normal value, if there is the evidence that demonstrates that such a volume is sufficient to provide a proper comparison of the export price with the price for the like product in the ordinary course of trade.

55. For the purposes of determination of the normal value for the product in accordance with paragraph 53 of this Protocol the price for the product sold to buyers in the domestic market of the exporting third country is the weighted average price of the like product sold during the period of investigation or the price for the product in individual transactions within this period.



56. Sales of the like product in the domestic market of the exporting third country or from the exporting third country to another third country at prices below per unit cost of production of the like product plus administrative, selling and general costs may be disregarded in the determination of the normal value only in the case where the investigating authority establishes that such sales are made in substantial quantities and at prices which do not provide for the recovery of all costs within this period.

57. In case where the price for the like product, which is below per unit cost of production plus administrative, selling and general costs at the time of sale, is above the weighted average per unit cost of production plus administrative, selling and general costs in the period of investigation, such price shall be considered to provide for the recovery of all costs in the period of investigation.

58. Sales of the like product at prices below per unit cost of production plus administrative, selling and general costs is considered as made in substantial quantities in case where the weighted average price of transactions of the like product subject to investigation for the determination of the normal value is below the weighted average per unit cost of production of the like product plus administrative, selling and general costs or the volume of sales at prices below such per unit costs represents not less than 20 percent of the volume sold in transactions under consideration for the determination of the normal value.

59. Per unit costs of production of the like product plus administrative, selling and general costs shall be calculated on the basis of records submitted by the exporter or producer of the product, provided that such records are in accordance with the generally accepted accounting

principles and rules of the exporting third country and totally reflect the costs associated with the production and sale of the product.

60. The investigating authority shall consider all available evidence on the proper allocation of costs of production, administrative, selling and general costs, including that submitted by the exporter or producer of the product subject to investigation, provided that such allocation has been normally utilized by the exporter or producer, in particular in relation to establishing appropriate depreciation period and allowances for capital expenditures and other development costs.

61. Costs of production, administrative, selling and general costs are adjusted for non-recurring items, connected with the development of production, or for circumstances in which costs during the period of investigation are affected by start-up operations. Such adjustments shall reflect the costs at the end of the start-up period, or in case where the start-up period exceeds the period of investigation, at the most recent stage of the start-up period, that falls within the period of investigation.

62. The amounts for administrative, selling and general costs and for profits relevant to the industry shall be determined on the basis of actual data pertaining to production and sales of the like product in the ordinary course of trade, provided by the exporter or producer of the dumped product. When such amounts cannot be determined on this basis, the amounts can be determined on the basis of:

1) the actual amounts incurred and realized by the exporter or producer of the product subject to investigation in respect of production and sales in the domestic market of the exporting third country of the same category of products;

2) the weighted average of the actual amounts incurred and realized by other exporters or producers of such a product in respect of production and sales of the like product in the domestic market of the exporting third country;

3) any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same category in the domestic market of the exporting third country.

63. In case of the dumped imports from the exporting third country, in which the prices in the domestic market are directly regulated by the government or there is a government monopoly on foreign trade, normal value for the product may be determined on the basis of price or calculated value of the like product in an appropriate third country that is comparable for the purposes of the investigation with the exporting third country, or on the basis of the price for the like product that is sold from such a third country for export.

In case where the determination of normal value in accordance with the present paragraph is not possible, the normal value for the product may be determined on the basis of the price paid or subject to payment for the like product on the customs territory of the Union, adjusted for profits.

#### 4. Determination of the Export Price

64. The export price for the product is determined on the basis of information on sales during the period of investigation.

65. In case when there is no information on export price for the dumped product, or when the investigating authority has reasonable doubts

concerning credibility of information on export price for this product because the exporter and the importer are related parties, including the relationship between each of them with the third party, or when there is a restrictive business practice in the form of compensatory arrangement in relation to the export price for such a product, export price may be constructed on the basis of the price at which the imported product is first resold to an independent buyer, or if the product is not resold to an independent buyer, or not resold in the condition as imported into the customs territory of the Union, on such a basis as the investigating authority may determine. For the purposes of comparison of the export price for the product with its normal value allowances shall be made for costs, including customs duties and taxes, incurred between importation and resale, and for profits.

#### 5. Determination of Injury to the Domestic Industry of the Member States Caused by the Dumped Imports

66. For the purposes of this section injury to the domestic industry of the Member States means material injury to the domestic industry of the Member States, threat of material injury to the domestic industry of the Member States or material retardation of the establishment of the domestic industry of the Member States.

67. The injury to the domestic industry of the Member States caused by the dumped imports is determined on the basis of results of the examination of the volume of dumped imports and the effect of such imports on prices for the like product in the domestic market of the Member States and on domestic producers of the like product in the Member States.

68. The period of investigation, for which the evidence is examined

for the purposes of determination of injury to the domestic industry of the Member States due to dumped imports, is to be established by the investigating authority.

69. With regard to the examination of the volume of dumped imports, the investigating authority shall consider whether there has been a significant increase in dumped imports of the product, subject to investigation, in absolute terms or relative to production or consumption of the like product in the Member States.

70. With regard to the examination of the effect of the dumped imports on prices of the like product the investigating authority shall determine whether:

1) the prices for the dumped product has been significantly lower than the prices for the like product in the market of the Member States;

2) the dumped imports depressed prices for the like product in the market of the Member States;

3) the dumped imports prevented the price increases for the like product in the market of the Member States, which would otherwise have occurred in the absence of such imports.

71. In case where imports of a product from more than one exporting third country are simultaneously subject to anti-dumping investigations, the investigating authority may cumulatively assess the effects of such imports only if it determines the following

1) the margin of dumping established in relation to the imports from each exporting third country is more than de minimis, and the volume of imports from each exporting third country is not negligible, with due regard to the provisions of paragraph 223 of this Protocol;

2) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product produced in the Member States.

72. The examination of the impact of the dumped imports on the domestic industry of the Member States consists in an evaluation of all economic factors related to the state of the domestic industry of the Member States, including:

the degree of recovery in the economic position of the domestic industry of the Member States after the impact of the prior dumped or subsidized imports;

actual or potential decline in production, sales, market share in the market of the Member States, profits, productivity, return on investments, or utilization of capacity;

factors affecting prices of the like product in the market of the Member States;

the magnitude of the margin of dumping;

actual or potential negative effect on growth rate of production, inventories, employment, wages, ability to raise investments and the financial position of the industry.

One or several factors cannot give a decisive guidance for the purposes of determination of the injury to the domestic industry of the Member States.

73. The conclusion on the causal link between the dumped imports and injury to the domestic industry of the Member States shall be based on the examination of all the relevant evidence and information available to the investigating authority.

74. Besides dumped imports, the investigating authority also examines all other known factors which at the same time are causing injury to the domestic industry of the Member States.

Factors, which may be considered as relevant in this respect, include, *inter alia* the volume and the price of imports not sold at dumping prices, contraction in demand or changes in the patterns of production, trade restrictive practices, developments in technology, as well as export performance and productivity of the domestic industry of the Member States.

The injury caused by these other factors to the domestic industry of the Member States shall not be attributed to the injury caused by dumped imports.

75. The effect of the dumped imports on the domestic industry of the Member States shall be assessed in relation to the domestic production of the like product in the Member States, when the available data permit the separate identification of the production of the like product on the basis of such criteria as production processes, producer's sales of the like product and profits.

In case where such available data does not permit the separate identification of the production of the like product, the effect of dumped imports on the domestic industry of the Member States shall be assessed in relation to the narrowest group or range of products, which includes the like product and for which the necessary information is available.

76. In making a determination of the threat of material injury to the domestic industry of the Member States caused by dumped imports, the investigating authority shall consider all the available factors, including the following:

1) a rate of increase of the dumped imports indicating the likelihood of further increased importation;

2) the capacity of the exporter to export the dumped product or evident imminence of the increase in export capacity, which indicates the likelihood of increased dumped imports of this product, taking into account the availability of other export markets to absorb any additional exports of this product;

3) the level of prices for the product subject to investigation, if such level of prices may have a depressing or suppressing effect on domestic prices for the like product in the Member States, and would likely further increase demand for the product subject to investigation;

4) inventories of the product subject to investigation.

77. The determination of the threat of material injury to the domestic industry of the Member States is made in case where during the course of the investigation as a result of examination of factors, specified in paragraph 76 of this Protocol, the investigating authority concluded the imminence of continuation of dumped imports and the material injury to the domestic industry of the Member States caused by such imports in case of non-imposition of the anti-dumping measure.

## 6. Imposition of a Provisional Anti-dumping Duty

78. In case where the evidence, received by the investigating authority before the completion of the investigation, indicates the existence of dumped imports that causes injury to the domestic industry of the Member States, the Commission on the basis of the report, specified in paragraph 7 of this Protocol, adopts a decision on application of an anti-dumping measure



through the imposition of provisional anti-dumping duty to prevent injury to the domestic industry of the Member States that is caused by dumped imports during the period of investigation.

79. Provisional anti-dumping duty shall not be imposed sooner than 60 calendar days from the date of initiation of the investigation.

80. The amount of the provisional anti-dumping duty shall be sufficient to remove injury to the domestic industry of the Member States being not greater than the provisionally estimated margin of dumping.

81. In case where the amount of provisional anti-dumping duty is equal to the amount of the provisionally estimated margin of dumping, the period of application of provisional anti-dumping duty shall not exceed 4 months, except for the case where this period is prolonged to 6 months upon the request of exporters representing a major percentage of the dumped imports subject to investigation.

82. In case where the amount of provisional anti-dumping duty is less than the provisionally estimated margin of dumping, the period of application of the provisional anti-dumping duty shall not exceed 6 months, except for the case when this period is prolonged to 9 months upon the request of the exporters representing a major percentage of the dumped imports subject to investigation.

83. In case where the investigating authority as a result of the investigation establishes that there are no grounds for imposition of the anti-dumping measure, or the decision on non-imposition was adopted pursuant to paragraph 272 of this Protocol, the amounts of provisional anti-dumping duty are subject to refund to the payer in accordance with the procedure specified in the Annex to this Protocol.

The investigating authority timely informs the customs authorities of the Member States on the absence of grounds for imposition of the anti-dumping measure, or on the decision on non-imposition adopted by the Commission.

84. In case where as a result of the investigation the decision on imposition of an anti-dumping measure is adopted on the basis of the threat of material injury to the domestic industry of the Member States or material retardation of the establishment of the domestic industry of the Member States, the amounts of the provisional anti-dumping duty are subject to refund to the payer in accordance with the procedure specified in the Annex to this Protocol.

85. In case where as a result of the investigation the decision on imposition of an anti-dumping measure is adopted on the basis of material injury to the domestic industry of the Member States or threat of material injury, provided that non-imposition of the provisional anti-dumping duty resulted in material injury to the domestic industry of the Member States, the amounts of provisional anti-dumping duties from the date of decision on imposition of the anti-dumping measure shall be transferred and distributed in accordance with the procedure specified in the Annex to this Protocol, with due regard to the provisions of paragraphs 86 and 87 of this Protocol.

86. In case where as a result of the investigation it is considered reasonable to impose the anti-dumping duty at a rate less than the provisional anti-dumping duty, the amount of the provisional anti-dumping duty equal to the amount of a definitive anti-dumping duty shall be transferred and distributed in accordance with the procedure specified in the Annex to this Protocol.

The amounts of provisional anti-dumping duty that exceed the amount of a definitive anti-dumping duty shall be subject to refund to a payer in accordance with the procedure specified in the Annex to this Protocol.

87. In case where as a result of the investigation it is considered reasonable to impose an anti-dumping duty at a rate higher than the provisional anti-dumping duty, the difference between a final anti-dumping duty and a provisional anti-dumping duty is not collected.

88. A provisional anti-dumping duty is applied, provided that the investigation continues simultaneously.

89. The decision on imposition of a provisional anti-dumping duty is adopted, as a rule, in not less than 7 months from the date of initiation of the investigation.

#### 7. The Acceptance of Price Undertakings by the Exporter of the Product subject to Investigation

90. The investigating authority may suspend or terminate the investigation without the imposition of provisional anti-dumping duty or definitive anti-dumping duty upon receipt of price undertakings from an exporter of the product subject to investigation to revise its prices or to cease exports to the customs territory of the Union at prices less than its normal value (if there are parties related to an exporter in the Member States, the applications by these parties, that indicate their support of the undertakings, are also necessary), if the investigating authority concludes that the acceptance of the undertakings would be adequate to remove the injury to the domestic industry caused by dumped imports, and the Commission adopts a decision on their approval.

The level of prices for the product in accordance with the undertakings shall not be higher than necessary to eliminate the margin of dumping.

The price increases may be less than a margin of dumping, if such price increases would be adequate to remove the injury to the domestic industry of the Member States.

91. The decision to accept price undertakings shall not be adopted by the Commission until the investigating authority has made an affirmative provisional determination on the existence of dumped imports that causes injury to the domestic industry of the Member States.

92. The decision to accept price undertakings shall not be adopted by the Commission, if the investigating authority concludes that their acceptance is impractical because the number of actual and potential exporters of the product subject to investigation is too great, or for other reasons.

To the extent possible, the investigating authority shall inform the exporters on the reasons which have led to consider acceptance of an undertaking as inappropriate, and shall give the exporter an opportunity to make comments thereon.

93. The investigating authority send to each exporter, that accepted price undertakings, a request to provide their non-confidential version of price undertakings to be able to provide it to interested parties.

94. Price undertakings may be suggested by the investigating authority, but no exporter shall be forced to enter into such undertakings.

95. In case where the Commission adopts a decision on approval of price undertakings, the anti-dumping investigation may be continued upon request of the exporter of the product or if the investigating authority so decides.

In case where as a result of the investigation the investigating authority makes a negative determination of dumping or injury to the domestic industry of the Member States, the price undertakings accepted by the exporter automatically lapse, except in cases where such a determination is due in large part to the existence of a price undertaking. In case where such a determination is due in large part to the existence of a price undertaking the Commission may adopt a decision to require that such undertakings be maintained for a reasonable period of time.

96. In case where as a result of the investigation the investigating authority makes an affirmative determination on the existence of dumped imports that causes injury to the domestic industry of the Member States, the accepted price undertaking shall continue consistent with its terms and the provisions of this Protocol.

97. The investigating authority may require the exporter from whom an undertaking has been accepted to provide information relevant to the fulfilment of such an undertaking and to permit verification of pertinent data.

The case when the exporter does not provide the requested information within the time period, established by the investigating authority, and does not permit verification of pertinent data is treated as a violation by the exporter of the accepted price undertakings.

98. In case of violation or withdrawal of price undertakings by the exporter the Commission may adopt a decision on application of the anti-dumping measure through the imposition of a provisional anti-dumping duty (if the investigation is not completed) or definitive anti-dumping duty (if the final results of the investigation indicate the existence of the grounds for its imposition).

In case of violation of accepted price undertakings the exporter is granted an opportunity to make comments pertinent to such a violation.

99. The decision on approval of price undertakings made by the Commission shall contain the amount of the provisional or definitive anti-dumping duty, which may be imposed pursuant to paragraph 98 of this Protocol.

#### 8. Imposition and Application of Anti-dumping Duty

100. The anti-dumping duty is applied to the dumped product that is supplied by all exporters, and causes injury to the domestic industry of the Member States, except for the product supplied by those exporters, for whom the price undertakings were approved by the Commission in accordance with paragraphs 90-99 of this Protocol.

101. The amount of the anti-dumping duty shall be adequate to remove injury to the domestic industry of the Member States but shall not exceed the margin of dumping.

The Commission may adopt a decision on imposition of anti-dumping duty less than the margin of dumping if such lesser duty would be adequate to remove injury to the domestic industry of the Member States.

102. The Commission establishes the individual anti-dumping duties in respect of the product supplied by each exporter or producer of the dumped product, for whom the individual margin of dumping has been determined.

103. Besides the individual margin of dumping, specified in paragraph 102 of this Protocol, the Commission determines the amount of an anti-dumping duty for the product supplied by all other exporters or producers of

the product originating in the exporting third country, for whom the individual margin of dumping has not been determined, on the basis of the highest margin of dumping that was established during the course of the investigation.

104. A definitive anti-dumping duty may be imposed on products which were entered under customs procedures, provided that they involve the payment of anti-dumping duties, not more than 90 days prior to the date of imposition of a provisional anti-dumping duty, if as a result of the investigation the investigating authority simultaneously determines the following:

1) there is a history of dumped imports that caused injury, or that the importer was, or should have been, aware that the exporter supplied a product at a price less than its normal value and that such imports would cause injury to the domestic industry of the Member States;

2) the injury to the domestic industry of the Member States is caused by massive dumped imports in a relatively short time which in light of the timing and the volume and other circumstances (including a rapid build-up of inventories of the imported product) is likely to seriously undermine the remedial effect of an anti-dumping duty to be imposed, provided that the importers of this product have been given an opportunity to comment.

105. After the date of initiation of the investigation the investigating authority publishes in the official sources, specified in the Treaty, a notice on possible application of the anti-dumping duty on the product subject to investigation in accordance with paragraph 104 of this Protocol.

The decision to publish such a notice is adopted by the investigating authority upon request of the domestic industry of the Member States that

contains sufficient evidence of fulfilment of the conditions, specified in paragraph 104 of this Protocol, or on its own initiative in case where such sufficient evidence is available to the investigating authority.

Anti-dumping duty shall not be applied in relation to products which were entered under customs procedures, provided that they involve the payment of anti-dumping duties, before the official publication of a notice specified in the this paragraph.

106. The national legislation of the Member States may establish additional ways to provide information to interested parties on possible application of an anti-dumping duty in accordance with paragraph 104 of this Protocol.

#### 9. Duration and Review of an Anti-dumping Measure

107. An anti-dumping measure shall be applied pursuant to a decision of the Commission as long and to the extent necessary to counteract dumping which is causing injury to the domestic industry of the Member States.

108. The period of application of the anti-dumping measure shall not exceed 5 years from the date of the application of the measure or from the date of completion of the review that was conducted on the basis of changed circumstances and concerned both the analysis of dumped imports and the injury that was caused by the dumped imports to the domestic industry of the Member States, or the date of completion of the expiry review.

109. An expiry review shall be initiated upon a written request, filed in accordance with paragraphs 186-198 of this Protocol, or upon the investigating authority's own initiative.

An expiry review shall be initiated in case where the application



includes evidence of likelihood of continuation or recurrence of dumping and injury to the domestic industry of the Member States if the duty were removed.

The request on expiry review shall be filed not later than 6 months prior the expiry of the anti-dumping measure.

The expiry review shall be initiated prior to the expiry of the anti-dumping measure and completed within 12 months from the date of initiation of such a review.

Before the completion of the review conducted in accordance with the present paragraph the anti-dumping measure continues to apply upon the decision of the Commission. During the extended period of application of a respective anti-dumping measure the anti-dumping duties are levied, in accordance with the procedure for collection of provisional anti-dumping duties, at the rate established in relation to the anti-dumping measure, the period for which is extended due to review.

In case where as a result of an expiry review the investigating authority establishes that there are no grounds for imposition of the anti-dumping measure, or the decision on non-imposition was adopted pursuant to paragraph 272 of this Protocol, the amounts of anti-dumping duty, levied, in accordance with the procedure for collection of provisional anti-dumping duties, at the rate established in relation to the anti-dumping measure, the period for which is extended due to review, are subject to refund to the payer in accordance with the procedure specified in the Annex to this Protocol.

The investigating authority shall timely inform the customs authorities of the Member States on the absence of grounds for imposition of the anti-dumping measure, or on the decision on non-imposition adopted by the

Commission.

The period of application of an anti-dumping measure may be extended by the Commission in case where as a result of an expiry review the investigating authority establishes the likelihood of continuation or recurrence of dumping that causes injury to the domestic industry of the Member States. From the date of entry into force of the decision of the Commission to extend the period of application of an anti-dumping duty the amounts of anti-dumping duties levied in accordance with the procedure for collection of provisional anti-dumping duties, during the period of extension of an anti-dumping measure, shall be transferred and distributed in accordance with the procedure specified in Annex to this Protocol.

110. For the purposes of determination whether the continued imposition of the anti-dumping measure is necessary and (or) review, including the review of individual rate of anti-dumping duty due to changed circumstances, a changed circumstances review may be initiated upon an application of an interested party or on the investigating authority's own initiative, provided that not less than 1 year period has elapsed since the imposition of a definitive anti-dumping duty.

Depending on the purpose of filing an application on review, such an application shall include evidence that due to changed circumstances:

continued application of an anti-dumping measure is no longer necessary to counteract dumped imports and eliminate injury to the domestic industry of the Member States caused by the dumped imports;

the existing amount of anti-dumping measure exceeds the amount sufficient to counteract dumped imports and eliminate injury to the domestic industry of the Member States caused by the dumped imports;

the existing anti-dumping measure is not sufficient to counteract dumped imports and eliminate injury to the domestic industry of the Member States caused by the dumped imports.

A changed circumstances review, carried out in accordance with the present paragraph, shall be completed within 12 months from the date of its initiation.

111. Review may also be initiated for the purposes of determining individual margins of dumping for any exporter or producer who has not exported the product subject to investigation during the period of investigation. Such a review may be initiated by the investigating authority in case where the exporter or producer files application request that includes evidence that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping measure, and provided that this exporter or producer exports to the customs territory of the Union the product subject to investigation, or is bound by contractual commitments to export substantial volumes of such a product to the customs territory of the Union, termination or withdrawal of which leads to significant losses or to significant fine sanctions for this exporter or producer.

During the course of a review for the purposes of determining individual margins of dumping for exporter or producer in relation to exports of the product subject to investigation to the customs territory of the Union this exporter or producer shall not pay the anti-dumping duty prior to the adoption of a decision upon results of the review. It is understood that the security for the anti-dumping duty shall be provided for imports of such a product into the customs territory of the Union during the course of the investigation in accordance with the procedures specified for the payment of

import customs duties in the Customs Code of the Eurasian Economic Union and subject to the provisions of the present paragraph.

The investigating authority shall timely inform the customs authorities of the Member States on the date of initiation of a review.

The security is provided in monetary funds in the amount of the anti-dumping duty calculated on the basis of the amount of an anti-dumping duty for the product supplied by all other exporters or producers, established in accordance with paragraph 103 of this Protocol.

In case where, as a result of the review, a decision on application of an anti-dumping measure is adopted, anti-dumping duty is subject to payment for the period of carrying out of such a review. The amount of security from the date of entry into force of a decision to apply an anti-dumping measure, adopted upon the result of a review, shall be on account of anti-dumping duty in the amount determined on the basis of established amount of anti-dumping duty, and shall be transferred and distributed in accordance with the procedures specified in Annex to this Protocol and subject to the provisions of the present paragraph.

In case where as a result of a review it is reasonably determined to impose an anti-dumping duty that is higher than the amount estimated for the purposes of the security, the difference shall not be collected.

The amount of security that is higher than the amount of the anti-dumping duty payable shall be refunded to the payer in accordance with the procedures specified in the Customs Code of the Eurasian Economic Union.

The review under the present paragraph shall be carried out expeditiously and shall be concluded within a period not exceeding 12 months.

112. The provisions of the section VI of this Protocol concerning the evidence and the conduct of the anti-dumping investigation shall apply *mutatis mutandis* to reviews specified in paragraphs 107-113 of this Protocol.

113. The provisions of paragraphs 107-112 of this Protocol shall apply to price undertakings accepted by the exporter in accordance with paragraphs 90-99 of this Protocol *mutatis mutandis*.

#### 10. Circumvention of an Anti-dumping Measure

114. For the purposes of this section circumvention is understood as a change in the patterns of trade to avoid the payment of an anti-dumping duty or the fulfilment of the price undertakings accepted by the exporter.

115. Anti-circumvention review may be initiated upon request of an interested party or on the investigating authority's own initiative.

116. The application, specified in paragraph 115 of this Protocol, shall include the following evidence:

- 1) circumvention of an anti-dumping measure;
- 2) the remedial effect of an anti-dumping measure is being undermined due to circumvention and its impact on the volume of production and (or) sales and (or) prices for the like product in the domestic market of the Member States;
- 3) the existence of dumped imports of the product (its parts and (or) modifications). It is understood that the normal value of the product, its parts and modifications shall be their normal value determined in the course of the investigation upon the results of which the Commission imposed an anti-dumping measure with due regard to the appropriate adjustments for the purposes of comparison.

117. The anti-circumvention review shall be completed within 9 months from the date of its initiation.

118. For the period of anti-circumvention review carried out in accordance with paragraphs 115-120 of this Protocol the Commission may impose an anti-dumping duty on imported parts and (or) modifications of the dumped product subject to investigation into the customs territory of the Union from the exporting third country, that is levied in accordance with the procedure established for the collection of provisional anti-dumping duties, and on the dumped product subject to investigation, and (or) its parts and (or) modifications imported into the customs territory of the Union from any other exporting third country.

119. In case where as a result of an anti-circumvention review carried out in accordance with paragraphs 115-120 of this Protocol the investigating authority does not establish circumvention of an anti-dumping duty, the amounts of the anti-dumping duty, paid in accordance with paragraph 118 of this Protocol and the procedure established for the collection of provisional anti-dumping duties, shall be refunded to the payer pursuant to procedures specified in Annex to this Protocol.

The investigating authority shall timely inform the customs authorities of the Member States that the circumvention is not established.

120. In case where the circumvention has been established upon results of the anti-circumvention review carried out in accordance with paragraphs 115-120 of this Protocol, the Commission may extend the anti-dumping duty on parts and (or) modifications of the product imported into the customs territory of the Union from an exporting third country to the other exporting third country. From the date of entry into force of the

decision of the Commission to impose the anti-dumping measure under this paragraph the amount of anti-dumping duties paid in accordance with the procedure established for the collection of provisional anti-dumping duties shall be transferred and distributed pursuant to procedures specified in Annex to this Protocol.

## V. Countervailing Measures

121. For the purposes of this Protocol subsidy means:

1) a financial contribution by the granting authority that gives additional benefits to the recipient of subsidies, rendered within the territory of the exporting third country in the form of:

direct transfer of funds (including grants, loans, purchases of shares) or obligations to transfer such funds (including loan guarantees);

withdrawal of funds or complete or partial renunciation of funds that were supposed to become the government revenue of the exporting third country (including the provision of tax credits), excluding the exemption of the exported goods from taxes and duties levied on the like products destined for domestic consumption or reduction or refund of such taxes or duties in the amount not exceeding the amount actually paid;

preferential or free provision of goods or services, excluding goods and services intended for the maintenance and development of general infrastructure, i.e. the infrastructure that is not related to a specific producer and (or) exporter;

preferential procurement of goods.

2) any kind of income or price support, giving the recipient additional advantages, that results directly or indirectly in increase of export of goods

from the exporting third country or decrease of import of the like product to the third country.

#### 1. The Principles of Classifying Subsidies of Exporting Third Country to Specific Subsidies

122. A subsidy of an exporting third country is specific if the access to the subsidy is limited only to separate enterprises by the granting authority or by the legislation of the exporting third country.

123. For the purposes of this Section, separate enterprises means a producer and (or) an exporter, or a particular sector of the economy of an exporting third country, or a group (alliance, association) of producers and (or) exporters, or sectors of the economy of an exporting third country.

124. A subsidy is specific if the number of separate enterprises that are allowed to use this subsidy is limited to enterprises located within a designated geographical region within the jurisdiction of the granting authority.

125. A subsidy is not specific, if the legislation of the exporting third country or granting authority establishes the general objective criteria or conditions governing the eligibility for, and the amount of, a subsidy (depending on number of workers engaged in the production process or the volume of output) and strictly adhered to.

126. In any case, the subsidy of the exporting third country is specific if the granting of the subsidy is accompanied by:

- 1) use of a subsidy program by a limited number of separate enterprises;
- 2) predominant use of the subsidy by certain enterprises;
- 3) the granting of disproportionately large amount of subsidy to certain enterprises;



4) the preferential manner in which discretion is exercised by the granting authority in the decision to grant the subsidy.

127. Any subsidy of an exporting third country is a specific subsidy if:

1) a subsidy contingent, in law of the exporting third country or in fact, whether solely or as one of several other conditions, upon export performance. A subsidy deemed to be contingent in fact upon export performance, if granting the subsidy in accordance with the legislation of the exporting third country is not connected with the export performance, in fact connected with the past or possible future export of goods or export revenue. The fact of granting the subsidy to the exporting enterprises by itself doesn't mean the subsidy contingent upon export performance within the meaning of this paragraph;

2) a subsidy contingent, in law of the exporting third country or in fact, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

128. Any determination made by the investigating authority on specificity of an exporting third country subsidy shall be based on evidence.

## 2. The Principles of Calculation of the Amount of a Specific Subsidy

129. The amount of specific subsidy is based on the benefit to the recipient of such subsidy.

130. The amount of benefit gained by the recipient of a specific subsidy is calculated based on the following guidelines:

1) provision of equity capital by the granting authority shall not be considered as conferring a benefit, unless the investment decision can be

regarded as inconsistent with the usual investment practice (including for the provision of risk capital) in the territory of the exporting third country;

2) a loan by the granting authority shall not be considered as conferring a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount the firm would pay on a comparable commercial loan which the firm could actually obtain on the market of the exporting third country. In this case the benefit shall be the difference between these two amounts;

3) a loan guarantee by the granting authority shall not be considered as conferring a benefit, unless there is a difference between the amount that the firm receiving the guarantee pays on a loan guaranteed by the government and the amount the firm would pay on a comparable commercial loan absent the government guarantee. In this case the benefit shall be the difference between these two amounts adjusted for any differences in fees;

4) the provision of goods or services or purchase of goods by the granting authority shall not be considered as conferring a benefit unless the provision is made for less than adequate remuneration or purchase of goods is not made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for these goods or services in question in the exporting third country, including price, quality, availability, marketability, transportation and other conditions of purchase or sale.

### 3. Determination of Injury to the Domestic Industry of the Member States by the Subsidized Imports

131. For the purposes of this Section the term “injury to the domestic industry of the Member States” shall be taken to mean material injury to a domestic industry of the Member States, threat of material injury to a domestic industry or material retardation of the establishment of such an industry in the Member States.

132. Injury to the domestic industry of the Member States by the subsidized imports is determined based on the volume of subsidized imports and the effect of such imports on price of the like product at the domestic market of the Member States and on the producers of the like product in the Member States.

133. The investigating period to be analyzed for the purposes of determination of injury to the domestic industry of the Member States is determined by the investigating authority.

134. The investigating authority when analyzing the volume of subsidized imports shall determine whether there has been significant increase in subsidized imports of product under investigation (either in absolute terms or relative to production or consumption of the like product in the Member States).

135. Where imports of a product from more than one exporting third country to the customs territory of the Union are simultaneously subject to investigations, the investigating authority may cumulatively assess the effects of such imports only if it determines that:

1) the amount of subsidization established in relation to the imports from each exporting third country for that product is more than 1 percent of its

value, and the volume of imports from each exporting third country is not negligible in accordance with paragraph 228 of this Protocol;

2) a cumulative assessment of the effects of subsidized imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.

136. With regard to the effect of the subsidized imports on prices of the like product on the domestic market of the Member States, the investigating authority shall consider:

1) whether there has been a significant price undercutting by the subsidized imports as compared with the price of the like product on the domestic market of the Member States;

2) whether the effects of the subsidized imports is otherwise to depress prices of the like product on the domestic market of the Member States to a significant degree;

3) whether the subsidized imports prevented the price increases of the like product on the domestic market of the Member States, which otherwise would have occurred, to a significant degree.

137. The examination of the impact of the subsidized imports on the domestic industry of the Member States shall include an evaluation of all relevant economic factors having a bearing on the state of the industry of the Member States, including:

1) actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity;

2) factors, affecting domestic prices;

3) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise investments.

138. The effect of the subsidized imports shall be assessed in relation to the domestic production of the Member States of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, sales of the like product by their producers and profits.

If such separate identification of that production is not possible, the effects of the subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

139. In making a determination of a threat of material injury to the domestic industry of the Member States by the subsidized imports, the investigating authority shall consider any known factors, including:

1) nature, the amount of subsidy or subsidies in question and the trade effects likely to arise therefrom;

2) rate of increase of subsidized imports into the domestic market indicating the likelihood of substantially increased importation;

3) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidized imports, taking into account the availability of other export markets to absorb any additional exports;

4) prices for the product subject of subsidized imports, whether such prices will have depressing or suppressing effect on the prices of the like product at the domestic market of the Member States, and would likely increase demand for further subsidized imports;

5) inventories of the exporter of the product subject of subsidized imports.

140. A determination of a threat of material injury to the domestic industry of the Member States shall be made, if the investigating authorities after considering all the factors set forth in paragraph 139 of this Protocol, came to the conclusion that further subsidized imports are imminent and that, unless countervailing measure is taken, material injury to the domestic industry of the Member States would occur.

141. A determination of a causal relationship between the subsidized imports and the injury to the domestic industry of the Member States shall be based on an examination of all relevant factors and evidence before the investigating authorities.

142. The investigating authority shall also examine any known factors other than the subsidized imports which at the same time are injuring the domestic industry.

The injuries caused by these other factors to the domestic industry of the Member States must not be attributed to the injury to the domestic industry caused by the subsidized imports into the customs territory of the Member States.

#### 4. Imposition of Provisional Countervailing Duties

143. If the information received by the investigating authority prior to the termination of the investigation, sustains the existence of subsidized imports and material injury to the domestic industry of the Member States caused by such imports, the Commission on the basis of the report of the investigating authority, specified in paragraph 7 of this Protocol, shall take a decision on the application of a countervailing measure in the form of provisional

countervailing duty, that shall remain in force for up to 4 months to counteract the injury to the domestic industry of the Member States caused by the subsidized imports.

144. Provisional countervailing duty shall not be applied sooner than 60 calendar days from the date of initiation of the investigation.

145. Provisional countervailing duty shall be applied equal to the provisionally calculated amount of subsidization per unit of the subsidized and exported product.

146. Where as a result of the investigation, the investigating authority makes the determination that there is no reasons for the imposition of a countervailing measure, or non-application of the countervailing measure in accordance with paragraph 272 of this Protocol, the amount of the paid provisional countervailing duty shall be refunded to the payer in accordance with the Annex to this Protocol.

The investigating authority shall notify the customs authorities of the Member States on the absence of grounds for application of countervailing measure or on Commission's decision on non-application of the countervailing measure.

147. Where an application of a countervailing measure is made based on the determination of threat of injury or material retardation of the industry of the Member States, the amount of the paid provisional countervailing duty shall be refunded to the payer in accordance with the Annex to this Protocol.

148. Where an application of a countervailing measure is based on the determination of injury to the industry of the Member States or threat thereof (where the effect of the subsidized imports would, in the absence of the provisional countervailing duty, have led to a determination of injury to the

industry of the Member States), any amount of provisional countervailing duty paid since the date of entry into force of the decision on application of countervailing measure shall be deposited and distributed in accordance with the Annex to this Protocol in compliance with paragraphs 149 and 150 of this Protocol.

149. In case where as a result of the investigation it is considered reasonable to impose the countervailing duty at a rate less than the provisional countervailing duty, the amount of the provisional countervailing duty equal to the amount of a definitive countervailing duty shall be transferred and distributed in accordance with the procedure specified in the Annex to this Protocol.

The amount of provisional countervailing duty that exceeds the amount of definitive countervailing duty shall be refunded to the payer in accordance with the Annex to this Protocol.

150. Where as a result of the investigation, the definitive countervailing duty is higher than the provisional countervailing duty, the difference shall not be collected.

151. Provisional countervailing duty shall be applied with simultaneous continuation of proceeding.

152. Provisional countervailing duty shall be applied in accordance with paragraphs 164-168 of this Protocol.

153. The decision on application of provisional countervailing measures shall be taken not later than 7 months from the date of initiation of the investigation.



## 5. Voluntary Undertakings by the Subsidizing Third Country or Exporter of Subsidized Imports Subject to Investigation

154. The investigation may be suspended or terminated without the imposition of countervailing duty upon the adoption by the Commission of the decision on the approval of one of the following voluntary undertakings received by the investigating authority in writing:

exporting third country agrees to eliminate or limit the subsidy or take other measures concerning its effects;

the exporter of the product under investigation agrees to revise its prices for this product (and to provide the support by the related parties if any of such revision) so that the investigating authority is satisfied that the injurious effect of the subsidy to the industry of the Member States is eliminated.

Price increases under such undertakings shall not be higher than the amount of a specific subsidy in the exporting third country, calculated in terms of subsidization per unit of the subsidized and exported product.

Price increases of the subsidized imports can be less than the amount of a specific subsidy of the exporting third country, calculated in terms of subsidization per unit of the subsidized and exported product, if such increases would be adequate to remove the injury to the domestic industry of the Member States.

155. The decision to accept voluntary undertakings shall not be adopted by the Commission unless the investigating authority has made a preliminary affirmative determination of subsidization and injury caused by such imports to the industry of the Member States.

The decision to accept voluntary undertakings by the exporter of the product under investigation shall not be adopted by the Commission, unless it has obtained the consent of the authority of the exporting third country for

the acceptance of undertakings, specified in the third indent of the paragraph 154 of this Protocol.

156. The decision to accept voluntary undertakings shall not be adopted by the Commission, if the investigating authority considers their acceptance impractical due to the great number of actual or potential exporters of the product under investigation, or for other reasons.

Where practicable, the investigating authority shall provide to the exporters the reasons which have led it to consider acceptance of an undertakings as inappropriate, and shall give the exporters an opportunity to make comments thereon.

157. The investigating authority shall send a request to every exporter, accepted voluntary undertakings, and the authority of these exporting third countries, to present non-confidential version of such undertakings in order to be able to provide it to the interested parties.

158. Voluntary undertakings may be suggested by the investigating authority, but no exporting third country or exporter shall be forced to enter into such undertakings.

159. If the decision to accept voluntary undertakings is adopted by the Commission, the countervailing investigation shall nevertheless be completed upon request of the exporting third country or if the investigating authority so decides.

In cases where as a result of the investigation, the investigating authority made a negative determination of subsidization or injury to the domestic industry of the Member States, the undertakings of the exporting third country or exporters shall automatically lapse, except in cases where such a determination is due in large part to the existence of undertakings. In cases

where such a determination is due in large part to the existence of voluntary undertakings, the Commission may require that undertakings be maintained for a reasonable period of time.

160. In cases where as a result of the investigation, the investigating authority made an affirmative determination of subsidization and injury to the industry of the Member States, undertakings shall continue consistent with its terms and the provisions of this Protocol.

161. The investigating authority may require any exporting third country or exporter from whom voluntary undertakings has been approved by the Commission to provide information relevant to the fulfilment of such undertakings, and to permit verification of pertinent data.

Non provision of requested information within the period prescribed by the investigating authority and disagreement for verification of pertinent data shall consider as violation of voluntary undertakings by exporting third country or exporter.

162. In case of violation of voluntary undertakings by exporting third country or exporter, or withdrawal of such undertakings, the Commission may adopt a decision on the application of countervailing measure in the form of provisional countervailing duty (if the investigation is incomplete) or definitive countervailing duty (if the final determination indicates the grounds for its imposition).

Exporting third country or exporter in case of violation of voluntary undertakings shall be given the opportunity to make comments on such violation.

163. The decision of the Commission approving voluntary undertakings shall determine the rate of provisional countervailing duty or definitive

countervailing duty which can be introduced in accordance with paragraph 162 of this Protocol.

## 6. Imposition and Collection of Countervailing Duty

164. The decision on imposition of countervailing duty shall not be applied by the Commission if the specific subsidy of the exporting third country is withdrawn.

165. The decision on imposition of countervailing duty shall be applied after the exporting third country granting specific subsidy has rejected the proposal to hold consultations or if during the consultations no mutually agreed solution has been reached.

166. A countervailing duty is imposed on imports of product from all exporters found to be subsidized and causing injury to the industry of the Member States (except as to imports from those exporters from which voluntary undertakings have been approved by the Commission).

In respect to the products from some exporters the Commission may establish the individual countervailing duty rate.

167. The amount of countervailing duty shall not be in excess of the amount of the subsidy found to exist in the exporting third country, calculated in terms of subsidization per unit of the subsidized and exported product.

If subsidies are granted in accordance with different subsidization programs, their cumulative effect shall be taken into consideration.

The amount of countervailing duty to be imposed can be less than the amount of specific subsidy of the exporting third country if such lesser duty

would be adequate to remove the injury to the domestic industry of the Member States.

168. When determining the amount of countervailing duty the investigating authority shall take into consideration the opinions of consumers of the Member States, whose economic interests can be affected by imposition of such countervailing duty.

169. A countervailing duty may be imposed on products placed under customs procedures where this is one of the conditions of such placement, no less than 90 calendar days prior to the date of introduction of the provisional countervailing duty, if the investigating authority finds the following:

1) injury which would be difficult to repair is caused by massive imports in a relatively short period of time of a product benefiting from the specific subsidies paid or granted;

2) it is necessary, in order to prevent the recurrence of such injury, to impose countervailing duty to the imported products specified in subparagraph 1 of this paragraph.

170. The investigating authority after the initiation of an investigation shall publish a notice in the official sources specified in the Treaty, containing the notice on the possible imposition of countervailing duty with respect to the product in question in accordance with paragraph 169 of this Protocol.

The decision to publish such a notice shall be adopted by the investigating authority on the request of the domestic industry of the Member States, if there is sufficient evidence of the fulfillment of the conditions, specified in paragraph 169 of this Protocol, or on its own initiative based on the evidences that it has.

No countervailing duty shall be applied in respect of the products placed under customs procedures where this is one of the conditions of such placement, before the official publication of a notice specified in this paragraph.

171. The legislation of the Member States may establish additional ways to provide information to interested parties on possible application of countervailing duty in accordance with paragraph 169 of this Protocol.

## 7. Duration and Review of Countervailing Measure

172. A countervailing measure shall be applied pursuant to the decision of the Commission as long as and to the extent necessary to counteract subsidized imports which is causing injury to the domestic industry of the Member States.

173. The period of application of the definitive countervailing measure shall not exceed 5 years from the date of the application of the measure or from the date of completion of the review, initiated in connection with the changed circumstances and covered both subsidization and injury to the domestic industry of the Member States, or the date of completion of the expiry review.

174. An expiry review shall be carried out upon a request (in written form), filed in accordance with paragraphs 186-198 of this Protocol, or on the investigating authority's own initiative.

An expiry review shall be initiated in case where the request includes evidence of likelihood of continuation or recurrence of subsidization and

injury to the industry of the Member States if the countervailing duty were removed.

The request on expiry review shall be filed not later than 6 months prior to the expiry of the countervailing measure.

An expiry review shall be initiated prior to the expiry of the countervailing measure and concluded within 12 months of the date of initiation of the review.

Pending the completion of the expiry review carried out in accordance with this paragraph, the countervailing measure may remain in force pursuant to the decision of the Commission. During the extended period of application of the relevant countervailing measure, the countervailing duty shall be levied, in accordance with the procedure for collection of provisional countervailing duties, at the rate established in relation to the countervailing measure, the period for which is extended due to the review.

In cases where as a result of an expiry review the investigating authority establishes that there are no grounds for imposition of the countervailing measure, or the decision on non-imposition was adopted pursuant to paragraph 272 of this Protocol, the amounts of countervailing duty levied, in accordance with the procedure for collection of provisional countervailing duties, during the period for which the application of the countervailing measure has been extended due to review, are subject to refund to the payer in accordance with the procedure specified in the Annex to this Protocol.

The investigating authority shall timely inform the customs authorities of the Member States on the absence of grounds for imposition of the countervailing measure, or on the decision on non-imposition adopted by the Commission.

The period of application of a countervailing measure may be extended by the Commission in case where as a result of an expiry review the investigating authority establishes the likelihood of continuation or recurrence of the subsidization and injury to the domestic industry of the Member States. From the date of entry into force of the decision of the Commission to extend the period of application of a countervailing measure the amounts of countervailing measure levied in accordance with the procedure for collection of provisional countervailing duties, during the period of extension of a countervailing measure, shall be transferred and distributed in accordance with the procedure specified in Annex to this Protocol.

175. Upon request by any interested party or on the investigating authority's own initiative, provided that not less than 1 year has elapsed since the imposition of a countervailing measure, a changed circumstances review may be initiated for the purposes of determination whether the continued imposition of the countervailing measure is necessary and (or) review, including the review of individual rate of countervailing duty due to the changed circumstances.

Depending on the purposes of the request for a review due to the changed circumstances, such a request shall include evidence, that:

continued application of a countervailing measure is no longer necessary to counteract subsidized imports and eliminate injury to the domestic industry of the Member States caused by subsidized imports;

the existing amount of countervailing measure exceeds the amount sufficient to counteract subsidized imports and eliminate injury to the domestic industry of the Member States caused by subsidized imports;



the existing countervailing measure is not sufficient to counteract subsidized imports and eliminate injury caused by subsidized imports.

A changed circumstances review shall be completed within 12 months from the date of its initiation.

176. The provisions of the section VI of this Protocol concerning the evidence and the conduct of the investigation shall apply *mutatis mutandis* to reviews specified in paragraphs 172-178 of this Protocol.

177. The provisions of paragraphs 172-178 of this Protocol shall apply to the undertakings accepted by the exporting third country or exporter in accordance with paragraphs 154-163 of this Protocol *mutatis mutandis*.

178. The review may also be initiated for the purposes of determining individual countervailing duty rate for the exporter, subject to countervailing duty in respect of which the investigation had not been conducted because of the reasons other than noncooperation. Such a review may be initiated by the investigating authority upon the request of this exporter.

## 8. Circumvention of the Countervailing Measure

179. For the purposes of this section circumvention is understood as a change in the patterns of trade to avoid the payment of a countervailing duty or the fulfillment of the voluntary undertakings.

180. Anti-circumvention review may be initiated upon the request of an interested party or on the own initiative of the investigating authority.

181. The request, specified in paragraph 180 of this Protocol, shall include the following evidence:

- 1) circumvention of a measure;

2) the remedial effect of a countervailing measure is being undermined due to circumvention and its impact on the volume of production and (or) sales and (or) prices for the like product in the domestic market of the Member States;

3) the existence of the benefit from subsidies granted to the producer and (or) the exporter of product (its parts and (or) modifications).

182. For the period of the review carried out in accordance with paragraphs 179-185 of this Protocol the Commission may impose a countervailing duty on imported parts and (or) modifications of the subsidized products into the customs territory of the Union from the exporting third country, that is levied in accordance with the procedure established for the collection of provisional countervailing duties, and on the subsidized product and (or) its parts and (or) modifications imported on the customs territory of the Union from any other exporting third country.

183. In case where as a result of a review carried out in accordance with the paragraphs 179-185 of this Protocol the investigating authority does not establish circumvention of a countervailing measure, the amounts of countervailing duty, paid in accordance with paragraph 182 of this Protocol and the procedure established for the collection of provisional countervailing duties, shall be refunded to the payer pursuant to procedures specified in Annex to this Protocol.

The investigating authority shall timely inform the customs authorities of the Member States that the circumvention of the countervailing measure has not established.

184. In case where the circumvention has been established upon the results of the review carried out in accordance with paragraphs 179-185 of

this Protocol, the countervailing measure may be extended on imported parts and (or) modifications of the subsidized products, imported into the customs territory of the Union from the exporting third country, and on the subsidized product and (or) its parts and (or) modifications imported on the customs territory of the Union from any other exporting third country. From the date of entry into force of the decision of the Commission on imposition of a countervailing measure under this paragraph the amounts of countervailing duties paid in accordance with the procedure established for the provisional countervailing duties shall be transferred and distributed pursuant to procedures specified in Annex to this Protocol.

185. The anti-circumvention review shall be completed within 9 months from the date of its initiation.

## VI. Conducting Investigations

### 1. Basis for Investigation

186. For the purpose of determination of the existence of increased imports and the resulting serious injury to the domestic industry of the Member States or a threat of such injury, as well as determination of the dumped or subsidized imports and the resulting material injury, a threat of such injury or a material retardation of the establishment of the domestic industry of the Member States, investigation is carried out by the investigating authority based upon a written application or on its own initiative.

187. The application specified in paragraph 186 of this Protocol is submitted by:

1) producer of the like or directly competitive product (for the purposes of safeguard investigation) or the like products (for the purposes of anti-dumping or countervailing investigation) in the Member States or by their authorised representative;

2) an association of producers which includes producers whose collective output constitutes a major proportion but not less than 25 percent of the total volume of production of the like or directly competitive products (in cases where safeguard measure application is submitted) or the like products (anti-dumping in cases where anti-dumping or countervailing measure application is submitted) in the Member States or by authorised representative of such association.

188. The authorised representatives of producers and associations specified in paragraph 187 of this Protocol shall have duly certified and documented authority; the originals of respective documents shall be submitted to the investigating authority together with the application.

189. The application specified in paragraph 186 of this Protocol shall be accompanied by the evidence of support of the application by producers of the like or directly competitive products or the like products in the Member States. The sufficient evidence of support is considered the following:

1) documents confirming that other producers of the like or directly competitive product in the Member States, who together with the applicant account for the major proportion, but not less than 25 percent of the total volume of production of like or directly competitive product in the Member States join the application (in cases where safeguard measure application is submitted);

2) documents confirming that the producers in the Member States (including the applicant) supporting the application account for at least 25 percent of the total production volume of the like products in the Member States on a condition that the collective output of the producers in the Member States (including the applicant) supporting the application constitutes more than 50 percent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application (in cases where an antidumping or countervailing measure application is submitted).

190. The application specified in paragraph 186 of this Protocol shall contain:

1) the information on the identity of the applicant, on the volume and value of the production of the like or directly competitive product (in cases where safeguard measure application is submitted), the like product (in cases where anti-dumping or countervailing measure application is submitted anti-dumping) by the domestic industry of the Member States for 3 years preceding the date of application, as well as on the volume and value of the production of the like or directly competitive product (in cases where safeguard measure application is submitted) or the like product (in cases where anti-dumping or countervailing measure application is submitted) by producers in the Member States supporting the application, and on their share in total volume of production in the Member States of the like or directly competitive product (in cases where safeguard measure application is submitted) or the like product (in cases where anti-dumping or countervailing measure application is submitted);

2) a description of the product imported into the customs territory of the Union subject to the proposal of imposition of safeguard, anti-dumping or countervailing measure anti-dumping with the indication of the code in CN of EAEU;

3) the names of the exporting third countries of origin or departure of the product specified in sub-paragraph 2 of this paragraph on the basis of customs statistics;

4) information on known producers and (or) exporters of the product specified in the sub-paragraph 2 of this paragraph in the exporting third country and on known importers and known major consumers of such product in the Member States;

5) information on the changes in the volume of import into the customs territory of the Union of the product subject to the proposal of imposition of safeguard, anti-dumping or countervailing measure for the previous period, as well as for the subsequent period for which representative statistics is available as of date of the application;

6) information on the changes in the volume of export of the like or directly competitive product (in cases where safeguard measure application is submitted) or the like product (in cases where anti-dumping or countervailing measure application is submitted anti-dumping) from the customs territory of the Union for the previous period, as well as for the subsequent period for which representative statistics is available as of date of the application.

191. In addition to the information specified in paragraph 190 of this Protocol depending on the type of measure proposed in the application, the applicant shall include the following information:

1) evidence of the increased imports of the product, of serious injury to the domestic industry of the Member States or a threat of such injury due to the increased imports of product, the proposal on imposition of a safeguard measure with the indication of the extent and the period of application of such measure, as well as the adaptation plan of the domestic industry of the Member States to operate in conditions of foreign competition for the period of application of the safeguard measure proposed by the applicant (in cases where safeguard measure application is submitted);

2) information on the export price and normal value of the product, evidence of material injury, threat of such injury or a material retardation of the establishment of the domestic industry of the Member States due to dumped imports of the product, as well as a proposal on the imposition of an anti-dumping measure with the indication of its size and the period of application (in cases where anti-dumping application is submitted);

3) information on the existence and nature of the specific subsidy of the exporting third country and, if possible, its size, the evidence of material injury or a threat of such an injury or a material retardation of the establishment of the domestic industry of the Member States due to the subsidized imports of the product, as well as the proposal on the imposition of a countervailing measure with the indication of its extent and the period of application (in cases where countervailing application is submitted).

192. The evidence of the existence of serious injury or a threat of such injury or material retardation of the domestic industry of the Member States (in cases where safeguard measure application is submitted) and evidence of material injury or a threat of such injury or material retardation of the domestic industry of the Member States due to the dumped or subsidized

imports (in cases where anti-dumping or countervailing measure application is submitted ) shall be based upon objective factors characterizing the economic situation of the domestic industry of the Member States, and shall be expressed in volume and value indicators for the preceding period, as well as for the subsequent period for which representative statistical data is available at the date of application (including the production volume and the sales volume, the share of the product in the market of the Member States, the cost of production, the price of the product, capacity utilization, employment, labor productivity, profit margins, profitability, amount of investments in the domestic industry of the Member States).

193. All information provided in the application shall be provided with references to respective sources.

194. For the purpose of comparability, common monetary and quantitative units shall be used for the indicators contained in the application.

195. The information contained in the application shall be certified by managers of the producers, who presented such information, as well as by their employees responsible for the accounting and financial reporting in the part concerning the information that is directly relevant to producer's data.

196. The application with the attachment of a non-confidential version thereof (if the application contains confidential information) shall be submitted to the investigating authority in accordance with paragraph 8 of this Protocol and shall be subject to registration on the day of receipt.

197. The date of submission of the application shall be considered the date of its registration in the investigating authority.

198. The application for the imposition of safeguard, anti-dumping or countervailing measure may be rejected on to the following grounds:



failure to submit information specified in paragraphs 189-191 of this Protocol;

unreliability of the information submitted by the applicant specified in paragraphs 189-191 of this Protocol;

failure to submit a non-confidential version of the application.

The rejection of the application on other grounds is not permitted.

## 2. Initiation and Subsequent Investigation

199. Prior to the decision on the initiation of an investigation, the investigating authority shall notify the exporting third country in writing of the receipt of an application for the imposition of an anti-dumping or countervailing measure prepared in accordance with paragraphs 187-196 of this Protocol.

200. Prior to the decision on the initiation of an investigation, the investigating authority within 30 calendar days from the date of registration of the application examines the sufficiency and adequacy of the evidence and the information contained in the application in accordance with paragraphs 189-191 of this Protocol. Such period may be extended should the investigating authority require any additional information, but shall not exceed 60 calendar days.

201. The application may be withdrawn by the applicant before the initiation of the investigation or in the course of the investigation.

The application is not considered as submitted if it is withdrawn before the initiation of the investigation.

If the application is withdrawn in the course of an investigation, the investigation shall be terminated without the introduction of a safeguard, anti-dumping or countervailing measure.

202. The information contained in the application shall not be subject to public disclosure prior to initiation of an investigation,

203. The investigating authority shall decide to initiate or refuse to conduct an investigation before the expiry of the period specified in paragraph 200 of this Protocol.

204. Upon deciding on the initiation of an investigation, the investigating authority shall notify in writing the competent authority of the exporting third country, as well as other known interested parties, and within not more than 10 business days from the date of this decision shall give the public notice on the initiation of the investigation in the official sources provided by Treaty.

205. The date of the publication of the notice on the initiation of the investigation on the official website of the Union on the Internet shall be the date of the initiation of the investigation.

206. The investigating authority may decide to initiate an investigation (including on its own initiative) only if it has the evidence of increased imports and a resulting serious injury or a threat of such injury to the domestic industry of the Member States or of the existence of dumped or subsidized imports and the resulting material injury, a threat of such injury or material retardation of the establishment of the domestic industry of the Member States.

If the available evidence is insufficient, such an investigation shall not be initiated.

207. A decision on rejection to initiate the investigation shall be taken if the investigating authority based on the results of examination of the application determined that the information submitted in accordance with paragraphs 190-191 of this Protocol does not indicate the existence of the increased, dumped or subsidized imports of products to the customs territory of the Union, and (or) a material injury or a threat of material injury to the domestic industry of the Member States caused by dumped or subsidized imports or serious injury, threat of serious injury to the domestic industry of the Member States caused by the increased imports to the customs territory of the Union.

208. Upon deciding on the rejection of the investigation the investigating authority shall notify in writing the applicant thereof about the reasons for the rejection within no more than 10 calendar days from the date of this decision.

209. Interested parties shall have the right to declare their intention to participate in the investigation in writing within the period established in accordance with this Protocol. They are recognized as participants in the investigation from the date of registration by the investigating authority of their statement of the intent to participate in the investigation.

The applicant and producers in the Member States supporting the application shall be recognized as participants in the investigation from the date of the initiation of the investigation.

210. Interested parties may, within the period that does not impede the course of the investigation, submit any information required for the investigation purposes, including confidential information indicating the source of such information.

211. The investigating authority shall have the right to request from the interested party additional information for the purposes of investigation.

The requests may also be sent to other organizations in the Member States.

The requests shall be sent by the head (deputy head) of the investigating authority.

The request is considered as received by an interested party upon its transfer to the authorised representative of the interested party or after 7 calendar days from the date when the request was sent by post.

The response of the interested party shall be submitted to the investigating authority not later than 30 calendar days from the date of receipt of the request.

A response is considered as received by the investigating authority if it has arrived to the investigating authority not later than 7 calendar days from the date specified in the fifth indent of this paragraph.

The information provided by the interested party after the expiration of the specified date may be disregarded by the investigating authority.

Upon the motivated written request of the interested party the period for the response may be extended by the investigating authority.

212. If an interested party refuses to provide necessary information requested by the investigating authority, fails to provide such information within the established period of time or provides inadequate information, thereby significantly impeding the investigation, such interested party shall be considered an uncooperative, and preliminary or final determinations may be made on the basis of the facts available.

Failure to provide the requested information in electronic form or in electronic format specified by the investigating authority shall not be regarded by the investigating authority as non-cooperation, provided that the relevant interested party is able to prove that the full implementation of criteria for the provision of the information specified in the request of the investigating authority is not possible or is associated with significant material costs.

If the investigating authority does not take into account the information provided by the interested party for reasons other than those specified in the first indent of this paragraph, the interested party shall be informed of the reasons and grounds for the decision and shall be given an opportunity to submit its comments in this regard within the period established by the investigating authority.

If during the preparation of preliminary or final determination of the investigating authority, including the determination of normal value of the products (in case of an anti-dumping investigation), provisions of the first subparagraph of this paragraph were applied and the information was used (including the information provided by the applicant), the information used in the preparation of such determinations shall be verified using the available information obtained from other sources or from the interested parties, provided that the verification does not impede the investigation and violate the deadlines.

213. As soon as possible after the date of a decision to initiate an anti-dumping or a countervailing investigation, the investigating authority shall send to the competent authority of the exporting third country and known exporters copies of the application or its non-confidential version (if the

application contains confidential information), as well as provides its copies to other interested parties upon request.

In cases where the number of known exporters is large, the copy of the application or its non-confidential version shall be sent only to the competent authority of the exporting third country.

The investigating authority provides copies of the application or its non-confidential version to the participants in safeguard investigation upon their request, if the application contains confidential information.

During the investigation the investigating authority, taking into account the need to preserve confidentiality, provides to the participants in the investigation at their request the opportunity to see the information submitted in written form by any interested parties as the evidence relevant to the investigation.

During the investigation the investigating authority provides to participants of the investigation the opportunity to see other information relevant to the investigation and which is used by them in the course of the investigation, except for confidential information.

214. At the request of the interested parties the investigating authority shall hold consultations on the subject matter of the investigation.

215. During the investigation all interested parties shall be given the opportunity to defend their interests. To this end the investigating authority provides all interested parties at their request the opportunity to have a meeting to present their opposing view and to offer rebuttal. Provision of such an opportunity must take into account the need to preserve the confidentiality of information. It is not obligatory for all interested parties to

attend the meeting, and the absence of any party shall not be prejudicial to their interests.

216. Consumers using in their production the products that are object of the investigation, representatives of public associations of consumers, state government authorities (administrations), local government authorities and other persons may submit to the investigating authority the information that is relevant to the investigation.

217. The duration of the investigation shall not exceed:

1) 9 months from the date of initiation of the investigation on the basis of safeguard measure application. This period may be extended by the investigating authority, but not more than for 3 months;

2) 12 months from the date of initiation of the investigation on the basis of anti-dumping or countervailing measures application. This period may be extended by the investigating authority, but not more than for 6 months.

218. The course of the investigation shall not impede implementation of any customs operations in respect of the product under investigation.

219. The date of termination of the investigation shall be the date of the approval of the report on the results of the investigation by the Commission and of the draft act of the Commission specified in the paragraph 5 of this Protocol.

If the investigating authority made final conclusion about the absence of grounds for application, review or cancellation of a safeguard, anti-dumping or countervailing measures, the date of the termination of the investigation shall be the date of publication of the relevant notice by the investigating authority.

In case of introduction of provisional safeguard duty, provisional anti-dumping duty or provisional countervailing duty the investigation shall be completed before the expiration date of the relevant provisional duties.

220. If the investigating authority in the course of investigation establishes the absence of grounds specified in the second and third indent of paragraph 3 of this Protocol, the investigation shall be terminated without the introduction of any safeguard, anti-dumping or countervailing measures.

221. If within 2 calendar years immediately preceding the date of initiation of the investigation, one manufacturer supporting the application referred in paragraph 186 of this Protocol (considering it as a part of a group of persons within the meaning of section XIII of the Treaty) accounts for such a share of the production in the customs territory of the Union of the like or directly competitive product (in the course of safeguard investigation) or the like product (in the course of anti-dumping or countervailing investigation), that in accordance with the methodology of competition assessment approved by the Commission, the position of this manufacturer (considering it as a part of a group of persons) in the relevant product market of the Union may be recognized as dominant, the structural unit of the Commission authorised to control the compliance with the general rules of competition in transboundary markets area, upon the request of the investigating authority, assesses the effects of the safeguard, anti-dumping or countervailing measures on the competition in the relevant product market of the Union.



### 3. Anti-dumping Investigation

222. Anti-dumping investigation shall be terminated without imposition of an anti-dumping measure in cases where the investigating authority determines that a margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the material injury, or threat of material injury, or material retardation of the establishment of the domestic industry of the Member States caused by such imports, is negligible.

The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 percent.

223. The volume of dumped imports from an exporting third country shall be regarded as negligible if it is found to account for less than 3 percent of imports into the customs territory of the Union of the like product subject to investigation, provided that exporting third countries which individually account for less than 3 percent of the imports into the customs territory of the Union of the like product subject to investigation collectively account for less than 7 percent of imports into the customs territory of the Union of the like product subject to investigation.

224. Prior to decision based on the results of the anti-dumping investigation the investigating authority informs interested parties on conclusions made upon the results of the investigation and considered material with due regard to the requirement to protect confidential information and provides an opportunity to make comments.

The period to provide comments for the interested parties is determined by the investigating authority and shall not be less than 15 calendar days.

#### 4. Countervailing Duty Investigation

225. After the application is accepted and before a decision to initiate an investigation has been taken the investigating authority shall suggest the government of the exporting third country, from which the subject product is exported, to enter into consultations with the aim of clarifying the situation as to the existence of a subsidy, its amount and consequences of granting an alleged specific subsidy and arriving at a mutually agreed solution.

Such consultations may continue throughout the period of investigation.

226. The provisions on consultations specified in paragraph 225 of this Protocol shall not prevent to adopt a decision on initiation of the investigation and application of a countervailing measure.

227. Countervailing duty investigation shall be terminated without the imposition of a countervailing measure in cases where the investigating authority determines that the amount of a specific subsidy of an exporting third country is *de minimis*, or where the volume of subsidized imports, actual or potential, or the material injury, the threat of material injury, or the material retardation in the establishment of the domestic industry of the Member States caused by such imports, is negligible.

228. The amount of specific subsidy shall be considered to be *de minimis* if the specific subsidy is less than 1 percent ad valorem of the product subject to investigation.

The volume of subsidized imports shall normally be regarded as negligible if it is found to account for less than 1 percent of imports into the customs territory of the Union of the like product subject to investigation, provided that exporting third countries which individually account for less

than 1 percent of the imports into the customs territory of the Union of the like product subject to investigation collectively account for less than 3 percent of imports into the customs territory of the Union of the like product subject to investigation.

229. Countervailing duty investigation of a product subject to investigation originating in a developing country or a least developed country which is the beneficiary of the system of tariff preferences of the Union shall be terminated in cases where the investigating authority determines that the overall level of specific subsidies of the exporting third country granted in relation to the product in question does not exceed 2 percent of its value calculated on a per unit basis, or the volume of the subsidized imports of this product originating in such a third country represents less than 4 percent of total imports into the customs territory of the Union, provided that developing and least developed countries which individually account for less than 4 percent of the imports into the customs territory of the Union of the like product subject to investigation collectively account for less than 9 percent of imports into the customs territory of the Union of the like product subject to investigation.

230. Prior to decision on the results of the countervailing duty investigation the investigating authority informs interested parties on conclusions made upon the results of the investigation and considered material with due regard to the requirement to protect confidential information and provides an opportunity to make comments.

The period to provide comments for the interested parties is determined by the investigating authority and shall not be less than 15 calendar days.

## 5. Determination of Domestic Industry of the Member States in Case of Dumped or Subsidized Imports

231. With respect to anti-dumping or countervailing duty investigation the term “domestic industry of the Member States” shall be interpreted in the meaning established in Article 49 of the Treaty, except for the cases specified in paragraphs 232 and 233 of this Protocol.

232. In case where the producers of the like product in the Member States are themselves importers of the dumped or subsidized product subject to investigation, or related to the exporters or importers of the dumped or subsidized product subject to investigation, the term “domestic industry of the Member States” may be interpreted as referring to the rest of the producers.

The producers of the like product in the Member States shall be deemed to be related to the exporters or importers of the dumped or subsidized product subject to investigation if:

particular producers of the like product in the Member States directly or indirectly control the exporters or importers of the product subject to investigation;

particular exporters or importers of the product subject to investigation directly or indirectly control the producers of the like product in the Member States;

both of them are directly or indirectly controlled by a third person; particular producers of the like product in the Member States and the exporters or importers of the product subject to investigation are controlled directly or indirectly by a third party;

particular producers of the like product in the Member States and

foreign producers, the exporters or importers of the product subject to investigation together directly or indirectly control a third person, provided that there are grounds for believing that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers

233. In exceptional circumstances for the purposes of defining the domestic industry of the Member States the territory of the Member State may be divided into two or more separate competitive markets and the producers in the Member States within each market may be regarded as a separate domestic industry of the Member States if the producers within such market sell not less than 80 percent of their production of the like product for consumption or processing in that market, and the demand in that market is not to a substantial degree satisfied by producers of the product in question located elsewhere on the territory of the Member States.

In such circumstances, material injury to the domestic industry of the Member States, the threat of material injury or material retardation in the establishment of the domestic industry of the Member States that is caused by dumped or subsidized imports may be found to exist even where a major proportion of the total domestic industry is not injured, provided there is a concentration of dumped or subsidized imports into such a competitive market and provided further that the dumped or subsidized imports are causing injury to the producers of all or almost all of the production within such market.

234. When the domestic industry of the Member States has been interpreted in the meaning defined in paragraph 233 of this Protocol and provided that as a result of the investigation a decision to apply an anti-

dumping or countervailing measure is adopted, such a measure may be applied in relation to all imports of the product into the customs territory of the Union.

In the abovementioned case an anti-dumping or countervailing duty shall be imposed only after the investigating authority has given the exporters an opportunity to cease exporting such a product into that territory at dumped prices (in case of dumped imports) or at subsidized prices (in case of subsidized imports), or to accept respective undertakings in relation to the conditions of exporting into the customs territory of the Union provided that such an opportunity has not been used by the exporters.

## 6. Public Hearing

235. The investigating authority holds public hearing based upon a written request submitted by any participant in the investigation and within the time period established in this Protocol.

236. The investigating authority shall send a notice specifying time and location of the public hearing to the participants in the investigation, as well as a list of questions under discussion in the course of the public hearing.

The date of the public hearing is appointed no sooner than 15 calendar days from the date of respective notice.

237. Participants in the investigation or their representatives and persons involved for the purposes of providing the evidence related to the investigation can take part in the public hearing.

In the course of the public hearing the participants in the investigation may express their opinion and provide evidence related to the investigation.

The representative of the investigating authority can ask the participants questions related to the essence of the submitted facts. The participants in the investigation can also ask each other questions and shall give answers. The participants in the public hearing are not obliged to disclose information treated as confidential.

238. Oral information that has been submitted in the course of the public hearing shall be taken into account during the investigation, if after 15 calendar days from the date of the public hearing the participants have submitted it in writing to the investigating authority.

#### 7. Collection of Information during the Course of the Investigation

239. After the decision to initiate an anti-dumping or a countervailing duty investigation has been adopted, the investigating authority sends to known exporters and (or) producers of the product subject to investigation a questionnaire which must be completed by them.

A questionnaire shall be sent to producers of the like or directly competitive product (in case of safeguard investigation) or the like product (in case of anti-dumping or countervailing duty investigation) in the Member States.

If necessary the questionnaire may also be sent to importers and consumers of the product subject to investigation.

240. Parties specified in paragraph 239 of this Protocol, to whom the questionnaire has been sent, shall submit their response to the investigating authority within 30 calendar days from the date they received the questionnaire.

Upon a reasoned request in writing received from the parties,

specified in paragraph 239 of this Protocol, the time period may be extended by the investigating authority for no more than 14 calendar days.

241. The questionnaire is considered to be received by the exporter and (or) the producer of the product from the date of delivery directly to the representative of the exporter and (or) producer or within 7 calendar days from the date of sending it by mail.

The responses to the questionnaire are considered to be received by the investigating authority, if they have been submitted to the investigating authority in confidential and non-confidential versions not later than 7 calendar days from the date of expiry of the period specified in paragraph 240 of this Protocol, i.e. 30 calendar days, or from the date of the expiry of the extension period.

242. The investigating authority shall during the course of an investigation satisfy itself as to the accuracy and adequacy of the evidence submitted by interested parties.

In order to verify information provided during the course of an investigation or to obtain further details, related to the investigation conducted, the investigating authority may carry out verification if required:

in the territory of the third country provided it obtains the agreement of respective foreign exporters and (or) producers of the product subject to investigation and there are no objections from the government of the third country that has been officially notified on the forthcoming verification;

in the territory of the Member State provided it obtains the agreement of respective importers of the product subject to investigation and (or) producers of the like or directly competitive product.



The verification visit is carried out after the response to the questionnaire, sent in accordance with paragraph 239 of this Protocol, has been received, unless the foreign producer or exporter voluntarily agrees on the verification visit before such response has been sent and the government of the third country has no objections.

After the agreement has been obtained from the respective participants in the investigation and before the visit is made the investigating authority shall send a list of documents and records that shall be submitted to the employees directed to carry out verification. The investigating authority notifies the government of the third country of the addresses and names of the foreign exporters or producers to be verified and the dates of such verifications.

In the course of the verification visit other documents and records, which are necessary for verification of the responses to the questionnaire, may be requested.

In case where the investigating authority intends to include non-governmental experts in the investigating team, the participants in the investigation subject to verification visit shall be timely notified on this decision of the investigating authority. The participation of such experts in the verification visit is allowed only provided that there is an opportunity to apply sanctions for breach of requirements to protect confidential information which was obtained during the verification visit.

243. In order to verify the information submitted in the course of the investigation or to obtain further details, related to the investigation conducted, the investigating authority may direct its representatives to the location of the interested parties, collect information, hold consultations and

negotiations with the interested parties, get familiar with the samples of the product and take other necessary actions for conducting investigations.

#### 8. Submission of Information by the Authorised Authorities of the Member States, Diplomatic and Trade Representations of the Member States

244. For the purposes of this subsection the term “authorised authorities of the Member States” is understood as governmental authorities and territorial (local) administrations of the Member States authorised in the field of the customs procedures, statistics, taxation, registration of juridical persons and other fields.

245. The authorised authorities of the Member States, diplomatic and trade representations in the third countries shall submit upon request information specified in this Protocol to the investigating authority, that is necessary for the initiation and conduct of the safeguard, anti-dumping and countervailing duty investigations (including reviews), preparation of proposals upon results of the investigations conducted, monitoring of the effectiveness of safeguard, anti-dumping and countervailing measures and control of the compliance with the commitments approved by the Commission.

246. The authorised authorities of the Member States, diplomatic and trade representations of the Member States in the third countries shall:

- 1) submit available information or notify on inability to provide information with explanation of reasons for refusal within 30 calendar days from receipt of the request of the investigating authority. Upon a reasoned request of the investigating authority the requested

information shall be submitted within a shorter period;

2) guarantee the completeness and accuracy of the submitted information and if necessary timely provide respective additional and modified information.

247. The authorised authorities of the Member States, diplomatic and trade representations of the Member States in the third countries within their competence submit information on requested periods to the investigating authority, including:

1) statistical information on foreign trade;

2) data from goods declarations itemizing the customs procedures and physical and value indicators on importation (exportation) of the product, trade name of the product, terms of supply, country of origin of the product (country of departure, country of destination), name and other details of the sender and the recipient;

3) information on the domestic market of the product subject to investigation and respective domestic industry of the Member States (including the data on volume of production of the product, utilization of the production capacity, sales, cost of production, profits and losses of the national firms in the Member States, prices of the product in the domestic market of the Member States, profitability, number of employees, investment, list of producers of the product);

4) information on impact assessment of possible imposition or non-imposition of safeguard, anti-dumping or countervailing measure on the market of the Member States of the product subject to investigation upon results of the respective investigation, and the forecast regarding production activities of the national firms in the Member States.

248. The list of information specified in paragraph 247 of this Protocol is not exhaustive. If necessary the investigating authority may request other information.

249. The correspondence on the implementation of this subsection and submission of information upon request of the investigating authority is maintained in the Russian language. Certain company details (indicators) that include foreign names may be submitted using the letters from the Latin alphabet.

250. Preferably the information shall be submitted using electronic medium. If there is no opportunity to submit information in the electronic medium, a hard copy shall be provided. Information that has been requested in the table format (statistical and customs information) shall be submitted in the format specified in the request of the investigating authority. In case where the submission of information in such a format is not possible, the authorised authorities of the Member States, diplomatic and trade representations of the Member States in the third countries shall notify the investigating authority and submit the requested information to investigating authority and shall provide requested information in other format.

251. Requests for submission of information by the authorised authorities of the Member States, diplomatic and trade representations of the Member States in the third countries are made in writing on the blank of the investigating authority with indication of the purpose, legal grounds and the time period for submission of information and are signed by the head (deputy of head) of the investigating authority.

252. The information upon request of the investigating authority is submitted by the authorised authorities of the Member States, diplomatic and

trade representations of the Member States in the third countries free of charge.

253. The information is transferred in the ways agreed between the authorities that exchange information and that are available at the moment of transfer of information and ensure safety and protection of information from unauthorised access. In case where the information is transferred by the fax the original copy shall be sent by mail.

## 9. Confidential Information

254. The information classified by the legislation of the Member States as confidential information (including commercial, tax and other confidential information), except information constituting state secrets or confidential information for internal use, shall be submitted to the investigating authority in compliance with the requirements specified by the legislation of the Member States in respect of such information.

The investigating authority shall provide the appropriate treatment in respect to such information.

255. The information submitted by the interested party to the investigating authority shall be treated as confidential providing the justification that disclosure of such information will provide a competitive advantage to a third party or will entail adverse effects to the party submitted such information or to the person from whom such information has been received.

256. Interested parties submitting confidential information required to provide non-confidential version of such information.

Non-confidential version should be sufficiently detailed for the

understanding of the essence of confidential information submitted.

In exceptional cases, when interested party is not able to provide a non-confidential version of confidential information, it has to provide the foundation with detailed argumentation that the submission of non-confidential version is impossible.

257. In case, when the investigating authority determines that evidence provided by the interested party can't be considered as confidential information, or in case the interested party does not submit the non-confidential version of confidential information without justification of the impossibility to provide the non-confidential version of confidential information or submit the information that can't be considered as such justification, the investigating authority may not consider such information.

258. The investigating authority shall not disclose the confidential information or pass it to the third parties without the written consent of the interested party provided such information or the authorised authorities of the Member States and diplomatic and trade representatives in the third countries referred to in the paragraph 244 of this Protocol.

The disclosure, use with the purposes of personal advantage, other misuse of the confidential information provided for the purposes of conducting the investigation to the investigating authority by the applicants, participants of the investigation, interested parties or diplomatic and trade representatives in the third countries referred to in the paragraph 244 of this Protocol, officers and employees of the investigating authority may be deprived of the privileges and immunities in accordance with the International Treaty within the Union on Privileges and Immunities and prosecuted in accordance with procedures approved by the Commission.

This Protocol does not preclude the investigating authority to disclose the reasons underlying the decisions of the Commission, or the evidence, which was considered by the Commission, to the extent necessary to explain such reasons and evidences for the Court of the Union.

The terms of use and protection of the confidential information by the investigating authority are approved by the Commission.

#### 10. Interested Parties

259. For the purposes of the investigation interested parties shall include:

1) a producer of the like or directly competitive product (for safeguard investigation) or the like product (for anti-dumping or countervailing investigation) in the Member States;

2) business association a majority of the members of which are producers of the like or directly competitive product (for safeguard investigation) or the like product (for anti-dumping or countervailing investigation) in the Member States;

3) association the members of which account for more than 25 percent of the total volume of production of the like or directly competitive product (for safeguard investigation) or the like product (for anti-dumping or countervailing investigation) in the Member States;

4) an exporter or foreign producer or the importer of the product subject to investigation, and an association of foreign producers, exporters or importers a majority of the members of which are producers, exporters or importers of such product from exporting third country or the country of origin of this product;

5) competent authority of exporting third country or of the country of origin of the product;

6) consumers of the product subject to investigation (if they use such product in the process of manufacture) or associations of such consumers in the Member States;

7) public association of consumers (if the product is commonly consumed by natural persons).

260. Interested parties shall act in the course of investigation on their own authority or through duly authorised representative.

If interested party acts in the course of investigation through authorised representative the investigating authority provides the interested party with all information related to the subject matter of the investigation only through this representative.

#### 11. Notice of the Decisions Taken in the Course of Investigation

261. The investigating authority shall publish on the official website of the Union on the Internet the following notice of the decisions taken in the course of investigation:

of the initiation of investigation;

of the imposition of provisional safeguard, provisional anti-dumping or provisional countervailing duty;

of possible application of anti-dumping duty in accordance with paragraph 104 of this Protocol or possible application of countervailing duty in accordance with paragraph 169 of this Protocol;

of completion of safeguard investigation;

of completion of the investigation based on the results of which the



investigating authority establishes that there are grounds for the imposition of anti-dumping or countervailing measure or that the approval of the relevant undertakings is practical;

of termination or suspension the investigation as a result of approval of relevant undertakings;

of termination of the investigation based on the results of which the investigating authority establishes the absence of grounds for the imposition of safeguard, anti-dumping or countervailing measures;

of other decisions taken in the course of investigation.

Such notices are also sent to the competent authority of exporting third country and to other interested parties known to the investigating authority.

262. The notice of the initiation of investigation is published not later than 10 business days after the adoption by the investigating authority of the decision on the initiation of investigation and shall include:

- 1) full description of the product subject to investigation
- 2) name of exporting third country
- 3) short description of the evidence of increased imports to the customs territory of the Union and of serious injury to the domestic industry of the Member States or treat thereof (in cases where the decision on the initiation of safeguard investigation is taken);

- 4) short description of the evidence of dumped or subsidized imports to the customs territory of the Union and of material injury to the domestic industry of the Member States or treat thereof (in cases where the decision on the initiation of anti-dumping or countervailing investigation is taken);

- 5) address where interested parties may send their opinion or

information relevant to the investigation;

6) the period which comprises 25 calendar days and within which the investigating authority accepts from interested parties statements of intent to participate in the investigation

7) the period which comprises 45 calendar days and within which the investigating authority accepts from interested parties requests for the holding of public hearing;

8) the period which comprises 60 calendar days and within which the investigating authority accepts from interested parties the comments and information relevant to the investigation in writing.

263. Notice of the imposition of provisional safeguard, provisional anti-dumping or provisional countervailing duty is published not later than 3 business days after the adoption of this decision by the Commission and shall include the following information:

1) name of the exporter of the product subject to investigation or name of exporting third country (in cases of inability to provide the name of exporter);

2) description of the product subject to investigation sufficient for carrying out the procedures of customs control;

3) grounds for positive determination of dumped imports with the indication of dumped margin and description of the grounds for the choice of the methodology for the calculation and comparison of normal value of product and export price (in cases where provisional anti-dumping duty is imposed);

4) grounds for positive determination of subsidized imports with description of the existence of subsidy and indication of the calculated

amount of subsidization per unit (in cases where provisional countervailing duty is imposed);

5) grounds for determination of serious or material injury to the domestic industry of the Member States, threat thereof or material retardation of the establishment of domestic industry of the Member States;

6) grounds for determination of the causal relationship between increased imports, dumped and subsidized imports and serious or material injury to domestic industry of the Member States, threat thereof or material retardation to the establishment of domestic industry of the Member States accordingly;

7) grounds for positive determination of increased imports (in cases where provisional safeguard duty is imposed).

264. Notice of possible application of anti-dumping duty in accordance with paragraph 104 of this Protocol or notice of possible application of countervailing duty in accordance with paragraph 169 of this Protocol shall include:

1) description of the product subject to investigation sufficient for carrying out the procedures of customs control;

2) name of the exporter of the product subject to investigation or name of exporting third country (in cases of inability to provide the name of exporter);

3) short description of the evidence that conditions specified in paragraph 104 and 169 of this Protocol are fulfilled.

265. Notice of the completion of safeguard investigation is published by the investigating authority not later than 3 business days after the date of the completion of the investigation and shall include the main conclusions

made by the investigating authority based on the information available for it.

266. Notice of the completion of the investigation based on the results of which the investigating authority establishes that there are grounds for the imposition of anti-dumping or countervailing measure or that the approval of the relevant undertakings is practical is published not later than 3 business days after the date of the termination of the investigation and shall include:

- 1) explanation of the final determination made by the investigating authority on the results of the investigation;
- 2) reference to the facts based on which this determination was made;
- 3) information specified in paragraph 263 of this Protocol;
- 4) indication of the reasons for acceptance or refusal to accept in the course of investigation arguments and requests of exporters and importers of the product subject to investigation;
- 5) identification of the reasons for taking decisions in accordance with paragraphs 48-51 of this Protocol.

267. Notice of the termination or the suspension of investigation as a result of approval of the relevant undertakings is published not later than 3 business days after the date of the termination or the suspension of investigation and shall include non-confidential version of these undertakings:

268. Notice of the termination of the investigation based on the results of which the investigating authority establishes the absence of the grounds for imposition of safeguard, anti-dumping or countervailing measure is published not later than 3 business days after the date of the termination of the investigation and shall include:

- 1) explanation of the final determination made by the investigating authority on the results of the investigation;
- 2) reference to the facts based on which this determination specified in subparagraph 1 of this paragraph was made.

269. Notice of the termination of the investigation based on the results of which the investigating authority takes the decision on non-application of measure in accordance with paragraph 272 of this Protocol is published not later than 3 business days after the date when this decision was taken and shall include the explanation of the reasons for taking by the Commission of the decision on non-application of safeguard, anti-dumping or countervailing measure with the identification of facts and conclusions based on which such decision was taken.

270. Investigating authority provides for all the notifications specified in Marrakesh Agreement Establishing World Trade Organization of April 15, 1994 which are relative to investigations and applied measures being duly sent to the competent authorities of World Trade Organization.

271. Provisions of paragraphs 261-270 of this Protocol shall be applied *mutatis mutandis* to the notices of the initiation and the completion of reviews.

## VII. Non-application of the Safeguard, Anti-dumping and Countervailing Measures

272. The Commission on the results of the investigation may decide not to apply safeguard, anti-dumping or countervailing measures, even if the application of such measure meets the criteria set forth in this Protocol.

Such decision may be taken by the Commission if the investigating

authority, based on the analysis of all the information provided by the interested parties, comes to the conclusion that the application of this measure may affect the interests of Member States. Such decision may be revised in case of any changes in the reasons which were the basis for taking such decision.

273. Conclusion referred to in paragraph 272 of this Protocol, shall be based on a results of a cumulative effects on interests of the domestic industry of the Member States, consumers of the product subject to investigation (if they use such product in the production process), and associations of such consumers in the Member States, public associations of consumers (if such product is primarily consumed by natural persons) and importers of this product. In this case such a conclusion can only be made after the said parties were given the opportunity to submit their comments on the matter in accordance with paragraph 274 of this Protocol.

When preparing such a conclusion a special importance should be given to the elimination of the distorting effects of increased, dumped or subsidized imports in the ordinary course of trade and competition on the relevant market of the Member States and the state of industry of the Member States.

274. For the purposes of the application the provisions of paragraph 272 of this Protocol the producers of the like or directly competitive products (in the special safeguard investigation) or like products (in the anti-dumping or countervailing investigation) in the Member States, their associations, importers and the associations of importers of the product subject to investigation, consumers of the product subject to investigation (if they use such product in the production process), and the associations of such

consumers in the Member States, public associations of consumers (if such product is primarily consumed by natural persons) have the right within the period specified in the notice, published in accordance with paragraph 262 of this Protocol, to submit comments and information on the matter. Such comments and information or their non-confidential version, as appropriate, shall be provided for information of the other interested parties, referred to in this paragraph, which may submit their response comments.

The information provided in accordance with this paragraph shall be taken for consideration regardless of its source, if there is objective evidence supporting its reliability.

## VIII. Final Provisions

### 1. Judicial Review of the Decisions on Application of Safeguard, Anti-dumping and Countervailing Measures

275. The procedure and specificity of appealing the decisions of the Commission and (or) action (or inaction) of the Commission in connection with application of special safeguard, anti-dumping and countervailing measures are determined by the Statute of the Court of the Union (Annex 2 to the Treaty) and by the Regulation of the Court of the Union.

### 2. Enforcement of Court Decisions

276. The Commission shall take the necessary enforcement measures to comply with the Court of the Union decisions in connection with the application of special safeguard, anti-dumping and countervailing measures. The decision of the Commission recognized by the Court of the Union not to conform with the Treaty and (or) international treaties within the Union, shall

be brought by the Commission into conformity with the Treaty and (or) international treaties within the Union by carrying out the review on the Commission own initiative of the provisions, required for the implementation of the decision of the Court.

When carrying out the review *mutatis mutandis*, the provisions relating to the investigation are applied.

The period of a review under this paragraph shall, as a rule, not exceed 9 months.

### 3. Administration of Investigation

277. For the purposes of implementation of this Protocol the Commission shall take the decisions on initiation, conducting, completion and (or) suspension of the investigation. The decisions adopted by the Commission shall not change or contradict the provisions of the Treaty.



ANNEX 9  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Technical Regulation within**  
**the Eurasian Economic Union**

1. This Protocol has been developed in accordance with Section X of the Treaty on the Eurasian Economic Union and determines the rules and procedures of technical regulation within the Union.

2. The terms used in this Protocol shall have the following meanings:

"accreditation" means official recognition by an accreditation authority of the competence of a conformity assessment authority (including of a certification authority or a testing laboratory (centre)) for performing work in a particular field of conformity assessment;

"security" means lack of any unacceptable risks associated with the possibility of harm and/or damage;

"release of the products into circulation" means supply or importation of goods (including shipping from a manufacturer's warehouse or shipping without storage) for their distribution on the territory of the Union in the course of commercial activities, free of charge or on a reimbursable basis;

"state control (supervision) over observance of technical regulations of the Union" means activities of authorised authorities of the Member States aimed at prevention, detection and suppression of violations of any requirements of technical regulations of the Union by juridical persons, management and other officials thereof, natural persons registered as individual entrepreneurs and their authorised representatives, and carried out

by inspecting juridical persons and natural persons registered as individual entrepreneurs and by taking measures to suppress and/or eliminate the consequences of such violations as under the legislation of the Member States, as well as supervision over the execution of these requirements, analysis and forecasting of enforcement of the requirements of technical regulations of the Union in activities of juridical persons and natural persons registered as individual entrepreneurs;

"declaration of conformity to technical regulations of the Union" means a document certifying compliance of products released into circulation by the applicant with the requirements of technical regulations of the Union;

"declaration of conformity" means a form of mandatory certification of conformity of products released into circulation to the requirements of technical regulations of the Union;

"common trademark of circulation of products in the market of the Union" means a designation intended for informing purchasers and consumers of the conformity of products released into circulation to the requirements of technical regulations of the Union;

"product identification" means the procedure for inclusion of products into the field of application of technical regulations of the Union and determining conformity of products to the relevant technical documentation;

"manufacturer" means a juridical person or a natural person registered as an individual entrepreneur, including foreign manufacturers, engaged, on their own behalf, in the manufacture or manufacture and sale of products and responsible for their conformity to technical regulations of the Union;

"interstate standard" means a regional standard adopted by the Interstate Council for Standardisation, Metrology and Certification of the Commonwealth of Independent States;

"international standard" means a standard adopted by the International Organisation for Standardisation;

"national (state) standard" means a standard adopted by the standardisation authority of a Member State;

"subject of technical regulation" means products or products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes related to product requirements;

"mandatory conformity assessment" means documentary certification of conformity of products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes to the requirements of technical regulations of the Union;

"compulsory certification" means a form of mandatory confirmation by a certification authority of conformity of subjects of technical regulation to the requirements of technical regulations of the Union;

"accreditation authority" means an authority or juridical person authorised under the legislation of a Member State to carry out accreditation activities;

"conformity assessment" means direct or indirect determination of compliance with the requirements applied to a subject of technical regulation;

"products" means a material result of activities, intended for further use for economic and other purposes;

"regional standard" means a standard adopted by the Regional Organisation for Standardisation;

"registration (state registration)" means a form of assessment of conformity of subjects of technical regulation to the requirements of technical regulations of the Union carried out by the authorised authority of a Member State;

"risk" means a combination of the probability of harm and consequences of such harm to human life or health, property, environment, life or health of animals and plants;

"certificate of registration (state registration)" means a document confirming compliance of a subject of technical regulation to the requirements of technical regulations of the Union;

"certificate of conformity with technical regulations of the Union" means a document issued by the a certification authority certifying compliance of products released into circulation with the requirements of technical regulations of the Union;

"standard" means a document determining multiple-use requirements to product performance, rules of implementation and characteristics of product design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes, the procedure for performing work or rendering services, rules and methods of research (testing) and measurement, rules of sampling, as well as requirements to respective terminology, symbols, packaging, marking or labelling and rules of application thereof;

"technical regulations of the Union" means a document adopted by the Commission and determining requirements to subjects of technical regulation to be mandatory applied and enforced on the territory of the Union;

"technical regulation" means legal regulation of relations in the field of determining, application and enforcement of mandatory requirements to products or products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes related to product requirements, as well as legal regulation of relations in the field of conformity assessment;

"person authorised by the manufacturer" means a juridical person or a natural person registered as an individual entrepreneur duly incorporated in accordance with the legislation of a Member State on its territory, acting on behalf of a manufacturer, including foreign manufacturers, under an agreement when carrying out conformity assessments and releasing products into circulation on the territory of the Union and responsible for non-compliance of such products with the technical regulations of the Union.

3. The provisions of the legislation of the Member States or acts of the Commission shall apply to subjects of technical regulation for which technical regulations of the Union are not yet effective.

Specific features of technical regulation, conformity assessment, standardisation and accreditation for defence products (works, services) supplied under state defence orders, products (works, services) used for the protection of information constituting State secret or related to other restricted information under the legislation of the Member States, products (works, services) information on which constitutes a State secret, products (works, services) and objects for which security-related requirements are

determined in the field of nuclear energy, as well as for the design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes of these products and objects shall be determined by the legislation of the Member States.

Technical regulations of the Union shall determine mandatory requirements to subjects of technical regulation, as well as for product identification rules, conformity assessment forms, processes and procedure.

Technical regulations of the Union shall be developed based on the relevant international standards (regulations, directives, guidelines and other documents adopted by international standardisation organisations), except in cases where respective documents are unavailable or non-consistent with the purposes of technical regulations of the Union, including due to climatic and geographical factors or process-related and other specific features. In the absence of the required documents, regional documents (regulations, directives, decisions, standards, rules and other documents), national (state) standards, national technical regulations or draft rules shall be used.

Technical regulations of the Union may also contain requirements to terminology, packaging, marking, labelling and rules of application thereof, sanitary requirements and procedures, as well as general veterinary-sanitary and phytosanitary quarantine requirements.

Technical regulations of the Union may contain specific requirements, reflecting specific characteristics associated with climatic and geographical factors or technological features that are distinctive for the Member States and valid only in the Member States.

Technical regulations of the Union may, with account of the risk of harm, contain specific requirements for products or products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes related to product requirements, as well as requirements to terminology, packaging, marking, labelling and rules of application thereof, ensuring the protection of certain categories of people (minors, pregnant women, nursing mothers, the disabled).

Technical regulations of the Union shall be developed with account of the recommendations on the content and structure of typical technical regulations of the Union, as approved by the Commission.

Technical regulations of the Union shall be developed, adopted, modified and cancelled according to the procedures approved by the Commission.

4. In order to meet the requirements of technical regulations of the Union, the Commission shall approve a list of international and regional (interstate) standards and, in their absence, a list of national (state) standards, voluntary application of which shall ensure observance of technical regulations of the Union.

Voluntary observance of the relevant standards included in the above list shall be deemed a sufficient condition for compliance with the respective technical regulations of the Union.

Non-application of the standards included in the above list, however, may not be regarded as a failure to comply with the technical regulations of the Union.

In the case of non-application of the standards included in the above list, conformity assessment shall be based on risk analysis.

In order to conduct research (testing) and measurements when assessing compliance of subjects of technical regulation with requirements of technical regulations of the Union, the Commission shall approve a list of international and regional (interstate) standards and, in their absence, national (state) standards containing rules and methods of research (testing) and measurements, including the rules of sampling, required for the application and enforcement of the requirements of technical regulations of the Union and conformity assessment of subjects of technical regulation.

The above lists of standards shall be developed and adopted as approved by the Commission.

Prior to the development of relevant interstate standards, research (testing) and measurement methodology, certified (validated) and approved in accordance with the legislation of the Member State, may be included into the list of international and regional (interstate) standards and, in their absence, the list of national (state) standards containing rules and methods of research (testing) and measurements, including the rules of sampling, required for the application and enforcement of the requirements of technical regulations of the Union and conformity assessment of subjects of technical regulation. A list of relevant research (testing) and measurement methods shall be submitted to the Commission by the authorised authorities of the Member States.

International and regional standards shall be applied after they have been adopted as interstate or national (state) standards.



5. Conformity assessment procedure determined for subjects of technical regulation in the technical regulations of the Union shall be held in the form of registration (state registration), testing, conformity assessments, examinations and/or in any other form.

Mandatory conformity assessment shall be carried out in the forms of declaration of conformity and certification.

Conformity assessment forms, processes and procedure shall be determined in technical regulations of the Union on the basis of standard conformity assessment procedures as approved by the Commission.

Conformity of products released into circulation to the requirements of technical regulations of the Union shall be assessed prior to such release.

Mandatory conformity assessment shall only be carried out in cases prescribed by respective technical regulations of the Union and shall exclusively include assessment of compliance with technical regulations of the Union.

In conformity assessment procedure, the applicant may be represented by a juridical person or a natural person registered as an individual entrepreneur, incorporated on the territory of a Member State in accordance with its legislation, and being a manufacturer or a seller or an authorised representative of a manufacturer.

The scope of applicants shall be determined in accordance with technical regulations of the Union.

Common forms of conformity assessment documents and their execution rules shall be approved by the Commission.

Common registries of conformity assessment documents issued and received shall be posted on the official website of the Union on the Internet.

These common registries shall be compiled and maintained in the manner approved by the Commission.

Accredited conformity assessment authorities (including certification authorities and testing laboratories (centres)) engaged in assessing compliance with the requirements of technical regulations of the Union shall be included in the common registry of conformity assessment authorities of the Union. Inclusion of conformity assessment authorities in the registry, as well as its formation and maintenance, shall be carried out in a manner approved by the Commission.

Registration (state registration) of subjects of technical regulation shall be performed by the authorities of the Member States duly authorised to conduct respective activities in accordance with the legislation of the Member State.

6. Products complying with the applicable technical regulations of the Union and having passed conformity assessment procedure determined by technical regulations of the Union shall bear the common mark of circulation of products in the market of the Union.

The image used as the common mark of circulation of products in the market of the Union and its application procedure shall be approved by the Commission.

For circulation of products on the territory of the Union, the marking shall be applied in the Russian language and if required under the legislation of the Member States, in the state language(s) of the Member State on the territory of which the products are sold.

7. Prior to the effective date of the technical regulations of the Union, products in respect of which the Member States have set similar mandatory

conformity assessment requirements, forms and procedure and use similar or comparable research (testing) and measurement methods when conducting mandatory conformity assessments and which are included into the common list of products subject to mandatory conformity assessment with the issuance of certificates of conformity and declarations of conformity in the common determined form shall be allowed for circulation on the territory of the Union, if they have passed all conformity assessment procedures determined on the territory of the respective Member State, under the following conditions:

the certification has been conducted by a conformity assessment authority included in the common registry of conformity assessment authorities of the Union;

the testing has been conducted in test laboratories (centres) included in the common registry of conformity assessment authorities of the Union;

the certificates of conformity and declarations of conformity have been executed in the determined common form.

The above common list of products, common forms of certificates of conformity and declarations of conformity and the rules of their execution shall be approved by the Commission.

8. Products subject to mandatory conformity assessment on the customs territory of the Union shall be imported in the manner approved by the Commission.

9. A Member State, guided by the protection of its legitimate interests, may take emergency measures to prevent the release into circulation of dangerous products. In this case the Member State shall immediately inform

the other Member States of the emergency measures taken and initiate consultations and negotiations in this regard.

10. The Commission shall form an information system in the field of technical regulation, which shall form part of the integrated information system of the Union.

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**PROTOCOL  
on Agreed Policy  
for Ensuring Uniformity of Measurements**

1. This Protocol has been developed in accordance with Section X of the Treaty on the Eurasian Economic Union and determines the principles of agreed policy of the Member States in ensuring the uniformity of measurements in order to provide comparability of measurement results and outcomes of assessment of conformity of products to technical regulations of the Union, as well as of quantitative measurements of products.

2. The terms used in this Protocol shall have the following meanings:

"measurement certification procedures (methods)" means research and verification of conformity of measurement methods to applicable metrological requirements;

"measurement unit" means a fixed value conventionally assigned with a numerical value of one, used to quantify similar values;

"uniformity of measurements" means the state of measurements when their results are expressed in measurement units approved for use in the Member States and the measurement accuracy is within the specified limits;

"measurement" means an experimental process aimed at obtaining one or more quantitative values that may be reasonably be attributed to a quantity;

"calibration of measuring instruments" means a set of operations that determine a ratio between the value obtained by the measuring instruments

and the value reproduced by the unit standard of the same kind in order to specify the actual metrological characteristics of measuring instruments;

"International System of Units (SI)" means a system of units adopted by the General Conference on Weights and Measures, based on the International System of Values and including names and symbols, sets of prefixes and their names, designations and rules;

"measurement method" means a set of specific measurement operations, the implementation of which renders measurement results with the determined accuracy;

"metrological traceability" means the property of a measurement result using which the result may be referenced to a national (primary) standard via a continuous documented chain of calibrations and verifications;

"metrological examination" means analysis and evaluation of the correctness and completeness of application of metrological requirements, rules and regulations related to the uniformity of measurements;

"national (primary) standard" means a measurement unit standard recognised by a Member State for use in public or economic activities as the basis for attributing values to other similar measurement unit standards;

"verification of measuring instruments" means a set of operations performed in order to confirm the compliance of measuring instruments with mandatory metrological requirements;

"reference measurement method" means a measurement method allowing to obtain measurement results that may be used to assess the accuracy of quantity values measured using other similar measurement methods, as well as to calibrate measuring instruments or determine characteristics of standard samples;

"intercomparison of standards" means determining of ratio between measurements when reproducing and transferring measurement units using measurement unit standards of the same accuracy level;

"measuring instrument" means a device designed for taking measurements, having certain metrological characteristics;

"standard sample" means a material (substance) with determined measurement accuracy parameters and metrological traceability, sufficiently homogeneous and stable with respect to certain properties to be used for measuring or estimating quality properties according to the intended purpose;

"approval of measuring instruments" means a decision of a state government (administration) authority of a Member State on ensuring the uniformity of measurements permitting the use of a measuring instrument of an approved type on the territory of the Member State based on positive test results;

"standard sample type approval" means a decision of a state government (administration) authority of a Member State on ensuring the uniformity of measurements permitting the use of a standard sample of an approved type on the territory of the Member State on the basis of positive test results;

"value scale" means an ordered set of values of a quantity that serves as a reference for measuring the corresponding quantity;

"measurement unit standard" means a tool (set of tools) designed for reproducing, storing and transmitting measurement units or value scales.

3. The Member States shall conduct agreed policy in ensuring the uniformity of measurements through the harmonisation of legislation of the

Member States in ensuring the uniformity of measurements and concerted actions to ensure:

1) the establishment of mechanisms of mutual recognition of the results of activities to ensure the uniformity of measurements by approving respective rules of mutual recognition;

2) the use of measurement unit standards, measuring instruments, reference samples and certified methods for which the Member States shall ensure metrological traceability of results obtained to the International System of Units (SI), national (primary) standards and/or international measurement unit standards;

3) reciprocal providing information in ensuring of the uniformity of measurements contained in the relevant data funds of the Member States;

4) application of agreed operating procedure to ensure uniformity of measurements.

4. The Member States shall take measures to harmonise their legislation in ensuring the uniformity of measurements regarding the establishment of requirements to measurements, measurement units, unit standards and value scales, measuring instruments, reference samples and measurement methods on the basis of documents adopted by international and regional organisations for metrology and standardisation.

5. The Member States shall exercise mutual recognition of the results of activities in ensuring the uniformity of measurements performed by state government (administration) authorities or juridical persons of the Member States duly authorised (notified) pursuant to the legislation of their states to perform activities in ensuring the uniformity of measurements, as under the



approved procedure for such activities and the rules of mutual recognition of results thereof.

The results of activities in ensuring the uniformity of measurements shall be recognised with regard to measuring instruments manufactured on the territories of the Member States.

6. In order to ensure metrological traceability of measurement results, measurement unit standards and reference samples of the Member States to national (primary) standards and the International System of Units (SI), the Member States shall organise the work to establish and improve unit standards, identify and develop the nomenclature of standard samples, and confirm the equivalence of measurement unit standards of the Member States through their regular intercomparison.

7. Regulatory legal acts of the Member States, regulatory and international documents, international treaties of the Member States in ensuring the uniformity of measurements, certified measurement methods, measuring instruments in fields regulated by the Member States, information on unit standards and value scales, approved types of standard samples as well of measuring instruments shall form the data funds of the Member States in ensuring the uniformity of measurements.

The data funds shall be maintained in accordance with the legislation of the Member States. The exchange of information contained in the funds shall be organised by the state government (administration) authorities of the Member States referred to in paragraph 5 of this Protocol in the procedure determined by the Commission.

8. The Member States shall vest appropriate powers into the state government (administration) authorities in ensuring the uniformity of

measurements, which shall hold consultations aimed at agreeing the positions of the Member States, as well as coordinate and carry out activities to ensure uniformity of measurements.

9. The Commission shall approve the following documents:

1) a list of non-SI units of measurement used in the development of technical regulations of the Union, including references to the International System of Units (SI);

2) the rules of mutual recognition of results of activities to ensure the uniformity of measurements;

3) the procedure for conducting activities to ensure the uniformity of measurements, including:

the procedure for metrological examination of draft technical regulations of the Union, the draft list of standards voluntary application of which ensures observance of technical regulations of the Union, the draft list of standards containing research (testing) and measurement rules and methods, including the rules of sampling, required for the implementation and enforcement of the requirements of technical regulations of the Union and conformity assessment of subjects of technical regulation;

the procedure for the organisation of inter-laboratory comparison testing (inter-laboratory intercomparison);

the procedure for metrological certification of measurement methods;

the certification procedure for the measurement methods adopted as the reference measurement methods;

the procedure for approval of measuring instruments;

the procedure for approval of standard samples;

the procedure for organising verification and calibration of measuring instruments;

4) the procedure for reciprocal providing information on the uniformity of measurements contained in the data funds of the Member States.

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ANNEX 11  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Recognition of Results of Accreditation of**  
**Conformity Assessment Authorities**

1. This Protocol has been developed in accordance with Section X of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and determines the conditions for mutual recognition of the results of accreditation of conformity assessment authorities.

2. The terms used in this Protocol shall have the following meanings:

"appeal" means an application submitted by a conformity assessment authority to an accreditation authority regarding review of a decision adopted by the accreditation authority in respect of the conformity assessment authority;

"certification of an accreditation expert" means confirmation of compliance of a natural person with the determined requirements and recognition of his/her competence to conduct accreditation activities;

"claim" means a statement containing an expression of dissatisfaction with the actions (omissions) of a conformity assessment authority or an accreditation authority filed by any person and requiring a mandatory response;

"applicant for accreditation" means a juridical person registered under the legislation of the Member States and applying for accreditation as a conformity assessment authority;

"accreditation authority" means an authority or juridical person authorised under the legislation of a Member State to carry out accreditation activities;

"technical expert" means a natural person with expertise in a specific field of accreditation engaged and appointed by an accreditation authority to participate in accreditation of conformity assessment authorities and included in the registry of technical experts;

"accreditation expert" means a natural person certified and appointed by the accreditation authority under the procedure determined by the legislation of the respective Member State for accreditation of conformity assessment authorities and included in the registry of accreditation experts.

3. The Member States shall harmonise their legislation in the sphere of accreditation through:

the adoption of rules in the field of accreditation on the basis of international standards and other documents adopted by international and regional accreditation organisations;

the application of interstate standards in the field of accreditation developed on the basis of international standards;

ensuring and organisation of inter-laboratory comparison testing (inter-laboratory intercomparison);

the exchange of information in the field of accreditation based on the principles of openness of information, gratuitousness and timeliness.

The Member States shall mutually recognise the accreditation of conformity assessment authorities (including certification authorities and testing laboratories (centres)) in the national accreditation systems of the

Member States in the performance of the provisions of Article 54 of the Treaty by accreditation authorities.

4. Accreditation authorities shall have the following powers:

1) compiling and maintaining:

a registry of accredited conformity assessment authorities;

a registry of accreditation experts;

a registry of technical experts;

the national part of the common registry of conformity assessment authorities of the Union;

2) submitting to the integrated information system of the Union information from the registries of accredited conformity assessment authorities, accreditation experts and technical experts, as well as other accreditation-related information and documents pursuant to the Treaty;

3) enable representatives of accreditation authorities to carry out mutual comparative assessments in order to ensure the equivalence of procedures applied by the Member States;

4) review and decide on the appeals filed by conformity assessment authorities for review of decisions adopted by accreditation authorities in respect of such conformity assessment authorities;

5) review and decide on the claims filed by natural or juridical persons of the Member States with regard to the activities of accreditation authorities, as well as the activities of accredited conformity assessment authorities.

5. Current information on accreditation authorities shall be provided by such authorities to the Commission for posting on the official website of the Union on the Internet.

6. In order to ensure an equivalent level of competence of accreditation and technical experts, accreditation authorities shall ensure harmonisation of requirements to the competence of accreditation and technical experts.

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**PROTOCOL**  
**on Application of Sanitary, Veterinary-Sanitary and Phytosanitary**  
**Quarantine Measures**

I. General Provisions

1. This Protocol has been developed in accordance with Section XI of the Treaty on the Eurasian Economic Union and determines the principles and procedures for applying sanitary, veterinary-sanitary and phytosanitary quarantine measures.

2. The terms used in this Protocol shall have the following meanings:

"audit of a foreign official supervision system" means the procedure for determining the ability of a foreign official supervision system to ensure the safety of goods subject to veterinary control (supervision) at a level not less than equivalent to that of the common veterinary (veterinary-sanitary) requirements;

"veterinary control (supervision)" means activities of authorised authorities in the field of veterinary aimed at preventing the importation and spread of pathogens of contagious animal diseases, including those common to humans and animals, and products that do not meet the common veterinary (veterinary-sanitary) requirements, as well as prevention, detection and suppression of violations of the requirements of international treaties and acts constituting the law of the Union and the legislation of the Member States in the field of veterinary;



"veterinary-sanitary measures" means mandatory requirements and procedures applied in order to prevent animal diseases and protect the population against diseases common to humans and animals in view of the emerging risks, including in the case of their transfer or dissemination by animals, with feed, raw materials and products of animal origin, as well as by transportation vehicles, within the customs territory of the Union;

"veterinary certificate" means a document issued by an authorised authority in the field of veterinary for goods subject to veterinary control (supervision) to be transported, certifying their veterinary-sanitary safety and/or the welfare of the administrative territories of the places of origin of these goods in terms of infectious animal diseases, including diseases common to humans and animals;

"state registration" means an assessment of conformity of products to common sanitary, epidemiological and hygienic requirements or requirements of technical regulations of the Union to be carried out by authorised authorities in the field of sanitary and epidemiological welfare of the population;

"state sanitary and epidemiological supervision (control)" means activities of authorised authorities in the field of sanitary and epidemiological welfare of the population, aimed at the prevention, detection and suppression of violations of mandatory requirements determined by the Commission and the legislation of the Member States in the field of sanitary and epidemiological welfare of the population;

"common veterinary (veterinary-sanitary) requirements" means requirements for goods subject to veterinary control (supervision), circulation thereof and facilities subject to veterinary control (supervision), aimed at

preventing the occurrence, importation and spread on the customs territory of the Union of causative agents of infectious diseases of animals, including those common to humans and animals, and animal products posing veterinary-sanitary threats;

"common phytosanitary quarantine requirements" means requirements for quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) subject to phytosanitary quarantine control (supervision) at the customs border of the Union and on the customs territory of the Union, their circulation and quarantineable items, aimed at preventing the occurrence, importation and spread of quarantine items on the customs territory of the Union;

"united regulations and standards to ensure plant quarantine" means rules, procedures, instructions, and methods of phytosanitary quarantine examinations, screening methods for quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) subject to quarantine phytosanitary control (supervision) at the customs border of the Union and on the customs territory of the Union, identification of quarantine items, laboratory testing and examinations, disinfection and other important activities carried out by authorised authorities for plant quarantine;

"common sanitary, epidemiological and hygienic requirements for products (goods) subject to sanitary and epidemiological supervision (control)" means a document containing mandatory requirements determined by the Commission for products (goods) subject to sanitary and epidemiological supervision (control), aimed to prevent harmful effects of environmental factors on human health and ensure favourable conditions for human life;

"animals" means all kinds of animals, including birds, bees, aquatic animals and wildlife species;

"plant quarantine" means a legal regime including a system of measures for the protection of plants and plant products against quarantine items on the customs territory of the Union;

"quarantine items" means hazardous organisms that are not presented or have limited distribution on the territories of the Member States and are included in the common list of quarantine items of the Union;

"phytosanitary quarantine security" means security of the customs territory of the Union against risks emerging in case of penetration and/or spread of quarantine items;

"phytosanitary quarantine control (supervision)" means activities of authorised authorities for plant quarantine aimed at identifying quarantine items, determining phytosanitary quarantine statuses of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods), fulfilment of international obligations and compliance with the legislation of the Member States in the field of plant quarantine;

"phytosanitary quarantine measures" means mandatory requirements, rules and procedures used to ensure protection of the customs territory of the Union against importation and spread of quarantine items and reduction of resulting losses, as well as elimination of obstacles in the international trade in quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) ;

"subject of veterinary control (supervision)" means an organisation or person engaged in the manufacture, processing, transportation and/or storage of goods subject to veterinary control (supervision);

"batch of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods)" means the quantity of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) to be sent on a single vehicle to a single destination to one recipient;

"batch of goods subject to veterinary control (supervision)" means the quantity of goods subject to veterinary control (supervision) to be sent on a single vehicle to a single destination to one recipient and registered under a single veterinary certificate;

"quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) " means plants, plant products, cargoes, soil, organisms, materials, and packaging, included in the list of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) subject to phytosanitary quarantine control (supervision) at the customs border of the Union and on the customs territory of the Union and transported across the customs border of the Union and on the customs territory of the Union, which may be carriers of quarantine items and/or facilitate their spread, and in respect of which phytosanitary quarantine measures shall be required;

"quarantineable items" means the land of any purpose, buildings, structures, tanks, storage areas, equipment, vehicles, containers and other facilities that may be sources of penetration of quarantine items into the customs territory of the Union and/or their spread therein;

"products (goods) subject to state sanitary and epidemiological supervision (control)" means goods, chemical, biological and radioactive substances, including sources of ionising radiation, waste and other goods

that are hazardous to life, food products, materials and products included in the common list of products (goods) subject to sanitary and epidemiological supervision (control), transported across the customs border of the Union and on the customs territory of the Union;

"goods subject to veterinary control (supervision)" means goods included in the common list of goods subject to veterinary control (supervision);

"products subject to state registration" means certain types of products that, when handled, may produce adverse effects on human life and health, the safety of which is confirmed by state registration;

"permit to import (export) or transit goods subject to veterinary control (supervision)" means a document determining the procedure and conditions for the use of goods subject to veterinary control (supervision), based on the epizootic status of respective exporting countries, in the import and transit of goods subject to veterinary control (supervision), to be issued by an official of an authorised authority in the field of veterinary duly authorised under the legislation of the Member States;

"sanitary, veterinary-sanitary and phytosanitary quarantine measures" means mandatory sanitary, veterinary and phytosanitary quarantine requirements and procedures aimed at:

the protection of human and animal life and health against risks caused by additives, contaminants, toxins or disease-causing organisms in foods, beverages, animal feed and other products;

the protection of life and health of animals and plants against the risks caused by the penetration, ecesis (fixation) or spread of plant pests, causative

agents of diseases of plants and animals, plants (weeds), disease carrier organisms or pathogens of quarantine importance for the Member States;

the protection of human life and health against risks arising from diseases carried by animals, plants or products thereof;

the prevention or mitigation of other damage caused by the penetration, ecesis (fixation) or spread of plant pests, causative agents of diseases of plants and animals, plants (weeds), and pathogens of quarantine importance for the Member States, including in the case of carrying or dissemination by animals and/or plants, with products, goods, materials, or vehicles;

"sanitary and quarantine control" means a type of state sanitary and epidemiological supervision (control) in respect of persons, vehicles and products (goods) subject to state sanitary-epidemiological supervision (control) exercised at checkpoints across the customs border of the Union, at interstate transmission railway stations or junction stations in order to prevent the importation of products (goods) that are potentially hazardous to human health, importation, emergence and spread of infectious and mass non-infectious diseases (poisoning);

"sanitary and anti-epidemic measures" means organisational, administrative, engineering, technical, medical, sanitary, preventive and other measures aimed at assessing the risks of harmful effects of environmental factors on human health, eliminating or reducing these risks, preventing the occurrence and spread of infectious and mass non-infectious diseases (poisoning) and their elimination;

"sanitary and epidemiological welfare of the population" means the state of health of the population and the environment implying no adverse

effects of environmental factors on human health and ensuring favourable living conditions;

"sanitary measures" means mandatory requirements and procedures, including requirements to final products, processing, manufacturing, transportation, storage and disposal methods, sampling procedures, research (testing) methods, methods of risk assessment and state registration, labelling and packaging requirements, directly aimed at ensuring the safety of products (goods) in order to protect human life and health;

"certificate of state registration" means a document confirming safety of products (goods), certifying conformity of products (goods) to the common sanitary, epidemiological and hygienic requirements and issued by the authorised authority in the field of sanitary and epidemiological welfare of the population in the common form and in the manner approved by the Commission;

"authorised authorities in the field of veterinary" means state authorities and institutions of the Member States operating in the field of veterinary;

"authorised authorities in the field of sanitary and epidemiological welfare of the population" means state authorities and institutions of the Member States operating in the field of sanitary and epidemiological welfare of the population in accordance with the legislation of the Member States and acts of the Commission;

"authorised authorities on plant quarantine" means national organisations for plant quarantine and protection;

"phytosanitary control stations" means plant quarantine stations created at checkpoints across the customs border of the Union and in other places determined in accordance with the legislation of the Member States;

"phytosanitary certificate" means an international standard document supplied with quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) and issued by an authorised authority on plant quarantine of the exporting country (re-exporter) in the form prescribed by the International Plant Protection Convention of December 6, 1951, certifying that the quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) conform to the phytosanitary requirements of the importing country;

"epizootic status" means a veterinary-sanitary situation in a certain area at a specified time, characterised by the presence of animal diseases, their distribution and incidence.

## II. Sanitary Measures

3. State sanitary and epidemiological supervision (control) at the customs border of the Union and on the customs territory of the Union shall be exercised in the manner approved by the Commission.

4. The Member States shall arrange sanitary and quarantine stations at checkpoints designed for the transportation of products (goods) subject to state sanitary and epidemiological supervision (control) across the customs border of the Union and take steps to conduct all the required sanitary and anti-epidemic activities.

The Member States shall exercise sanitary and quarantine control at specially designated sanitary and quarantine stations equipped with facilities required for taking sanitary and anti-epidemic measures in accordance with



the legislation of the Member States with regard to the requirements approved by the Commission.

The Commission shall determine a list of products to be transported across the customs border of the Union via specially equipped checkpoints identified in accordance with the legislation of the Member States and the acts constituting the law of the Union.

Products subject to state registration in accordance with acts of the Commission shall be circulated on the territory of the Union only after their state registration.

5. The Member States shall:

1) take agreed measures to prevent the importation, distribution and elimination on the customs territory of the Union of infectious diseases and mass non-infectious diseases (poisoning) hazardous to human health, consequences of emergencies, as well as acts of terrorism involving biological agents, chemical and radioactive substances;

2) conduct sanitary and anti-epidemic activities to prevent the importation into the customs territory of the Union and circulation of products (goods) subject to state sanitary and epidemiological supervision (control) that are hazardous to human life, health and living environment.

6. The Member States shall be entitled to impose temporary sanitary measures and conduct sanitary and anti-epidemic activities in the cases of:

deterioration of the sanitary and epidemiological situation on the territory of a Member State;

receipt of information from relevant international organisations, the Member States or third countries on the application of sanitary measures and/or deterioration of the sanitary and epidemiological situation;

when the scientific rationale for the use of sanitary measures is insufficient or may not be submitted in due time;

identification of products (goods) subject to state sanitary and epidemiological supervision (control) that do not conform to the common sanitary requirements or technical regulations of the Union.

The Member States shall as soon as possible inform each other of the introduction of any sanitary measures, conducting sanitary and anti-epidemic activities and modification thereof.

Upon introduction of temporary sanitary measures by a the Member State, other Member States shall take the necessary measures and conduct sanitary and anti-epidemic activities to ensure an adequate level of protection of the Member State having imposed such measures.

7. Authorised authorities in the field of sanitary and epidemiological welfare of the population shall:

exercise sanitary and epidemiological supervision (control) in respect of persons, vehicles, and products (goods) subject to state sanitary and epidemiological supervision (control) transported across the customs border of the Union at checkpoints of the Member States located at the customs border of the Union and on the customs territory of the Union;

be entitled to request from authorised authorities of other Member States the required reports on laboratory studies (tests);

provide mutual scientific, methodological and technical assistance in the field of sanitary and epidemiological welfare of the population;

inform each other about the possible arrival of goods non-conforming to the common sanitary, epidemiological and hygienic requirements, about each case of detection of especially dangerous infectious diseases listed in the

international health regulations, and products dangerous to human life and health;

if necessary, by mutual agreement, in order to comply with the requirements determined by the acts constituting the law of the Union in the field of sanitary measures and the protection of the customs territory of the Union against importation and spread of infectious and mass non-infectious diseases (poisoning), and products (goods) subject to state sanitary and epidemiological supervision (control) that do not conform to the sanitary, epidemiological and hygienic requirements, and to promptly solve other issues, carry out joint audits (inspections) on the territories of the Member States manufacturing products (goods) subject to state sanitary and epidemiological supervision (control).

In the event of detection of infectious diseases and mass non-infectious diseases (poisoning) and/or distribution on the customs territory of the Union of products dangerous to human life, health and environment, authorised authorities in the field of sanitary and epidemiological welfare of the population shall direct the respective information and information on the sanitary measures taken into the integrated information system of the Union.

8. The costs associated with the conduct of joint audits (inspections) shall be funded from the budgets of the respective Member States, unless another procedure is agreed on a case-by-case basis.

### III. Veterinary-Sanitary Measures

9. Veterinary control (supervision) at the customs border of the Union and on the customs territory of the Union shall be exercised in accordance with the regulation on the common procedure for exercising veterinary

control at the customs border of the Union and on the customs territory of the Union, approved by the Commission.

10. At checkpoints designed for transportation of goods subject to veterinary control (supervision) across the customs border of the Union, the Member States shall establish veterinary border control stations and take the required veterinary-sanitary measures.

11. Authorised authorities in the field of veterinary shall:

1) take measures to prevent the importation and spread on the customs territory of the Union of any causative agents of infectious animal diseases, including those common to humans and animals, and goods (products) of animal origin posing a veterinary-sanitary threat;

2) in case of detection and spread on the territory of a Member State of infectious animal diseases, including those common to humans and animals, and/or goods (products) of animal origin posing a veterinary-sanitary threat, immediately after the official diagnosis or confirmation of non-safety of goods (products), send the relevant information to the Commission, as well as information on veterinary-sanitary measures taken to the integrated information system of the Union, as well as for notification of authorised authorities of other Member States;

3) timely notify the Commission of any changes made to the list of hazardous and quarantine diseases of animals of the respective Member State;

4) provide mutual scientific, methodological and technical assistance in the field of veterinary;

5) carry out audits of foreign official supervision systems in the manner approved by the Commission.

12. Joint audit (inspection) of the facilities subject to veterinary control (supervision) shall be carried out in accordance with the regulation on the common procedure for joint inspections of facilities and sampling of goods subject to veterinary control (supervision).

The costs associated with the conduct of audit of foreign official supervision systems and joint audits (inspections) shall be funded from the respective budgets of the Member States, unless another procedure is agreed on a case-by-case basis.

13. The rules and methodology of laboratory studies in the implementation of veterinary control (supervision) shall be determined by the Commission.

14. The rules governing the circulation of veterinary medicines, veterinary diagnostic agents, feed additives, disinfectants, disinfestation and disinfection agents shall be determined by the Commission and the legislation of the Member States.

15. Based on common veterinary (veterinary-sanitary) requirements and international recommendations, standards and guidelines, the Member States may agree with authorised authorities of the country of the sender (third party) model veterinary certificates for goods subject to veterinary control (supervision) imported into the customs territory of the Union and included in common list of goods subject to veterinary control (supervision), other than the common forms, in accordance with the acts of the Commission.

16. Goods subject to veterinary control (supervision) placed under the customs transit procedure shall be transported across the customs territory of the Union in the procedure determined by the Commission.

Permits for import (export) and transit of goods subject to veterinary control (supervision) and respective veterinary certificates shall be issued by the authorised authority in the field of veterinary in accordance with the legislation of that Member State.

17. The common forms of veterinary certificates shall be approved by the Commission.

#### IV. Phytosanitary Quarantine Measures

18. Phytosanitary quarantine control (supervision) at the customs border of the Union and on the customs territory of the Union shall be exercised in the manner approved by the Commission.

19. Common rules and standards for ensuring plant quarantine shall be approved by the Commission.

20. At checkpoints designed for transportation of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) across the customs border of the Union and in other places, the Member States shall establish plant quarantine stations (phytosanitary control stations), taking into account the requirements for their facilities and equipment, as approved by the Commission.

21. The Member States shall take the necessary measures to prevent the importation of quarantine items into the customs territory of the Union and their spread therein.

22. Authorised authorities on plant quarantine shall:

1) exercise phytosanitary quarantine control (supervision) over the transportation of quarantineable products across the customs border of the

Union at checkpoints and in other places to be equipped with plant quarantine stations (phytosanitary control stations);

2) exercise phytosanitary quarantine control (supervision) over the transportation of quarantineable products from the territory of one Member State to the territory of another Member State;

3) in case of detection and spread of quarantine items on the customs territory of the Union, send respective information, as well as information on phytosanitary quarantine measures taken, to the integrated information system of the Union;

4) promptly inform each other of any cases of detection and spread of quarantine items on the territory of their states and of the introduction of temporary phytosanitary quarantine measures;

5) provide mutual scientific, methodological and technical assistance in the field of plant quarantine;

6) ensure annual exchange of statistics for the past year related to the detection and spread of quarantine items on the territory of their states;

7) exchange information relating to the phytosanitary quarantine status of the territories of the Member States and, if necessary, other information, including information on effective methods to eliminate such quarantine items;

8) develop proposals for compiling a list of regulated non-quarantine hazardous organisms and a common list of quarantine items of the Union based on the information on hazardous organisms;

9) cooperate on other issues in the field of phytosanitary quarantine control (supervision);

10) by mutual agreement:

send experts to conduct joint inspections of facilities used for the production (manufacturing), sorting, processing, storage and packaging of quarantineable products imported into the customs territory of the Union from third countries;

participate in the development of united regulations and standards to ensure plant quarantine.

23. Each batch of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) rated according to the list of quarantineable products in the high phytosanitary risk group of quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) and imported into the customs territory of the Union and/or transported from the territory of one Member State to the territory of another Member State, shall be provided with an export (re-export) phytosanitary certificate.

24. Laboratory support of phytosanitary quarantine measures shall be effected in accordance with the procedure approved by the Commission.

25. Each Member State shall be entitled to develop and implement temporary phytosanitary quarantine measures in the following cases:

1) deterioration of the phytosanitary quarantine situation on its territory;

2) receipt of information on phytosanitary quarantine measures taken from the relevant international organisations, the Member States and/or third countries;

3) when the scientific rationale for the use of phytosanitary quarantine measures is insufficient or may not be submitted in due time;



4) in case of systematic identification of quarantine items in quarantineable products (quarantineable cargoes, quarantineable materials and quarantineable goods) imported from third countries.

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**PROTOCOL**  
**on Agreed Policy**  
**in the Sphere of Consumer Protection**

I. General Provisions

1. This Protocol has been developed in accordance with Section XII of the Treaty on the Eurasian Economic Union and determines the principles underlying the agreed policy of the Member States in the sphere of consumer protection and its main focus.

2. The terms used in this Protocol shall have the following meanings:

"consumer protection legislation of a Member State" means a set of legal regulations in force in a Member State, governing relations in the field of consumer protection;

"manufacturer" means an organisation, irrespective of the form (type) of ownership, as well as a natural person registered as an individual entrepreneur, manufacturing goods for sale to consumers;

"contractor" means an organisation, irrespective of the form (type) of ownership, as well as a natural person registered as an individual entrepreneur, performing work or rendering services to consumers;

"mala fide economic entities" means sellers, manufacturers and contractors conducting their activities with violations of the consumer protection legislation of the Member States and customary business practices,

when these violations may cause or have caused material or non-material damage to consumers and/or the environment;

"consumer public associations" means non-profit associations (organisation) of nationals and/or juridical persons registered in accordance with the legislation of the Member States and established in order to protect the legitimate rights and interests of consumers, as well as international non-governmental organisations operating on the territories of all or several Member States;

"consumer" means a natural person intending to order (buy) or ordering (acquiring, using) goods (works, services) exclusively for personal (domestic) use, not related to any business activities;

"seller" means an organisation, irrespective of the form (type) of ownership, as well as a natural person registered as an individual entrepreneur, selling goods to consumers under purchase and sale agreements;

"authorised authorities in the sphere of consumer protection" means state authorities of the Member States exercising control (supervisory) and/or legal regulation functions in the sphere of consumer protection in accordance with the legislation of the Member States, international treaties and acts constituting the law of the Union.

## II. Implementation of Main Directions of Consumer Protection Policy

3. In order to ensure equal protection of the rights and legitimate interests of consumers of the Member States, all the Member States shall conduct agreed policy in the sphere of consumer protection under the legislation of the Member States on the protection of consumer rights and

regulations of international law in this sphere in the following main directions:

1) provision of timely and reliable information on goods (works, services) and manufacturers (sellers, contractors) to consumers, state authorities and consumer public associations;

2) measures to prevent the activities of mala fide economic entities and sales of low-quality goods (services) on the territories of the Member States;

3) creating conditions for consumers encouraging freedom of choice of goods (works, services) through the development of legal literacy and legal awareness of consumers, as well as their awareness of the nature of consumer rights and interests protected by law and available administrative and judicial remedies for protection thereof, as well as ensuring access of consumers of the Member States to legal aid;

4) implementation of educational programmes in the field of consumer protection as an integral part of national education in educational systems of the Member States;

5) involvement of the media, including radio and television, in the promotion and systematic coverage of consumer protection issues;

6) approximation of the consumer protection legislation of the Member States.

### III. Interaction with Public Consumer Associations

4. The Member States shall facilitate operation of independent consumer public associations, their participation in the formulation and implementation of agreed policy to protect consumer rights, promote and

explain the rights of consumers, as well as establish a system of information exchange in the sphere of consumer protection between the Member States.

#### IV. Interaction between Authorised Authorities in the Sphere of Consumer Protection

5. Authorised authorities in the sphere of consumer protection shall interact using:

1) the exchange of information:

on the practices of the Member States in the field of state and consumer public protection;

on measures to improve and ensure the functioning of the system to monitor compliance with the consumer protection legislation of the Member States;

on changes in the consumer protection legislation of the Member States;

2) cooperation in the prevention, detection and suppression of violations of the consumer protection legislation of the Member States committed by residents of the Member States, including the exchange of information on consumer rights violations identified in the internal market, including those based on requests of authorised authorities in the sphere of consumer protection;

3) conduct of joint analytical studies on issues affecting the mutual interests of the Member States in the field of consumer protection;

4) provision of practical assistance on issues arising in the process of cooperation, including the establishment of working groups, exchange of experience and staff training;

5) exchange of statistical information on the performance of authorised authorities in the sphere of consumer protection and consumer public associations;

6) cooperation on other issues in the sphere of consumer protection.

## V. Powers of the Commission

6. The Commission shall:

1) issue recommendations to the Member States on the application of measures aimed at improving the efficiency of interaction between authorised authorities in the sphere of consumer protection;

2) issue recommendations to the Member States on the procedure for implementing the provisions referred to in this Protocol;

3) create advisory bodies for the protection of consumer rights in the Member States.

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ANNEX 14  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Implementation of Agreed Macroeconomic Policy**

I. General Provisions

1. This Protocol has been developed in accordance with Articles 62 and 63 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and determines the procedure for conducting agreed macroeconomic policy by the Member States.

2. The terms used in this Protocol shall have the following meanings:

"external forecast parameters" means indicators characterising the external factors significantly impacting the economy of the Member States and used in the preparation of official forecasts of socio-economic development of the Member States;

"interval quantitative values of external forecast parameters" means upper and lower values of the interval of external forecast parameters;

"macroeconomic indicators" means parameters characterising the state of the economy of a Member State, its development and resistance to adverse factors, as well as the degree of integration cooperation;

"main directions of economic development of the Union" means a non-binding document identifying the most promising directions of socio-economic development that the Member States intend to develop through the use of the integration potential and competitive advantages of the Union in order to obtain additional economic benefits for each Member State;

"main benchmarks on macroeconomic policies of the Member States" means a policy document determining the most important short and medium-term objectives for the economy of the Member States aimed at achieving the goals set out in the main directions of economic development of the Union and including recommendations to address the problems specified.

## II. Implementation of the Main Directions of Agreed Macroeconomic Policy

3. In order to implement the main directions of agreed macroeconomic policy, the Member States shall:

1) agree on measures to use the integration potential of the Union and competitive advantages of the Member States in the most feasible spheres and sectors of economy;

2) when conducting the agreed macroeconomic policy, take into account the main directions of economic development of the Union and the main benchmarks on macroeconomic policy of the Member States;

3) develop official forecasts of the socio-economic development of the Member States with account of the set interval quantitative values of external forecast parameters;

4) conduct agreed macroeconomic policy within the quantitative values of macroeconomic indicators referred to in Article 63 of the Treaty when determining the sustainability of economic development;

5) develop and implement, with the participation of the Commission, measures, including joint measures, when macroeconomic indicators determining the sustainability of economic development of a Member State do not meet the quantitative values determined by Article 63 of the Treaty, as well as, if necessary, take into account the recommendations of the



Commission aimed at stabilising the economic situation in accordance with the procedure approved by the Commission;

6) hold consultations on issues related to the current economic situation in the Member States in order to develop proposals aimed at stabilising the economy.

### III. Competence of the Commission

4. The Commission shall coordinate the execution of agreed macroeconomic policy by the Member States through the following:

1) monitoring of:

macroeconomic indicators determining the sustainability of economic development of the Member States, calculated according to the methodology approved by the Commission, and their compliance with the quantitative values determined by Article 63 of the Treaty;

indicators of the level and dynamics of economic development and integration indicators set out in section IV of this Protocol;

2) development, in agreement with the Member States, of the following documents to be approved by the Supreme Council:

main directions of economic development of the Union;

main benchmarks on macroeconomic policies of the Member States;

joint measures aimed at stabilising the economic situation, in case the Member States exceed quantitative values of macroeconomic indicators determining the sustainability of economic development referred to in Article 63 of the Treaty;

3) development of:

recommendations aimed at stabilising the economic situation, in case the Member States exceed quantitative values of macroeconomic indicators determining the sustainability of economic development referred to in Article 63 of the Treaty;

analytical (reference) forecasts of socio-economic development of the Union based on the set interval quantitative values of external forecast parameters;

4) facilitation of holding of consultations on issues related to the current economic situation in the Member States in order to develop proposals aimed at stabilising the economy;

5) agreeing with the Member States of interval quantitative values of the external forecast parameters approved by the Commission for the preparation of official forecasts of socio-economic development of the Member States;

6) analysis of:

the impact of decisions made on the economic environment and entrepreneurial activities of economic entities of the Member States;

measures of agreed macroeconomic policy to the extent of their compliance with the main benchmarks on macroeconomic policies of the Member States;

7) the exchange of information between authorised authorities of the Member States and the Commission for the purposes of the agreed macroeconomic policy. The procedure for the exchange shall be approved by the Commission.

#### IV. Integration Indicators, Economy Development Levels and Dynamics, and External Forecast Parameters

5. The following indicators shall be used to determine the level of integration:

- 1) the volume of national investments into the economy of each Member State, including direct investments (in US dollars);
- 2) the volume of investments into the national economy from each Member State, including direct investments (in US dollars);
- 3) the share of each Member State in the total export of the Member State (percentage);
- 4) the share of each Member State in the total import of the Member State (percentage);
- 5) the share of each Member State in the total foreign trade turnover of the Member State (percentage).

6. The following indicators shall be used to determine the level and dynamics of economic development:

- 1) the growth rate of gross domestic product (percentage);
- 2) gross domestic product per capita at purchasing power parity (in US dollars);
- 3) balance-of-payment current account balance (in US dollars and in percentage of gross domestic product);
- 4) index of the real effective exchange rate of the national currency, calculated on the basis of the consumer price index (percentage).

7. The Commission, in agreement with the Member States, may decide to monitor any indicators of integration, the level and dynamics of economic development of the Member States, other than those specified in paragraphs 5 and 6 of this Protocol, respectively.

8. The Member States shall agree on interval quantitative values for the following external forecast parameters for a period of 3 years:

the world economy development rate;

the price of Brent oil.

Executive authorities entitled to compile official forecasts of socio-economic development of the Member States shall also exchange information on the state of foreign trade operations, including in mutual trade. For the purpose of compiling official forecasts of socio-economic development of certain Member States, the Russian Federation shall provide to the above authorised authorities information on the indicative change range of the forecast price for natural gas supplied for domestic consumption, in the manner to be approved by the Commission.

The above information provided by the Russian Federation for the purpose of macroeconomic forecasting shall not be deemed as an obligation of the Russian Federation to maintain the specified prices of natural gas supplied to the Member States in the forecast period.

National (central) banks of the Member States shall inform each other of the exchange rate policy conducted.

9. The exchange of information for the purpose of macroeconomic forecasting shall be carried out in compliance with all respective confidentiality requirements of the Member States applicable to such information.

10. The Supreme Council may decide to revise external forecast parameters used in the development of official forecasts of socio-economic development of the Member States.

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ANNEX 15  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Measures Aimed at Implementation**  
**of Agreed Monetary Policy**

I. General Provisions

1. This Protocol has been developed in accordance with Article 64 of the Treaty on the Eurasian Economic Union and determines the measures taken by the Member States in order to conduct agreed monetary policy.

2. The terms used in this Protocol shall have the following meanings:

"currency legislation" means the legislation of the Member States in the field of currency regulation and control and regulatory legal acts adopted in execution thereof;

"currency restrictions" means restrictions on foreign exchange transactions determined by international treaties and acts constituting the law of the Union or the currency legislation of the Member States and implying their direct prohibition, limitation of the volume, quantity, timing and payment currency used in such transactions, determining of requirements for obtaining special permits (licenses) for their conduct, partial or full reservation of the amount or amounts multiple of the full amount of a foreign exchange transaction, as well as restrictions associated with the opening and maintenance of accounts on the territories of the Member States and requirements of mandatory sale of foreign currency;

"integrated currency market" means a set of internal currency markets of the Member States united by common operation and state regulation principles;

"liberalisation measures" means actions aimed at easing or elimination of currency restrictions on foreign exchange transactions between residents of the Member States, as well as on transactions with residents of third countries;

"resident of a Member State" means a person that is a resident of a Member State in accordance with the currency legislation of the Member State;

"resident of a third country" means a person that is not a resident of any Member State;

"authorised organisations" means juridical persons that are residents of the Member States authorised to conduct banking operations in foreign currency in accordance with the legislation of the state of their incorporation;

"authorised authorities on currency regulation" means executive authorities and other state authorities of the Member States empowered to exercise foreign exchange controls, as well as national (central) banks of the Member States.

In the regulation of currency relations, the Member States shall apply the term of "non-resident" in accordance with the national currency legislation.

## II. Measures Aimed at Implementing Agreed Monetary Policy

3. For the purposes of the agreed monetary policy, the Member States shall take the following measures:

1) coordinate the policy on the exchange rates of their national currencies (hereinafter – "exchange rate policy") for expanding the use of national currencies of the Member States in mutual settlements between residents of the Member States, including the organisation of mutual consultations in order to develop and coordinate the activities under the exchange rate policy;

2) ensure convertibility of their national currencies for the current and capital balance of payment items, without restrictions, by enabling unrestricted purchase and sale of foreign currency by residents of the Member States through the banks of the Member States;

3) enable direct mutual quotations of national currencies of the Member States;

4) ensure mutual settlements between residents of the Member States in the national currencies of the Member States;

5) improve the mechanism for payment and settlements relations between the Member States through the increased use of national currencies in mutual settlements between residents of the Member States;

6) prevent multiplicity of official exchange rates hindering mutual trade between residents of the Member States;

7) ensure that national (central) banks of the Member States set official exchange rates for the national currencies of the Member States on the basis of the rates prevailing in the stock market or on the basis of the rates of cross-national currencies of the Member States to the US dollar;

8) ensure regular exchange of information on the status and development prospects of the foreign exchange market;

9) form an integrated currency market of the Member States;

10) each Member State shall ensure admission to its internal foreign exchange market of banks that are residents of the Member States and entitled, in accordance with the legislation of this Member State, to conduct foreign exchange operations for the purpose of interbank conversion transactions subject to national treatment;

11) grant to banks of the Member States the right for free conversion of their funds in the national currencies of the Member States within their correspondent accounts into the currency of third countries;

12) facilitate allocation of foreign currency assets of the Member States in the national currencies of other Member States, including in their state securities;

13) further develop and improve liquidity of internal currency markets;

14) develop trade in national currencies in organised markets of the Member States and make it accessible to foreign exchange market participants of the Member States;

15) develop an organised derivatives market.

4. For the purposes of approximation of the legislation of the Member States governing legal currency relationship and liberalisation measures, the Member States shall:

1) ensure gradual elimination of currency restrictions hindering effective economic cooperation and imposed on foreign currency transactions and opening or maintenance of accounts by residents of the Member States in banks located on the territories of the Member States;

2) identify agreed approaches to the procedures of opening or maintenance of accounts of third-country residents in banks located on the territories of the Member States, as well as accounts of residents of the Member States in banks located in third countries;



3) be governed by the principle of national sovereignty in the elaboration of approaches to demand repatriation by residents of the Member States of funds subject to mandatory transfer to their bank accounts;

4) determine a list of currency transactions carried out between residents of the Member States in respect of which no currency restrictions shall apply;

5) determine the necessary amount of rights and obligations of residents of the Member States in the implementation of foreign exchange transactions, including the right to carry out settlements without the use of bank accounts in banks located on the territory of the Member States;

6) ensure harmonisation of requirements for the repatriation by residents of the Member States of funds subject to mandatory transfer to their bank accounts;

7) ensure the free circulation by residents and non-residents of the Member States of funds and monetary instruments within the customs territory of the Union;

8) ensure harmonisation of requirements to accounting and control of foreign exchange operations;

9) ensure harmonisation of rules on liability for violations of the currency legislation of the Member States.

### III. Interaction of Authorised Authorities on Currency Regulation

5. Authorised authorities on currency regulation shall interact through the following:

1) the exchange of information:

on practices of regulatory and law enforcement authorities of the Member States in the field of control of compliance with the currency legislation;

on measures to improve and ensure the functioning of the system to control compliance with the currency legislation;

on the organisation of currency control, as well as of legal information, including on the legislation of the Member States in the field of currency control and modifications of respective legislation of the Member States;

2) cooperation in the prevention, detection and suppression of violations of the legislation of the Member States by residents of the Member States in the implementation of foreign exchange transactions, including the exchange of information, including on the basis of requests from authorised authorities on currency regulation, on transactions conducted in violation of the currency legislation;

3) conduct of joint analytical studies on issues affecting the mutual interests of the Member States in the field of currency regulation and currency control;

4) provision of practical assistance on issues arising in the process of cooperation, including the establishment of working groups, exchange of experience and staff training;

5) exchange of statistical information on currency regulation and currency control, including:

on the amounts of payments and transfers of funds under foreign currency transactions between residents of the Member States;

on the number of accounts opened by residents of a Member State in authorised organisations of another Member State;

6) joint action on other issues of cooperation between authorised authorities on currency regulation.

6. Authorised authorities on currency regulation shall cooperate in specific spheres of currency controls, including for the continuous provision of information under individual protocols on cooperation between authorised authorities on currency regulation.

7. Practical assistance shall be rendered by:

organising working visits of representatives of authorised authorities on currency regulation;

holding seminars and consultations;

development and exchange of guidelines.

#### IV. Exchange of Information on Request by Authorised Authorities on Currency Regulation

8. Requests for information shall be sent and implemented as follows:

1) requests shall be sent in writing or using text transfer devices.

When using text transfer devices, as well as when there is doubt as to the authenticity or content of a request received, the requested authorised authority on currency regulation may request confirmation in writing;

2) a request for information under the proceedings on administrative offences shall indicate:

the name of the requesting authorised authority on currency regulation;

the name of the requested authorised authority on currency regulation;

a brief description of the factual circumstances of the case with the application, if necessary, of copies of supporting documents;

qualification of the offence under the legislation of the state of the requesting authorised authority on currency regulation;

other information required for the execution of the request;

3) each request and responses thereto shall be executed in Russian.

9. Should it be required to transfer to a third party any information obtained under this Protocol, a written consent of the authorised authority on currency regulation that has provided the information shall be required.

10. All requests shall be executed so as to enable the requesting authorised authority on currency regulation to comply with the procedural deadlines determined by the legislation of the state of the requesting authority on currency regulation.

For the purposes of clarification, a requested authorised authority on currency regulation shall be entitled to request additional information required to execute the request.

11. If it is impossible to execute a request, the requested authorised authority on currency regulation shall notify the requesting authorised authority on currency regulation thereof, stating the reasons.

12. The authorised authorities on currency regulation shall bear the costs of the information exchange in the framework of cooperation in the sphere of currency regulation and control.

In the case of requests requiring additional expenditures, the settlement procedure shall be determined by the authorised authorities on currency regulation by mutual agreement.

## V. Currency Restrictions

13. In exceptional cases (if the situation may not be resolved by other economic policy measures), each Member State may introduce own currency restrictions for a period not exceeding 1 year.

For this purpose, the exceptional cases shall refer to:

the occurrence of any circumstances under which the implementation of liberalisation measures may lead to deterioration of the economic and financial situation in a Member State;

negative developments in the balance of payments, which may result in a decrease in the international reserves of a Member State below the acceptable level;

the occurrence of circumstances under which the implementation of liberalisation measures may damage the security interests of a Member State and hinder the maintenance of public order;

sharp fluctuations of the exchange rate of the national currency of a Member State.

14. A Member State having introduced currency restrictions shall notify all other Member States and the Commission thereof not later than within 15 days from the date of introduction of such restrictions.

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ANNEX 16  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Trade in Services, Incorporation, Activities and Investments**

I. General Provisions

1. This Protocol has been developed in accordance with Articles 65-69 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and determines the legal basis for regulating trade in services, incorporation, activities and investments in the Member States.

2. The provisions of this Protocol shall apply to any and all measures taken by the Member States with regard to the supply and receipt of services, as well as incorporation, activities and investments.

Specific features of legal relations arising in connection with the trade in telecommunication services shall be in accordance with Annex 1 to this Protocol.

"Horizontal" restrictions maintained by the Member States in respect of all sectors and activities shall be determined in accordance with Annex 2 to this Protocol.

Individual national lists of restrictions, exceptions, additional requirements and conditions (hereinafter "the national lists"), provided for by paragraphs 15-17, 23, 26, 28, 31, 33 and 35 of this Protocol, shall be approved by the Supreme Council.

3. The provisions of this Protocol shall apply to created, acquired, controlled juridical persons of the Member States, opened branches,

representative offices, registered individual entrepreneurs still existing on the effective date of the Treaty, as well as to created, acquired, controlled juridical persons of the Member States, opened branches, representative offices, registered individual entrepreneurs after the effective date of the Treaty.

Notwithstanding the provisions of paragraphs 15-17, 21, 24, 27, 30 and 32 of this Protocol, the Member States shall reserve the right to adopt and enforce any measures with regard to new services, that is, those that did not exist on the effective date of the Treaty.

In the case of adoption or enforcement of a measure that affects a new service and is incompatible with the provisions of the above paragraphs, the respective Member State shall inform all other Member States and the Commission of such a measure no later than 1 month from the date of its adoption or enforcement, whichever comes first. Corresponding changes in the national list of that Member State shall be approved by decision of the Supreme Council.

4. As regards the cases of supply of services specified in the second and third indents of sub-paragraph 22 of paragraph 6 of this Protocol, the provisions of this Protocol shall not apply to the rights of air transportation and services directly related to the rights of transportation, except for the repairs and maintenance of aircraft, supply and marketing of air transportation services and services of computer booking systems.

5. The Member States shall not use mitigation of any requirements provided by their legislation for the protection of human life and health, the environment, and national security, as well as labour standards, as a

mechanism to attract persons of other Member States and third states to incorporate on the territories of Member States.

## II. Terms and Definitions

6. The terms used in this Protocol shall have the following meanings:

1) "recipient state" means a Member State on the territory of which the investments are made by investors from other Member States;

2) "activities" means business and other activities (including trade in services and manufacture of goods) conducted by juridical persons, branches, representative offices or individual entrepreneurs listed in indents two to six of sub-paragraph 24 of this paragraph;

3) "investment activities" means possession, use and/or disposal of investments;

4) "income" means funds generated as a result of investment, in particular, dividends, interest and royalties, fees and other remunerations;

5) "legislation of a Member State" means legislation and other regulatory legal acts of a Member State;

6) "applicant" means a person of a Member State having applied for a permit to the competent authority of that or another Member State;

7) "investments" means tangible and intangible assets invested by an investor of a Member State into subjects of entrepreneurial activity on the territory of another Member State in accordance with the legislation of the latter, including:

funds (cash), securities and other property;



rights to engage in entrepreneurial activities granted under the legislation of the Member States or under a contract, including, in particular, the right to exploration, development, production and exploitation of natural resources;

property rights and other rights having monetary value;

8) "investor of a Member State" means any person of a Member State making investments on the territory of another Member State in accordance with the legislation of the latter;

9) "competent authority" means any authority or organisation exercising control, authorisation or other regulatory functions with respect to matters covered by this Protocol under the powers delegated by the Member State, in particular, administrative authorities, courts, professional and other associations;

10) "person of a Member State" means any natural person or juridical person of a Member State;

11) "measure of a Member State" means the legislation of a Member State, as well as any decision, action or omission of an authority or official of that Member State adopted or applied at any level of state or local authorities or organisations in the exercise of the powers delegated thereto by such authorities.

In the case of adoption (publication) by the authority of a Member State of an official non-binding document, this recommendation may be deemed a measure of the Member State applied for the purposes of this Protocol if it is proven that, in practice, the recommendation is observed by a predominant portion of its subjects (state, regional and/or municipal authorities, non-

governmental authorities, as well as persons of the Member State, persons of other Member States, and persons of any third state);

12) "service recipient" means any person of a Member State a service is supplied to or intending to use a service;

13) "service supplier" means any person of a Member State supplying a service;

14) "representative office" means a separate division of a juridical person located outside of its location that represents and protects the interests of the juridical person;

15) "permit" means confirmation by a competent authority, as provided for by the legislation of a Member State and based on an applicant's request, of the rights of the applicant to engage in certain activities or perform certain actions, including by its introduction into the registry and issuance of an official document (license, approval, conclusion, diploma, certificate of attendance, certificates, etc.). A permit may be granted on the basis of competitive selection;

16) "authorisation procedures" means a set of procedures implemented by competent authorities in accordance with the legislation of a Member State relating to the issuance and re-issuance of permits and duplicates thereof, termination, suspension, resumption or extension and withdrawal (cancellation) of permits, refusal to grant permits, as well as review of all respective claims;

17) "authorisation requirements" means a set of standards and/or requirements (including licensing and qualification requirements) to the applicant, permit holder and/or a service supplied or activity undertaken under the relevant legislation of a Member State, aimed at ensuring the

fulfilment of regulation objectives determined by the legislation of the Member State.

With regard to permits for activities, authorisation requirements may be aimed at, among other things, ensuring the competence and ability of the applicant to carry out trade in services and other activities in accordance with the legislation of the Member State;

18) "treatment" means a set of measures of the Member States;

19) "service sector":

for the purposes of Annex 2 to this Protocol and of the lists approved by the Supreme Council, one, several or all sub-sectors of a certain service;

in other cases – an entire service sector, including all sub-sectors;

20) "territory of a Member State" means the territory of a Member State, as well as its exclusive economic area and the continental shelf, in respect of which it exercises sovereign rights and jurisdiction in accordance with the international law and its legislation;

21) "economic feasibility test" means determining grounds for issuing permits based on the economic feasibility or market demand, assessment of the potential or existing business or economic impact of respective activities or assessment of compliance of the activities with economic planning objectives set by the competent authority. This term shall not include any conditions associated with non-economic planning and based on the grounds of public interest, such as social policy, implementation of socio-economic development programs approved by local authorities within their competence, or protection of the urban environment, including implementation of urban development plans;

22) "trade in services" means supply of services, including manufacture, distribution, marketing, sale and delivery of services, conducted in the following ways:

from the territory of one Member State to the territory of any other Member State;

on the territory of one Member State by a person of this Member State to a service recipient of another Member State;

by a service supplier of one Member State through its incorporation on the territory of another Member State;

by a service supplier of one Member State through the presence of natural persons of that Member State on the territory of another Member State;

23) "third state" means a state that is not a Member State;

24) "incorporation":

creation and/or acquisition of a juridical person (participation in the capital of a created or incorporated juridical person) with any organisational legal form and form of ownership provided for by the legislation of the Member State on the territory of which such juridical person is created or incorporated;

acquisition of control over a juridical person of a Member State through obtaining of an opportunity to, either directly or via third persons, determine decisions to be adopted by such juridical person, including through the management of votes granted by voting shares (stakes) and participation in the board of directors (supervisory board) and other management authorities of such juridical person;

opening of a branch;

opening of a representative office;  
registration as an individual entrepreneur.

Incorporation shall be carried out, among other things, for the purposes of trade in services and/or manufacture of goods;

25) "natural person of a Member State" means a national of a Member State in accordance with the legislation of the Member State;

26) "branch" means a separate division of a juridical person incorporated outside of its location and performing all of its functions, or part thereof, including the function of a representation;

27) "juridical person of a Member State" means an organisation with any organisational legal form, created or incorporated on the territory of a Member State in accordance with the legislation of that Member State.

7. For the purposes of this Protocol, the service sectors shall be identified and classified based on the Central Products Classification approved by the United Nations Statistical Commission.

### III. Payments and Transfers

8. Except for the cases provided for in paragraphs 11-14 of this Protocol, each Member State shall cancel all effective and shall not introduce new restrictions on transfers and payments in connection with trade in services, incorporation, activities and investments, in particular with regard to:

- 1) income;
- 2) funds transferred in repayment of loans and credits recognised by the Member States as investments;

3) funds received by an investor in connection with a partial or complete liquidation of a profit organisation or sale of investments;

4) funds received by an investor in recovery of damages in accordance with paragraph 77 of this Protocol and compensations referred to in paragraphs 79-81 of this Protocol;

5) salaries and other remuneration received by investors and nationals of other Member States allowed to perform investment-related activities on the territory of the recipient state.

9. Nothing in this section shall affect the rights and obligations of any Member State arising out of its membership in the International Monetary Fund, including the rights and obligations regarding any currency transactions control measures, provided that such measures of the Member States comply with the Articles of Agreement of the International Monetary Fund of July 22, 1944, and/or provided that the Member State does not impose restrictions on transfers and payments that are incompatible with its obligations under this Protocol regarding such transactions, except as specified in paragraphs 11-14 of this Protocol or in case of restrictions imposed on request from the International Monetary Fund.

10. Transfers under paragraph 8 of this Protocol may be made in any freely convertible currency. Funds shall be converted without undue delay, at the exchange rate applicable on the territory of the Member State on the date of the transfer of funds and payments.

#### IV. Restrictions on Payments and Transfers

11. In the case of deterioration of the balance of payments, a significant reduction in foreign exchange reserves, sharp fluctuations of the national

currency exchange rate or a threat thereof, a Member State may impose restrictions on transfers and payments provided for in paragraph 8 of this Protocol.

12. The restrictions referred to in paragraph 11 of this Protocol:

- 1) shall not create discrimination between the Member States;
- 2) shall comply with the Articles of Agreement of the International Monetary Fund of July 22, 1944;
- 3) shall not cause excessive damage to the commercial, economic and financial interests of any other Member State;
- 4) shall not be more burdensome than required to overcome the circumstances referred to in paragraph 11 of this Protocol;
- 5) shall be temporary and be phased out with the disappearance of the circumstances referred to in paragraph 11 of this Protocol.

13. When determining the sphere of the restrictions specified in paragraph 11 of this Protocol, the Member States may give priority to the supply of those goods or services that are more critical to their economic or development programs. However, such restrictions shall not be imposed or maintained for the protection of a certain economic sector.

14. Any restrictions imposed or maintained by the Member States in accordance with paragraph 11 of this Protocol or any changes thereto shall be immediately communicated to all other Member States.

## V. State Participation

15. The treatment accorded by each Member State to persons of another Member State on its territory with regard to participation in privatisation shall be no less favourable than that accorded to persons of its

Member State, subject to the restrictions, exceptions and additional requirements and conditions specified in the national lists or Annex 2 to this Protocol.

16. If any juridical persons operating on the territory of a Member State have participation of that Member State in their capital or are controlled by the Member State, the Member State shall ensure that these persons:

1) operate for commercial considerations and participate in relations governed by this Protocol:

on the basis of the principle of equality with the other participants of these relations;

on the basis of the principle of non-discrimination of other participants of these relations according to their nationality, place of registration (incorporation), organisational legal form or form of ownership;

2) are not granted any rights, privileges or obligations solely because of the participation of the Member State in their capital or control of that Member State over these persons.

These requirements shall not apply when the activities of such juridical persons are aimed at solving problems of the social policy of the Member State, as well as to all restrictions and conditions specified in the national lists or Annex 2 to this Protocol.

17. The provisions of paragraph 16 of this Protocol shall also apply to juridical persons having formal or de facto exclusive rights or special privileges, except for juridical persons with rights and/or privileges included, pursuant to sub-paragraphs 2 and 6 of paragraph 30 of this Protocol, in the national lists or Annex 2 to this Protocol, and juridical persons the activities of which are governed by Section XIX of the Treaty.



18. Each Member State shall ensure that all state or local authorities of that Member State at any level are independent of and unaccountable to any person engaged in business activities in the economic sector regulated within the competence of the respective authority, without prejudice to the provisions of Article 69 of the Treaty.

Measures of that Member State, including decisions of the above authority and rules and procedures determined and applied thereby, shall be unbiased and objective in relation to all persons engaged in economic activities.

19. In accordance with the obligations arising from Section XIX of the Treaty and notwithstanding the provisions of paragraph 30 of this Protocol, each Member State may retain in its territory any juridical persons that are the subjects of natural monopolies. A Member State retaining such juridical persons on its territory shall ensure that these juridical persons act in a manner consistent with the obligations of the Member State arising from Section XIX of the Treaty.

20. Should the juridical persons of a Member State referred to in paragraph 19 of this Protocol compete directly or via controlled juridical persons outside the sphere of their monopoly rights with juridical persons of other Member States, the first Member State shall ensure that such juridical persons do not abuse their monopoly position acting on the territory of the first Member State in a manner inconsistent with the obligations of the first Member State arising out of this Protocol.

## VI. Trade in Services, Incorporation and Activities

### 1. National Treatment for Trade in Services, Incorporation and Activities

21. The treatment accorded by each Member State in respect of services, service suppliers and service recipients of another Member State regarding all measures affecting trade in services shall be no less favourable than that accorded under the same (similar) circumstances to its own same (similar) services, service suppliers and service recipients.

22. Each Member State may perform the obligations referred to in paragraph 21 of this Protocol through the provision of formally similar or formally different treatment to services, suppliers and recipients of services of any other Member State as compared to the treatment accorded by that Member State to its own same (similar) services, or suppliers or recipients of services.

Formally similar or formally different treatment shall be considered less favourable if it modifies the terms of competition in favour of services, service suppliers and/or service recipients of that Member State as compared to the same (similar) services, service suppliers and/or recipients of any other Member State.

23. Notwithstanding the provisions of paragraph 21 of this Protocol, each Member State may impose certain restrictions and conditions specified in the national lists or Annex 2 to this Protocol in respect of services, service suppliers and service recipients of another Member State.

24. The treatment accorded by each Member State to persons of any other Member State in respect of incorporation and activities shall be no less

favourable than that accorded under the same (similar) circumstances to its own persons on its territory.

25. Each Member State may perform the obligations referred to in paragraph 24 of this Protocol through the provision of formally similar or formally different treatment to persons of any other Member State as compared to the treatment accorded by that Member State to its own persons. The treatment shall be deemed less favourable if it modifies the terms of competition in favour of persons of that Member State as compared to persons of any other Member State.

26. Notwithstanding the provisions of paragraph 24 of this Protocol, each Member State may impose certain restrictions and conditions specified in the national lists or Annex 2 to this Protocol in respect of incorporation or activities of persons of another Member State.

## 2. Most Favoured Nation Treatment for Trade in Services, Incorporation and Activities

27. The treatment accorded by each Member State, under the same (similar) circumstances, with regard to services, service suppliers and recipients of any other Member State, shall be no less favourable than that accorded to the same (similar) services, service suppliers and recipients of third states.

28. Notwithstanding the provisions of paragraph 27 of this Protocol, each Member State may impose certain exceptions specified in the national list or Annex 2 to this Protocol in respect of services, service suppliers and service recipients of any other Member State.

29. The treatment accorded by each Member State, under the same (similar) circumstances, to persons of any other Member State and persons

incorporated thereby in respect of their incorporation and activities in its territory shall be no less favourable than that accorded to persons of third states and persons incorporated thereby.

### 3. Quantitative and Investment Measures

30. The Member States shall not introduce or apply to persons of any Member State any restrictions with respect to trade in services, incorporation and activities regarding:

- 1) the number of service suppliers in the form of quota, economic feasibility tests or any other quantitative form;
- 2) the number of juridical persons, branches or representative offices created, acquired and/or controlled and individual entrepreneurs registered;
- 3) transactions of any service supplier in the form of quota, economic feasibility tests or any other quantitative form;
- 4) transactions of juridical persons, branches or representative offices created, acquired and/or controlled and individual entrepreneurs registered, conducted in the course of their activities in the form of quotas, economic feasibility tests or any other quantitative form;
- 5) forms of incorporation, including the organisational legal form of a juridical person;
- 6) acquired shares in the authorised capital of a juridical person or the degree of control over a juridical person;
- 7) limitations of the total number of natural persons that may be employed in a particular service sector or the number of natural persons that may be employed by a service supplier and are required and directly relevant

to the supply of certain services in the form of numerical quotas or economic feasibility tests.

31. In respect of service suppliers and recipients of any Member State, each Member State may impose and apply the restrictions specified in paragraph 30 of this Protocol, if such restrictions are specified in the national list or Annex 2 to this Protocol.

32. No Member State shall be entitled to introduce or apply the following additional requirements to persons of the Member States and persons incorporated thereby as conditions for their incorporation and/or activities:

1) on exportation of all manufactured goods or services or any part thereof;

2) on importation of goods or services;

3) on the purchase or use of goods or services originating from a Member State;

4) any requirements restricting the sale of goods or supply of services on the territory of that Member State, the import of goods into the territory of that Member State or export of goods from its territory that are based on the volume of goods manufactured (service supplied) or on the use of local goods or services or restrict access to foreign exchange payable in connection with transactions referred to in this sub-paragraph;

5) on the transfer of technology, know-how and other information of commercial value, except in the case of their transfer pursuant to a court order or an order issued by a authority in the field of protection of competition, subject to the rules of the competition policy determined by other international treaties of the Member States.

33. Each Member State may introduce and apply to persons of other Member States any additional requirements referred to in paragraph 32 of this Protocol, if such restrictions are provided for by the national list or Annex 2 to this Protocol.

34. The requirements specified in paragraph 32 of this Protocol shall not be grounds for obtaining any preferences by persons of any Member State in connection with their incorporation or activities.

#### 4. Migration of Natural Persons

35. Except for the restrictions and requirements specified in the national list or Annex 2 to this Protocol, subject to the provisions in Section XXVI of the Treaty, no Member State shall apply or impose in its territory any restrictions on employment of workers for activities of juridical persons, branches or representative offices created, acquired and/or controlled and individual entrepreneurs registered.

36. The provisions of paragraph 35 of this Protocol shall not apply with respect to the requirements for education, experience, qualifications, and professional qualities, if their application does entail actual discrimination against workers on the ground of their national origin.

37. Subject to the provisions of Section XXVI of the Treaty, no Member State shall apply or impose restrictions on natural persons involved in trade in services in the procedure specified in the fifth indent of subparagraph 22 of paragraph 6 of this Protocol and present on the territory of that Member State.

## 5. Establishment of a Common Market of Services

38. For the purposes of this section, the common market of services shall refer to such a state of the market of services of a particular sector when each Member State grants to persons of any other Member State the right to:

1) supply and receive services under the conditions specified in paragraphs 21, 24, 27, 29, 30 and 32 of this Protocol, without any restrictions, exceptions and additional requirements, except for the conditions and restrictions provided for in Annex 2 to this Protocol;

2) supply services without additional incorporation of a juridical person;

3) supply services on the basis of permit for the supply of services obtained by the service supplier on the territory of its Member State;

4) recognize professional qualifications of the staff of the service supplier.

39. The rules of the common market of services shall apply to the Member States on a reciprocal basis.

40. The common market of services within the Union shall operate in the service sectors approved by the Supreme Council on the basis of proposals agreed by the Member States and the Commission.

41. The Member States shall seek to spread, on a reciprocal basis, the rules of the common market of services onto the maximum number of service sectors, including through gradual elimination of exceptions and restrictions provided for by national lists.

42. The procedure and the stages of establishment of the common market of services shall be determined for individual sectors in liberalisation plans developed on the basis of proposals agreed by the Member States and

the Commission to be approved by the Supreme Council (hereinafter "the liberalisation plans").

43. Liberalisation plans may provide for certain Member States extended deadlines for the liberalisation of individual service sectors, which shall not prevent other Member States from establishment of the common market in these sectors on the basis of reciprocity.

44. The provisions of subsections 1-4 of this section shall apply to sectors not regulated by the rules of the common market of services.

## 6. Relations with Third States on Trade in Services, Incorporation, Activities and Investments

45. Nothing in this Protocol shall preclude the Member States from concluding with third states international treaties on economic integration in compliance with the requirements of paragraph 46 of this Protocol.

Each Member State having concluded such a treaty on economic integration shall make concessions in respect of the Member States under the same (similar) conditions as granted under the international treaty.

Concessions in this paragraph refer to cancellation by the Member State of one or more restrictions provided for by its national list.

46. For the purposes of this Protocol, international treaties on economic integration between a Member State and a third state shall refer to all international treaties meeting the following criteria:

1) covering a significant number of service sectors and under no circumstances knowingly a priori preclude any mode of supply of services or aspects of incorporation and activities;

2) focusing on the elimination of existing and prohibition of new discriminatory measures;



3) aimed at liberalising the trade in services, incorporation and activities.

These international treaties shall be intended to facilitate trade in services and the conditions of incorporation and activities applied between parties thereto. Such treaty shall not create for any third state an increase in the overall number of barriers to trade in services in certain sectors or sub-sectors as compared to the situation existing prior to the conclusion of such treaty.

47. A Member State having concluded with a third state an international treaty on economic integration shall be obliged to inform other Member States thereof within 1 month from its signing date.

48. The Member States shall be free to determine their foreign trade policy in relation to trade in services, incorporation, activities and investments with third states.

## 7. Additional Rights of Service Recipients

49. Subject to the provisions of Section XV of the Treaty, each Member State shall not impose any requirements or special conditions for a service recipient restricting its rights to obtain, use or pay for the services rendered (provided) by a service supplier of another Member State, including with regard to the selection of a service supplier or mandatory permits to be obtained from competent authorities.

50. Subject to the provisions of Section XV of the Treaty, each Member State shall ensure non-application with respect to service recipients of any discriminatory requirements or special conditions on the grounds of their nationality, place of residence or place of incorporation or activities.

51. Each Member State shall oblige:

1) service suppliers to provide the necessary information to service recipients in accordance with the Treaty and the legislation of the Member State;

2) competent authorities to take measures to protect the rights and legitimate interests of service recipients.

52. Nothing in this Protocol shall affect the right of a Member State to take any measures required for the implementation of its social policies, including for ensuring pension and social support of its population.

All issues regarding consumer access to services covered by Sections XIX, XX and XXI of the Treaty and the treatment accorded to consumers of such services shall be governed by the provisions of these Sections, respectively.

## 8. Mutual Recognition of Permits and Professional Qualifications

53. Recognition of permits for the supply of services in sectors for which the liberalisation plans are implemented shall be recognised after the taking measures referred to in paragraphs 54 and/or 55 of this Protocol.

54. On the basis of mutual consultations (including on the interdepartmental level), the Member States may decide on the mutual recognition of permits for the supply of services in specific sectors upon achievement of substantial equivalence of regulation in these sectors.

55. Liberalisation plans shall ensure:

1) gradual convergence of mechanisms ensuring admission to activities (including authorisation requirements and procedures) through the

harmonisation of legislation of the Member States, setting sector-specific completion dates of such harmonisation;

2) the establishment of administrative cooperation mechanisms in accordance with Article 68 of the Treaty;

3) recognition of professional qualifications of employees of service suppliers.

56. When professional examinations are required prior to admission to the implementation of professional services, each Member State shall ensure a non-discriminatory procedure for passing such professional examinations.

#### 9. Internal Regulation in Trade in Services, Incorporation and/or Activities

57. Each Member State shall ensure that all measures of that Member State affecting trade in services, incorporation and activities are applied in a reasonable, objective and impartial manner.

58. Each Member State shall maintain and create as soon as practicable all judicial, arbitration or administrative authorities or procedures that shall, on request of persons of other Member States the interests of which have been affected, promptly review respective issues and adopt reasonable measures to alter administrative decisions affecting trade in services, incorporation and activities. In cases where such procedures are not independent of the authority entrusted with the respective administrative decision, the Member State shall ensure that the procedures guarantee an objective and impartial review.

59. The provisions of paragraph 58 of this Protocol shall not require a Member State to establish authorities or procedures referred to in paragraph

58 of this Protocol when it is inconsistent with its constitutional procedure or the nature of its judicial system.

60. Should it be required to obtain a permit for trade in services, incorporation and/or activities, the competent authorities of the Member State shall, within a reasonable period of time after the submission of the respective application deemed executed in accordance with the legislation of the Member State and applicable regulation provisions, inform the applicant of the review of the application and the results obtained thereupon.

The above application shall not be deemed duly arranged until all documents and/or information have been received as specified in the legislation of the Member State.

In any case, the applicant shall be given the opportunity to make technical corrections in the application.

At the request of the applicant, competent authorities of the Member State shall provide information about the progress of application processing without undue delay.

61. In order to ensure that authorisation requirements and procedures do not constitute unnecessary barriers to trade in services, incorporation and activities, the Commission shall, in agreement with the Member States, develop respective rules to be approved by the Supreme Council. These rules shall be intended to ensure that such authorisation requirements and procedures, among other things:

- 1) are based on objective and overt criteria such as competence and the ability to conduct trade in services and activities;
- 2) are not more burdensome than required to ensure the security of ongoing activities, as well as the safety and quality of services supplied;

3) do not restrict trade in services, incorporation and/or activities.

62. The Member States shall not apply any authorisation requirements and procedures that invalidate or reduce benefits and:

- 1) do not meet the criteria specified in paragraph 61 of this Protocol;
- 2) have not been determined by the legislation of the Member State and applied by the Member State as on the signing date of the Treaty.

63. When confirming fulfilment by a Member State of the obligations referred to in paragraph 62 of this Protocol, international standards of international organisations open for membership to all the Member States shall be taken into account.

64. If a Member State applies authorisation requirements and procedures in relation to trade in services, incorporation and/or activities, it shall ensure that:

1) the names of competent authorities issuing authorisations have been published or otherwise communicated to the general public;

2) all authorisation requirements and procedures have been determined in the legislation of the Member State and any act determining or applying any authorisation procedures and requirements has been published prior to its effective date (entry into force);

3) competent authorities have decided to issue or refuse to issue a permit within a reasonable period of time specified in the legislation of the Member State and generally equal to up to 30 working days from the date of receipt (arrival) of the application deemed arranged in accordance with the legislation of the Member State. This period shall be determined based on the minimum time required to obtain and process all documents and/or information necessary for the implementation of the authorisation procedure;

4) any fees charged in connection with the submission and consideration of the application, except for the fees charged for the right to engage in activities, did not constitute a restriction on trade in services, incorporation or activities and were based on the expenses of the competent authority incurred with regard to the consideration of the application and issuance of the permit;

5) upon expiration of the period referred to in sub-paragraph 3 of this paragraph and at the request of the applicant, the competent authority of the Member State informed the applicant in accordance with paragraph 60 of this Protocol of the status of its application, indicating whether the application was deemed duly executed.

In any case, the applicant shall be granted the rights provided for in paragraphs 57, 58, 60, 62 and 64 of this Protocol;

6) upon written request of an applicant whose application was rejected, the competent authority that rejected the application informed the applicant in writing of the reasons for this rejection. This provision shall not be construed to require the competent authority to disclose information if it prevents due enforcement of the law or is otherwise contrary to the public interest or critical security interests of the Member State;

7) in case of rejection of an application by the competent authority due to its improper execution, the applicant was able to reapply;

8) permits issued for the supply of services were effective on the entire territory of the Member State specified in such permits.

## VII. Investments

### 1. General Provisions

65. The provisions of this section shall apply to all investments made by investors of the Member States on the territory of another Member State starting from December 16, 1991.

66. Incorporation within the meaning of sub-paragraph 24 of paragraph 2 of this Protocol shall constitute a form of investment. All provisions of this Protocol, except for the provisions of paragraphs 69-74 of this Protocol, shall apply to such investments.

67. Changes in investment methods, as well as in forms of investment or reinvestment, shall not affect their qualification as investments provided that such changes do not contradict the legislation of the recipient state.

### 2. Legal Treatment and Protection of Investments

68. Each Member State shall ensure on its territory fair and equitable treatment to investments and investment-related activities conducted by investors of other Member States.

69. The treatment specified in paragraph 68 of this Protocol shall not be less favourable than the treatment accorded by the Member State in respect of investments and investment-related activities conducted by its domestic (national) investors.

70. The treatment accorded by each Member State, under the same (similar) circumstances, to investors of any other Member State, their investments and investment-related activities shall be no less favourable than the treatment accorded to investors of any third state, their investments and activities related to such investments.

71. The treatments provided for in paragraphs 69 and 70 of this Protocol shall be accorded by the Member States as selected by the investor, depending on the most favourable treatment.

72. Each Member State shall create favourable conditions for investment in its territory to investors of other Member States and shall enable such investments in accordance with its legislation.

73. Each Member State shall, in accordance with its legislation, reserve the right to restrict the activities of investors of other Member States, as well as to apply and introduce other exceptions to the national treatment referred to in paragraph 69 of this Protocol.

74. The provisions of paragraph 70 of this Protocol shall not be construed as obliging a Member State to extend to investments and related activities of investors of other Member States the benefits of any treatment, preferences or privileges that are available or may be made available in the future to that Member State under international treaties on the avoidance of double taxation or other agreements on taxation, as well as the treaties referred to in paragraph 46 of this Protocol.

75. Each recipient state shall guarantee the following to investors of other Member States, upon completion by the latter of their obligations under all tax-related and other legislation of the recipient state:

1) the right to use and dispose of the income generated as a result of investments for any purpose not prohibited by the legislation of the recipient state;

2) the right to use and dispose of the income generated as a result of investments for any purpose not prohibited by the legislation of the recipient state;



3) the right to freely transfer investment-related funds (cash) and payments referred to in paragraph 8 of this Protocol to any country, at the discretion of the investor.

76. Each Member State shall guarantee and ensure on its territory, in accordance with its legislation, the protection of investments of investors of other Member States.

### 3. Indemnity and Guarantees of Investors

77. Investors shall be entitled to indemnification for damages caused to their investments as a result of civil unrest, hostilities, revolutions, insurrection, state of emergency or other similar circumstances on the territory of a Member State.

78. These investors shall be accorded treatment no less favourable than that accorded by the recipient state to its domestic investors or to investors of third states in respect of measures taken by the Member State in relation to compensation for such damage, depending on the most favourable treatment for the investor.

### 4. Guarantees of Rights of Investors in Expropriation

79. Investments of investors of a Member State made on the territory of another Member State shall not be subject to direct or indirect expropriation, nationalisation and other measures with consequences equivalent to those of expropriation or nationalisation (hereinafter "expropriation"), except in cases where such measures are taken for the public benefit in the procedure determined by the legislation of the recipient state, are not discriminatory and involve prompt and adequate compensation.

80. The compensation referred to in paragraph 79 of this Protocol shall correspond to the market value of investments expropriated from investors on the date immediately preceding the date of their actual expropriation or the date when it becomes known about the upcoming expropriation.

81. The compensation referred to in paragraph 79 of this Protocol shall be paid without delay, within the period provided for by the legislation of the recipient state, but not later than within 3 months from the date of expropriation and shall be freely transferable abroad from the territory of the recipient state in a freely convertible currency.

In case of a delayed payment of compensation, interest shall be accrued in the period from the date of expropriation till the date of actual payment of the compensation, to be calculated at the domestic interbank market rate for actually provided loans in US dollars for up to 6 months, but not below the rate of LIBOR, or in the procedure determined by agreement between the investor and the Member State.

## 5. Transfer of Rights of Investor

82. A Member State or its authorised authority having completed payments to an investor of their state based on the guarantees of protection against non-commercial risks in connection with an investment of such investor on the territory of a recipient state may exercise the rights of such investor under subrogation to the same extent as the investor.

83. The rights referred to in paragraph 82 of this Protocol shall be exercised in accordance with the legislation of the recipient state, but without prejudice to the provisions of paragraphs 21, 24, 27, 29, 30 and 32 of this Protocol.

## 6. Procedure for Settlement of Investment Disputes

84. All disputes between a recipient state and an investor of another Member State arising from or in connection with an investment of that investor on the territory of the recipient state, including disputes regarding the size, terms or order of payment of the amounts received as compensation of damages pursuant to paragraph 77 of this Protocol and the compensation provided for in paragraphs 79-81 of this Protocol, or the order of payment and transfer of funds provided for in paragraph 8 of this Protocol, shall be, where possible, resolved through negotiations.

85. If a dispute may not be resolved through negotiations within 6 months from the date of a written notification of any of the parties to the dispute on negotiations, it may be referred to the following, at investor's option:

- 1) a court of the recipient state duly competent to consider relevant disputes;
- 2) international commercial arbitration court at the Chamber of Commerce of any state as may be agreed by the parties to the dispute;
- 3) ad hoc arbitration court, which, unless the parties to the dispute agree otherwise, shall be established and act in accordance with the Rules of Arbitration of the United Nations Commission on International Trade Law (UNCITRAL);
- 4) the International Centre for Settlement of Investment Disputes established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of March 18, 1965, in order to resolve the dispute under the provisions of the Convention (provided

that it has entered into force for both Member States that are parties to the dispute) or under the Additional Facility Rules of the International Centre for Settlement of Investment Disputes (if the Convention has not entered into force for one or both the Member States that are parties to the dispute).

86. An investor having referred a dispute for settlement to a national court or one of the arbitration courts specified in sub-paragraphs 1 and 2 of paragraph 85 of this Protocol shall not have the right to redirect the dispute to any other court or arbitration.

The choice made by an investor with respect to a court or arbitration referred to in paragraph 85 of this Protocol shall be final.

87. Any arbitration decision on a dispute considered pursuant to paragraph 85 of this Protocol shall be final and binding on the parties to the dispute. Each Member State shall ensure enforcement of such decisions in accordance with its legislation.

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Annex 1  
to Protocol on Trade in Services,  
Incorporation, Activities and  
Investments

**Procedures  
for Trade in Telecommunication Services**

1. These Procedures shall apply to measures of the Member States governing activities in the field of telecommunications.

2. These Procedures shall not apply to activities in the field of postal services.

3. Nothing in these Procedures shall be construed as requiring any Member State (or requiring the Member States to oblige service suppliers under its jurisdiction) to determine specific requirements for any telecommunications networks that are not connected to the public telecommunications network.

4. The terms used in these Procedures shall have the following meanings:

"public telecommunications network" means a technological system comprising communication tools and lines, intended for fee-based provision of telecommunications services to any users of telecommunications services on the territory of a Member State in accordance with the legislation of that Member State;

"universal telecommunications services" means a list compiled by a Member State and specifying telecommunications services that shall be provided by universal service operators to any user in any locality with

observance of the established mandatory quality and price levels ensuring their affordability;

"telecommunications services" means activities such as receiving, processing, storage, transmission and delivery of electronic messages.

5. Each Member State shall ensure that information on the terms of access to public telecommunications networks and telecommunications services remains publicly available (including information on the terms of provision of services, the rates (prices) of technical connections to such networks, authorities responsible for the preparation and adoption of standards with regard to such access and use, terms for connection of terminal or other equipment, as well as requirements for notifications, registration or licensing, and any other authorisation procedures, as may be required).

6. All activities related to the provision of telecommunications services shall be conducted on the basis of licenses issued by authorised authorities of the Member States, within the territorial boundaries and in compliance with the terms determined therein and using the numbering assigned to each operator in the procedure determined by the legislation of the Member States.

7. In the provision of telecommunications services using the radio spectrum, in addition to a license to conduct relevant activities on the territory of the Member State, the operator shall be obliged to obtain a decision of the authorised authority of the Member State on allocation of respective frequency bands, radio frequency channels or radio frequencies for operation of the electronic radio device and on assignment of respective radio frequencies and/or radio frequency channels.

8. The allocation of frequency bands, radio frequency channels or radio frequencies, the assignment of radio frequencies or radio frequency channels, and the issuance of permits for the use of the radio spectrum shall be carried out in the procedure determined by the legislation of the Member States.

9. All fees related to the allocation and use of the radio spectrum shall be charged in the procedure and amount determined by the legislation of the Member States.

10. The Member States shall take all appropriate measures, including legislative and administrative action, to ensure non-discrimination and equal access to telecommunications networks and services.

11. Each telecommunications operator, regardless of its position in the market of telecommunication services, shall connect to the public telecommunications network in compliance with the legislation of the Member State, if it is technically feasible, on terms no less favourable than those provided to other telecommunications operators of the Member States operating under comparable conditions.

12. The Member States may determine and implement state regulation of tariffs on certain types of telecommunication services. These tariffs for telecommunication services shall be based on the requirements of the legislation of the respective Member State.

The Member States shall guarantee to persons of all Member States the provision of services on tariffs of the host country upon conclusion of service contracts for the provision of telecommunication services with operators of the host country.

13. With regard to the types of telecommunications services the tariffs for which are not subject to state regulation, the Member States shall ensure

the availability and effective application of the competition law in order to prevent any distortion of the terms of competition between suppliers and recipients of telecommunications services of the Member States.

14. By January 1, 2020, the Council of the Commission shall have approved a common approach to the pricing on traffic transmission services of the Member States.

15. The Member States shall take all necessary measures to ensure unimpeded traffic transmission, including transit type, by telecommunications operators of the Member States based on agreements between operators and with account of the technical capabilities of networks.

16. The Member States shall ensure non-use of subsidies of local and long-distance telecommunications through the completion of international calls on its territory.

17. Radio spectrum resources and the numbering resource shall be allocated and used in accordance with the legislation of the Member States.

18. The Member States shall ensure the provision of universal telecommunications services on their territories on the basis of common principles and rules determined by recommendations of international organisations in this field. Each Member State shall have the right to independently determine the obligations to provide the universal service. These obligations shall not be regarded as anti-competitive provided that they are fulfilled on the basis of transparency, non-discrimination and neutrality in terms of competition and shall not be more burdensome than required for the type of universal services determined by the Member State.

19. Regulatory authorities of the Member States shall be independent from telecommunications operators and shall not be accountable to them. All



decisions of such authorities shall be impartial with respect to all participants in this market.



## Annex 2

### to Protocol on Trade in Services, Incorporation, Activities and Investments

#### **List of "Horizontal" Restrictions Retained by the Member States for All Sectors and Activities**

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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#### I. The Republic of Belarus

1. The terms and procedures for access, including restrictions of access to subsidies and other state support measures, shall be determined by the legislation of the Republic of Belarus and applied in full, but without prejudice to the provisions of Sections XXIV and XXV of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty")

paragraphs 23 and 26

Budget Code of the Republic of Belarus, Tax Code of the Republic of Belarus, legislation of the Republic of Belarus on the national budget for the corresponding year, Presidential Decree No. 182 of March 28, 2006, On Improving Legal Regulation of the Procedure of Rendering State Support to Juridical Persons and Individual Entrepreneurs, regulatory legal acts of the Republic of Belarus, national and local governmental authorities

2. Land plots may be held by foreign juridical persons and individual entrepreneurs only on a

paragraphs 23 and 26

Presidential Decree No.667 of December 27, 2007, On

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
leasehold basis		Seizure and Allocation of Land Plots,  Land Code of the Republic of Belarus
3. The private partner selection procedure and a list of critical terms of concession agreements shall be in accordance with the legislation of the Republic of Belarus. Activities or the right to possess and use the subject of concession on the basis of a concession agreement, including determining the terms and conditions thereof	paragraphs 15-17, 23, 26, 31 and 33	Law No. 63-Z of the Republic of Belarus of July 12, 2013, On Concessions, Presidential Decree No. 10 dated August 6, 2009, On Establishment of Additional Conditions for Investment Activities in the Republic of Belarus, Law No. 53-Z of the Republic of Belarus of July 12, 2013, On Investments
4. The priority in the provision of fauna for use in a particular territory or water area shall be granted to juridical persons and nationals of the Republic of Belarus	paragraphs 23 and 26	Law No. 257-Z of the Republic of Belarus of July 10, 2007, Concerning Fauna
5. Land management (activities on land inventory, land-use planning, incorporation (restoration) and securing the boundaries of land plots, other land management activities aimed at improving the efficiency of land use and protection) shall be carried out only by state organisations subordinate to (included in	paragraphs 16, 17, 23, 26 and 31	Law No. 169-Z of the Republic of Belarus of July 15, 2010, On Property Exclusively Owned by the State and Activities Conducted Exclusively by the State, Presidential Decree No. 667 of the Republic of Belarus of December 27, 2007, On Seizure and Allocation of Land Plots

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
the system of) a specially authorised state administration authority		
6. Technical inventory and state registration of immovable property, rights thereto and transactions therewith shall be carried out only by state organisations subordinate to (included in the system of) a specially authorised state administration authority	paragraphs 16, 17, 23, 26 and 31	Law No. 169-Z of the Republic of Belarus of July 15, 2010, On Property Exclusively Owned by the State and Activities Conducted Exclusively by the State, Law No. 133-Z of the Republic of Belarus of July 22, 2002 On State Registration of Immovable Property, Rights thereto and Transactions therewith
7. State property shall be evaluated for the purposes of transactions and/or other legally significant actions therewith by state organisations and organisations with the state share in the authorised capital exceeding 50 percent engaged in assessment activities and organisations subordinate to (included in the system of) a specifically authorised state administration authority	paragraphs 16, 17, 23, 26 and 31	Presidential Decree No.615 of the Republic of Belarus of October 13, 2006, On Appraisal Activities
8. Geodetic and cartographic works the results of which are of national and cross-sectoral importance shall only be conducted by state	paragraphs 16, 17, 23, 26 and 31	Law No. 169-Z of the Republic of Belarus of July 15, 2010, On Property Exclusively Owned by the State and Activities

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
organisations subordinate to (included in the system of) a specially authorised state administration authority		Conducted Exclusively by the State
II. The Republic of Kazakhstan		
1. The terms and procedures for access, including restrictions of access to subsidies and other state support measures, shall be determined by the legislation of the Republic of Kazakhstan and its government authorities and applied in full, but without prejudice to the provisions of Sections XXIV and XXV of the Treaty	paragraphs 23 and 26	Budget Code of the Republic of Kazakhstan, legislation of the Republic of Kazakhstan on the national budget for the relevant year, regulatory legal acts of the Republic of Kazakhstan, its national and local governmental authorities
2. Foreign persons may not privately own land plots designated for agricultural production and forest planting. The right of temporary paid land use for farming and commodity agricultural production shall be granted to foreign persons for up to 10 years	paragraphs 23 and 26	Land Code of the Republic of Kazakhstan
3. It shall not be allowed for foreign natural and juridical persons to privately own any	paragraphs 23 and 26	Land Code of the Republic of Kazakhstan, Law No.156-XIII of the Republic of Kazakhstan of September

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
<p>land located in the border zone and border strip of the Republic of Kazakhstan, as well as within the boundaries of its sea ports.</p> <p>Agricultural land immediately adjacent to the buffer zone of the state border of the Republic of Kazakhstan (within a three-kilometre area) may only be provided to nationals and juridical persons of the Republic of Kazakhstan for temporary use prior to its delimitation and demarcation, unless otherwise provided by the legislation of the Republic of Kazakhstan on the State Border of the Republic of Kazakhstan</p>		<p>21, 1994, On Transport in the Republic of Kazakhstan, Law No.70-V of the Republic of Kazakhstan of January 16, 2013, On the State Border of the Republic of Kazakhstan</p>
<p>4. The right for permanent use of land may not be granted to foreign land users</p>	<p>paragraphs 23 and 26</p>	<p>Land Code of the Republic of Kazakhstan</p>
<p>5. In respect of subsoil use contracts between the Government of the Republic of Kazakhstan and subsoil users concluded under Law No.291-IV of the Republic of Kazakhstan dated June 24, 2010, On Subsoil and Subsoil Use, the terms of such contracts</p>	<p>paragraphs 16, 17, 23, 26, 31, 33 and 35</p>	<p>Law No.291-IV of the Republic of Kazakhstan of June 24, 2010, On Subsoil and Subsoil Use, Law of the Republic of Kazakhstan On Subsoil and Subsoil Use of January 27, 1996, Law of the Republic of Kazakhstan On Oil of June 28, 1995.</p>

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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shall apply prior to the entry into force of the Treaty<sup>1</sup>

6. In respect of subsoil use contracts between the Government of the Republic of Kazakhstan and subsoil users concluded under Law No.291-IV of the Republic of Kazakhstan dated June 24, 2010, On Subsoil and Subsoil Use, after the entry into force of the Treaty<sup>2</sup>:

6.1. The Republic of Kazakhstan shall reserve the right to demand from investors, in accordance with respective investment contracts, the procurement of services from juridical persons of the Republic of Kazakhstan:

6.1.1. with respect to exploration and mining of solid minerals – not more than 50 percent of all services purchased by the investor in

paragraphs 16, 17, 23, 26, 31, 33 and 35

Law No.291-IV of the Republic of Kazakhstan of June 24, 2010, On Subsoil and Subsoil Use, Law of the Republic of Kazakhstan On Subsoil and Subsoil Use of January 27, 1996, Law of the Republic of Kazakhstan On Oil of June 28, 1995.

<sup>1</sup> These exceptions shall be retained and applied in the procedure and on the terms specified in the protocol of accession of the Republic of Kazakhstan to the WTO.

<sup>2</sup> These exceptions shall be retained and applied in the procedure and on the terms specified in the protocol of accession of the Republic of Kazakhstan to the WTO.

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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implementation of an investment contract

6.1.2. with respect to exploration and mining of hydrocarbons:

6.1.2.1. until January 1, 2016 – no more than 70 percent of all services purchased by the investor in implementation of an investment contract

6.1.2.2. from January 1, 2016, to the date of accession of the Republic of Kazakhstan to the WTO – no more than 60 percent of all services purchased by the investor in implementation of an investment contract

6.1.2.3. from the date of accession of the Republic of Kazakhstan to the WTO – no more than 50 percent of all services purchased by the investor in implementation of an investment contract

6.2. within 6 years of the accession of the Republic of Kazakhstan to the WTO, when holding a tender to attract a subcontractor the



Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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investor shall conditionally reduce the price of the tender bid submitted by a juridical person of the Republic of Kazakhstan by 20 percent, if at least 75 percent of skilled employees of the subcontractor are nationals of the Republic of Kazakhstan, provided that the juridical person of the Republic of Kazakhstan meets the standards and quality characteristics specified in the tender documentation

6.3. upon expiration of 6 years after the accession of the Republic of Kazakhstan to the WTO, when holding a tender to attract a subcontractor the investor shall conditionally reduce the price of the tender bid submitted by a juridical person of the Republic of Kazakhstan by 20 percent, if at least 50 percent of skilled employees of the subcontractor are nationals of the Republic of Kazakhstan, provided that the juridical person of the Republic of Kazakhstan meets the standards and quality characteristics specified

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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in the tender documentation

6.4. when determining the terms of the tender for the right of subsoil use, the Republic of Kazakhstan shall not set the minimum number of local labour or services in excess of 50 percent, subject to the following:

6.4.1. the number of local labour attracted by an investor that has been granted the right of subsoil use (hereinafter "the investor") shall be calculated in equal proportions on the basis of the number of executives, managers and professionals, within the meaning of these terms specified for the purposes of entry and temporary stay of persons under intra-corporate transfers in the List of Specific Commitments of the Republic of Kazakhstan to the WTO with regard to access to the market of services (hereinafter "skilled labour"), who are nationals of the Republic of Kazakhstan

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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6.4.2. the local labour in all services provided to the investor shall be calculated as a proportion of the total annual amount of payments (costs) for the provision of services under all contracts made in favour of juridical persons of the Republic of Kazakhstan.<sup>3</sup> However, the amount paid to a juridical person of the Republic of Kazakhstan shall be reduced by any amount paid for services under a subcontracting agreement at any level to organisations that are not juridical persons of the Republic of Kazakhstan

6.4.3. when determining the successful bidder to be granted the right of subsoil use, the Republic of Kazakhstan shall not take into account the fact that the potential investor may offer a number of local labour and services exceeding 50 percent

6.5. The Republic of Kazakhstan shall reserve

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<sup>3</sup> Contracts with a juridical person of the Republic of Kazakhstan shall not be taken into account if the person does not carry out agreed activities on the territory of the Republic of Kazakhstan. The definition of "juridical person of the Republic of Kazakhstan" shall also refer to individual entrepreneurs.

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
<p>the right to demand from investors, under respective investment contracts, the procurement of goods in the procedure and on the terms specified in paragraph 5 of section II of the list in Annex 28 to the Treaty</p> <p>7. The exception regarding the number of local labour shall be retained and applied under the conditions and in the procedure provided for in paragraph 6 of section II of the list to Annex 28 to the Treaty with regard to the procurements made by Samruk-Kazyna National Welfare Fund (NWF) and organisations, in which 50 percent or more of the voting shares (participation) are directly or indirectly owned by Samruk-Kazyna, as well as companies directly or indirectly owned by the state (with the state share amounting to 50 percent or more), in accordance with Law No.550-IV of the Republic of Kazakhstan of February 1, 2012, On the National Welfare Fund, and Governmental Decree No.787 of the Republic of Kazakhstan dated May 28, 2009, On</p>	<p>paragraphs 16, 17, 23, 26, 31, 33 and 35</p>	<p>Law No.550-IV of the Republic of Kazakhstan of February 1, 2012, On the National Welfare Fund, Governmental Decree No.787 of the Republic of Kazakhstan dated May 28, 2009, On Approval of Model Regulations on procurement of goods, works and services provided by the national managing holding, national holdings, national companies and organisations in which 50 percent of shares (participation) or more are directly or indirectly owned by the national managing holding, national holdings or national companies</p>

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
<p>Approval of Model Regulations on procurement of goods, works and services provided by the national managing holding, national holdings, national companies and organisations in which 50 percent of shares (participation) or more are directly or indirectly owned by the national managing holding, national holdings or national companies.<sup>4</sup></p> <p>8. The state authority may refuse to issue a permit to the applicant to carry out transactions with the use of strategic resources and/or involving the use or acquisition of strategic facilities in the Republic of Kazakhstan if it may result in a concentration of rights in one person or group of persons from one country. Compliance with this requirement shall be also mandatory for transactions with related parties. In order to ensure the national security, the Government of the Republic of Kazakhstan</p>	<p>paragraphs 15, 16, 23, 26, 31 and 33</p>	<p>Law No. 527-IV of the Republic of Kazakhstan of January 6, 2012, On National Security,</p> <p>Law No. 461 of the Republic of Kazakhstan of July 2, 2003, On the Securities Market</p>

<sup>4</sup> These exceptions shall be retained and applied in the procedure and on the terms specified in the protocol of accession of the Republic of Kazakhstan to the WTO.

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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shall impose restrictions on the transfer and emergence of ownership of strategic resources (facilities) of the Republic of Kazakhstan. For the purposes of implementation of the relevant decision (act) of the Government of the Republic of Kazakhstan, the issuer, the majority of shares of which are directly or indirectly owned by a national managing holding, shall not be entitled to sell shares to foreign nationals and/or juridical persons or and stateless persons when placing its shares on an organised securities market

9. The private partner selection procedure and a list of critical terms of concession agreements shall be in accordance with the legislation of the Republic of Kazakhstan. The right to assign the exclusive private partner shall be reserved. Individual rights and obligations of the public partner may be exercised by authorised public partners

paragraphs 15-17, 23, 26, 31 and 33

Law No. 167-3 of the Republic of Kazakhstan of July 7, 2006, On Concessions

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
10. Restrictions may be imposed in respect of activities within the continental shelf of the Republic of Kazakhstan	paragraphs 15-17, 23, 26, 31 and 33	Law No. 291-IV of the Republic of Kazakhstan of June 24, 2010, On Subsoil and Subsoil Use
11. The priority in the provision of wildlife for use in a particular territory or water area shall be granted to juridical persons and nationals of the Republic of Kazakhstan	paragraphs 23 and 26	Law No.593-II of the Republic of Kazakhstan dated July 9, 2004, On Protection, Reproduction and Use of Fauna
III. The Russian Federation		
1. The terms and procedures for access, including restrictions of access to subsidies and other state support measures, shall be determined by federal, regional and municipal authorities and applied in full, but without prejudice to the provisions of Sections XXIV and XXV of the Treaty	paragraphs 23 and 26	Budget Code of the Russian Federation, federal law on the federal budget for the corresponding year, regulatory legal acts of the Russian Federation, its constituents and municipalities
2. Foreign ownership of agricultural land and land in border areas shall be prohibited and may be restricted for other types of land. Lease of land shall be permitted for a period	paragraphs 23 and 26	Land Code of the Russian Federation, Federal Law No.101-FZ of July 24, 2002, On Agricultural Land Transactions

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
of up to 49 years		
3. Russian juridical persons with a share in their authorised (share) capital owned by foreign persons (or their combined share) exceeding 50 percent may own agricultural lands exclusively on lease terms. The term of such lease shall not exceed 49 years	paragraphs 23 and 26	Land Code of the Russian Federation, Federal Law No.101-FZ of July 24, 2002, On Agricultural Land Transactions
4. Transactions involving lands of traditional residence and economic activities of indigenous peoples and small ethnic groups, as well as land plots located in the border areas and other special territories of the Russian Federation may be restricted or prohibited in accordance with respective regulatory legal acts of the Russian Federation	paragraphs 23 and 26	Land Code of the Russian Federation, Federal Law No. 4730-I of February 1, 1993, On the State Border of the Russian Federation
5. With regard to trade in services in the procedure specified in the second and third indents of sub-paragraph 22 of paragraph 6 of Annex 16 of the Treaty, juridical persons of	paragraph 23	Federal Law No.225-FZ of December 30, 1995, On Production Sharing Agreements



Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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the Russian Federation shall have the preferential right to participate in production sharing agreements as contractors, suppliers, carriers or otherwise under respective agreements (contracts) with investors

6. Incorporation by persons of any other Member State of juridical persons, opening of branches and representative offices, and registration as individual entrepreneurs in closed administrative-territorial entities of the Russian Federation, acquisition by persons of any other Member State of a share in the capital of juridical persons registered on the territory of a closed administrative-territorial entity and activities of juridical persons, branches and representative offices registered in a closed administrative-territorial entity (including with the use of foreign capital), may be restricted or prohibited pursuant to respective regulatory legal acts of the Russian Federation

paragraphs 15-17, 23, 26, 31 and 33

Federal Law No.3297-1 of July 14, 1992, On Closed Administrative-Territorial Entities

7. Restrictions may be imposed in respect of

paragraphs 15-17, 23, 26, 31 and

Federal Law No.187-FZ of November 30, 1995, On the

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
activities within the continental shelf of the Russian Federation	33	Continental Shelf of the Russian Federation
8. The priority in the provision of wildlife for use in a particular territory or water area shall be granted to juridical persons and nationals of the Russian Federation	paragraphs 23 and 26	Law No. 52-FZ of the Russian Federation of April 24, 1995, Concerning Fauna
<p>9. As regards production sharing agreements entered into before January 1, 2012 (hereinafter - the agreements)<sup>5</sup>:</p> <p>the terms of the tender to conclude the agreement shall provide for participation of Russian juridical persons in the implementation of agreements in proportions determined by the Government of the Russian Federation</p> <p>the agreements shall provide for obligations of the investor to:</p> <p>grant to Russian juridical persons the</p>	paragraphs 23 and 26	Federal Law No.225-FZ of December 30, 1995, On Production Sharing Agreements

<sup>5</sup> These restrictions shall be retained and applied in the procedure and on the terms specified in the Protocol of December 16, 2011, on the Accession of the Russian Federation to the Marrakesh Agreement Establishing the World Trade Organisation of April 15, 1994.

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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preferential right to participate in the work under the agreements as contractors, suppliers, carriers or in any other capacity on the basis of respective agreements (contracts) with investors

attract workers that are nationals of the Russian Federation, the amount of which shall be not less than 80 percent of all workers involved, attract foreign workers and specialists only in the initial stages of work under the agreement or in the absence of duly qualified workers and specialists that are nationals of the Russian Federation

procure process equipment, facilities and materials of Russian origin required for exploration, mining transportation and processing of minerals in the amount of not less than 70 percent of the total cost of process equipment, facilities and materials acquired (including on lease and otherwise) in each calendar year for the performance of work under the agreement, the cost of the

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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acquisition and use of which shall be reimbursed to the investor by make-up products. For this purpose, the equipment, facilities and materials shall be deemed to be of Russian origin if manufactured by Russian juridical persons and/or nationals of the Russian Federation on the territory of the Russian Federation of components, parts, structures and assemblies produced by at least 50 percent in value terms on the territory of the Russian Federation by Russian juridical persons and/or nationals of the Russian Federation.

The Member States shall include in the agreement a condition requiring that at least 70 percent (in value terms) of the process equipment used for mining, transportation and processing (if required under the agreement) purchased and/or used by the investor to perform work under the agreement shall be of Russian origin. This provision shall not apply

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
<p>to the use of major pipeline transportation facilities, the construction and purchase of which are not provided for by the agreement</p>		
<p>10. The private partner selection procedure and a list of critical terms of concession agreements shall be in accordance with the legislation of the Russian Federation. The right to assign the exclusive private partner shall be reserved. Individual rights and obligations of the public partner may be exercised by the authorised public partner</p>	<p>paragraphs 15-17, 23, 26, 31 and 33</p>	<p>Federal Law No.115-FZ of July 21, 2005, On Concession Agreements</p>
<p>11. Transactions concluded by a person of any other Member State and entailing the establishment of control over Russian economic companies engaged in at least one activity of strategic importance for the national defence and state security shall be subject to approval by the authorised authority of the Russian Federation in the procedure specified in regulatory legal acts of the Russian Federation.</p>	<p>paragraphs 15, 16, 23, 26, 31 and 33</p>	<p>Federal Law No. 57-FZ of April 29, 2008, On the Procedure for Foreign Investment in Economic Companies of Strategic Importance for National Defence and State Security</p>

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
<p>Foreign governments, international organisations, as well as their controlled persons, including those established on the territory of the Russian Federation, shall not conduct any transactions entailing the establishment of control over Russian economic companies engaged in at least one activity of strategic importance for the national defence and state security.</p> <p>Foreign investors or a group of persons shall be obliged to submit to the authorised authority information on the acquisition of 5 or more percent of shares (stakes) in the authorised capital of companies engaged in at least one activity of strategic importance for the national defence and state security</p>		
<p>12. Land plots located within the boundaries of a sea port may not be owned by foreign nationals, stateless persons or foreign organisations</p>	<p>paragraphs 23 and 26</p>	<p>Federal Law No.261-FZ of November 8, 2007, On Sea Ports in the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation</p>

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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ANNEX 17  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL  
on Financial Services**

1. This Protocol has been developed in accordance with Article 70 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and applies to measures of the Member States affecting trade in financial services, as well as incorporation and/or activities of financial service suppliers.

2. The provisions of this Protocol shall not apply to services supplied and activities undertaken in pursuance of the functions of state power on a non-commercial basis and not on competition terms, as well as to the provision of subsidies.

3. The terms used in this Protocol shall have the following meanings:

"state institution" means a state government authority or a national (central) bank of a Member State or an organisation of a Member State owned or controlled by that Member State exclusively exercising powers delegated by the state government authority or the national (central) bank of the Member State;

"activities" means activities of juridical persons, branches and representative offices incorporated as specified in this Protocol;

"legislation of a Member State" means legislation and other regulatory legal acts of a Member State, regulatory legal acts of a national (central) bank of a Member State;



"credit institution" means a juridical person of a Member State having the generation of profit as the main purpose of its operation, operating on the basis of a license issued by the authorised authority of the Member State regulating banking activities with the right to conduct banking operations in accordance with the legislation of the Member State on the territory of which it is registered;

"license" means a special permit (document) issued by the authorised authority of a Member State enabling its holder to conduct specific activities on the territory of the Member State;

"measure of a Member State" means the legislation of a Member State, as well as any decision, action or omission of an authorised authority of a Member State or an official thereof.

In the case of adoption (publication) by the authorised authority of a Member State of an official non-binding document, this recommendation may be regarded as a measure for the purposes of this Protocol if it is proven that, in practice, the recommendation is observed by a predominant number of the persons to whom the recommendation is addressed;

"national treatment" means provision to persons and financial services of another Member State, in trade in financial services, of treatment that is no less favourable than the treatment accorded under similar circumstances to own persons and financial services on the territory of the Member State;

"common financial market" means the financial market of the Member States meeting the following criteria:

harmonised requirements for the regulation and supervision in the sphere of financial markets of the Member States;

mutual recognition of licenses in the banking and insurance sectors, as well as in the service sector in the market of securities issued by authorised authorities of one Member State on the territory of other Member States;

conducting activities to provide financial services on the entire territory of the Union without additional incorporation of juridical persons;

administrative cooperation between authorised authorities of the Member States, including by exchange of information;

"supply of/trade in financial services" means rendering of financial services, including manufacture, distribution, marketing, sale and delivery of services, conducted in the following ways:

from the territory of one Member State to the territory of another Member State;

on the territory of one Member State by a person of this Member State to a person of another Member State (service consumer);

by a financial service supplier of one Member State through its incorporation and activities on the territory of another Member State;

"financial service supplier" means any natural person or juridical person of a Member State supplying financial services, except for public institutions;

"professional securities market participant" means a juridical person of a Member State entitled to carry out professional activities in the securities market in accordance with the legislation of the Member State on the territory of which it is registered;

"most favoured nation treatment" means provision to persons and financial services of another Member State, in trade in financial services, of

treatment that is no less favourable than the treatment accorded under similar circumstances to persons and financial services of third countries;

"financial services sector" means the entire financial services sector, including all sub-sectors and, for the purpose of exceptions from obligations, restrictions and conditions of a Member State, one or more or all separate financial services sub-sectors;

"insurance company" means a juridical person of a Member State entitled to carry out insurance (reinsurance) activities in accordance with the legislation of the Member State on the territory of which it is registered;

"economic feasibility test" means issuing of authorisations for the incorporation and/or activities or supply of services, depending on the requirements and market demand, by means of an economic feasibility assessment of the service supplier with regard to its compliance with the goals of economic planning for a particular industry;

"authorised authority" means an authority of a Member State authorised under the legislation of that Member State to exercise regulation and/or supervision, and control of the financial market and financial organisations (individual spheres of the financial market);

"incorporation":

creation and/or acquisition of a juridical person (participation in the capital of a created or incorporated juridical person) with any organisational legal form and form of ownership provided for by the legislation of the Member State on the territory of which the juridical person is created or incorporated;

acquisition of control over a juridical person of a Member State through obtaining of an opportunity to, either directly or via third persons,

determine decisions to be adopted by such juridical person, including through the management of votes granted by voting shares (stakes) and participation in the board of directors (supervisory board) and other management authorities of the juridical person;

opening of a branch;

opening of a representative office;

"financial services" means services of a financial nature, including the following:

1) insurance and insurance-related services:

a) insurance (coinsurance): life insurance, other insurance types;

b) reinsurance;

c) insurance intermediation, such as brokerage and agency mediation;

d) auxiliary insurance services, such as consultancy, actuarial services, risk assessment and claim settlement services;

2) banking services:

a) receiving deposits and other repayable funds from the public;

b) issuing loans and credits of all types, including consumer credits, mortgage loans, factoring and financing of commercial transactions;

c) financial leasing;

d) all kinds of services for payments and transfers;

e) trading, at own expense and at the expense of customers, at the stock exchange and over-the-counter market or otherwise: in foreign exchange; derivatives, including futures and options; instruments relating to foreign exchange rates and interest rates, including swap transactions and forward transactions;

f) consultancy, intermediation and other auxiliary financial services in all the activities referred to in this sub-paragraph, including reference and analytical materials related to the analysis of credit terms;

3) services in the securities market:

a) trading in financial instruments, at own expense and at the expense of customers, at the stock exchange and over-the-counter market, or otherwise;

b) participation in emission (issue) of all kinds of securities, including guarantees and placement, while acting as an agent (public or private), and the provision of services related to such emissions (issue);

c) brokerage in the financial market;

d) management of such assets as cash or securities, all kinds of collective investment and asset management, management of investment portfolios of pension funds, custody, storage services and trust services;

e) clearing services for financial assets, including securities, derivatives and other financial instruments;

f) provision and transfer of financial information, financial data processing and provision and transfer of related software by suppliers of other financial services;

g) consultancy, intermediation and other auxiliary financial services in all the activities referred to in this sub-paragraph, including research and recommendations on direct and portfolio investments, advice on acquisitions, restructuring and corporate strategies.

Other terms in this Protocol shall have the meanings specified in the Protocol on Trade in Services, Incorporation, Activities and Investments (Annex 16 to the Treaty).

4. Each Member State shall accord to financial service suppliers (juridical persons of other Member States) the national treatment and the most favoured nation treatment in respect of the provision, independently, via an intermediary or as an intermediary, in accordance with the terms specified in individual national lists of the Member States in Annex 1 to this Protocol, from the territory of one Member State to the territory of another Member State, of the following types of financial services:

1) insurance of risks relating to:

international marine transportations and commercial air transportations, commercial space launches and freight (including satellites), with respect to which such insurance affects, in whole or in part: transported goods, transportation vehicles and civil liability arising in connection with the transportation;

goods transported within international transit;

2) reinsurance and auxiliary insurance services such as consultancy, actuarial services, risk assessment and settlement of claims;

3) provision and transfer of financial information, processing of financial data and related software of suppliers of other financial services;

4) consultancy and other auxiliary services, including the provision of reference materials (except for mediation and services related to the analysis of credit histories, research and recommendations on direct and portfolio investments, advice on acquisitions, restructuring and corporate strategies) in respect of services in the securities market and banking services.

5. Each Member State shall allow persons of the Member State consume financial services referred to in sub-paragraphs 1-4 of paragraph 4 of this Protocol on the territory of another Member State.

6. Each Member State shall accord the national treatment to persons of another Member State with regard to the incorporation and/or activity on its territory of financial service suppliers, as specified in paragraph 3 of this Protocol, subject to the restrictions specified in the individual national list for each Member State in Annex 2 to this Protocol.

7. Each Member State shall accord the most favoured nation treatment to persons of another Member State with regard to the incorporation and/or activities on its territory of financial service suppliers, as specified in paragraph 3 of this Protocol.

8. All issues regarding trade in financial services with third states, activities of juridical persons with state participation in their capital, the rights of consumers of financial services, participation in privatisation, protection of investors' rights, payments and transfers, restrictions on payments and transfers, indemnity, guarantees of investors, including in expropriation, transfer of rights of investors and settlement of investment disputes shall be governed by the Protocol on Trade in Services, Incorporation, Activities and Investments (Annex 16 to the Treaty).

9. Provisions of this Protocol shall apply to juridical persons, branches and representative offices incorporated at the date of entry into force of the Treaty and still existing, as well as those incorporated after the effective date of the Treaty.

10. In the sectors listed in paragraph 4 of this Protocol, except as provided for in Annex 1 to this Protocol, no Member States shall be allowed to apply or impose the following restrictions in respect of financial services and financial service suppliers of another Member State in relation to trade in services:

restrictions on the number of financial service suppliers in the form of quota, monopoly, economic feasibility test or any other quantitative form;

restrictions on transactions of any financial service supplier in the form of quota, economic feasibility test or any other quantitative form;

In the sectors listed in paragraph 4 of this Protocol, except as provided for in Annex 1 to this Protocol, no Member States shall be allowed to apply or impose in respect of financial service suppliers of another Member State the requirements for mandatory incorporation as a condition for trade in financial services.

11. Except for the restrictions provided for by the individual national list for each Member State in Annex 2 to this Protocol, no Member State shall be allowed to apply or impose on its territory the following restrictions in respect of financial service suppliers of another Member State in connection with their incorporation and/or activities:

1) restrictions on the forms of incorporation, including the organisational legal form of a juridical person;

2) restrictions on the number of incorporated juridical persons, branches or representative offices in the form of quotas, economic feasibility tests or any other quantitative form;

3) restrictions on the volume of purchased shares in the capital of the juridical person or the degree of control over the juridical person;

4) restrictions on transactions of incorporated juridical persons, branches or representative offices conducted in the course of their activities in the form of quotas, economic feasibility tests or any other quantitative form;



12. All issues regarding the entry, departure, residence and employment of natural persons shall be governed by Section XXVI of the Treaty subject to the limitations specified in the individual national list for each Member State in Annex 2 to this Protocol.

13. In respect of financial services specified in the individual national list in Annex 1 to this Protocol and restrictions on incorporation and/or the activities specified in the individual national list in Annex 2 to this Protocol, each Member State shall ensure that all measures of that Member State affecting trade in financial services are applied in a reasonable, objective and impartial manner.

14. When authorisation is required for the supply of financial services, the authorised authorities of a Member State shall, within a reasonable period of time after the submission of an application deemed duly executed pursuant to the requirements of the legislation of the Member State and its regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the authorised authorities of a Member State shall provide information about the progress of application processing without undue delay.

15. In order to ensure that the measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in financial services, the Member States shall be entitled to develop any necessary rules via appropriate authorities that may be created for this purpose. The requirements in these rules, among other things, shall:

1) be based on objective and transparent criteria such as competence and the ability to supply the service;

- 2) not be more burdensome than required to ensure the service quality;
- 3) in the case of licensing procedures, not constitute restrictions on the supply of services.

16. Prior to the entry into force of the rules to be developed pursuant to paragraph 15 of this Protocol for the sectors of financial services specified in individual national lists in Annex 1 to this Protocol, the Member States shall not apply licensing or qualification requirements and technical standards that invalidate or reduce benefits the benefits provided under the conditions specified in the individual national lists in Annex 1 to this Protocol.

In this case, licensing or qualification requirements and technical standards applied by a Member State shall meet the criteria specified in subparagraphs 1-3 of paragraph 15 of this Protocol and shall correspond to those that may reasonably be expected from that Member State on the date of signing the Treaty.

17. If a Member State applies licensing with regard to incorporation and/or activities of financial service suppliers, such Member State shall ensure that:

- 1) the names of authorised authorities of a Member State responsible for issuing licenses for the activities have been published or otherwise brought to general attention;
- 2) the licensing procedures did not restrict incorporation or activities and the licensing requirements directly related to the right to conduct the activities did not constitute unreasonable barriers to the activities;
- 3) all licensing procedures and requirements have been determined in the legislation of a Member State and the legislation of the Member State

determining or applying the licensing procedures and requirements has been published prior to its effective date (entry into force);

4) any fees charged in connection with the submission and consideration of the application for a license did not constitute a restriction on incorporation and activities and were based on the expenses of the licensing authority of a Member State incurred with regard to the consideration of the application and issuance of the license;

5) after a period of time determined by the legislation of a Member State for deciding on the issuance of (or refusal to issue) a license and at the request of the applicant have expired, the respective authorised authority of the Member State responsible for issuing licenses has informed the applicant of the status of its application having indicated whether the application was deemed duly executed. In any case, the applicant shall be given the opportunity to make technical corrections to the application. The above application shall not be deemed duly executed until all documents and information have been received as specified in the applicable legislation of a Member State;

6) upon written request of an applicant whose application was rejected, the authorised authority of a Member State in charge of licensing that rejected the application has informed the applicant in writing of the reasons for the rejection. This provision shall not be construed as requiring the authorised authority to disclose information if it prevents due enforcement of the legislation of a Member State or is otherwise contrary to the public interest or critical security interests of the Member State;

7) when an application has been rejected, the applicant shall be entitled to submit a new application attempting to eliminate any problems that caused the rejection;

8) the license issued was valid on the entire territory of the Member State.

18. The procedure and terms for issuing licenses to conduct activities in financial services markets on the territory of a Member State shall be determined by the legislation of the Member State on the territory of which the activities are to be conducted.

19. Nothing in this Protocol shall prevent the Member States from taking prudential measures, including for the protection of interest of investors, depositors, policyholders, beneficiaries and persons to which the service supplier bears a fiduciary responsibility, or measures required to ensure the integrity and stability of the financial system. If such measures are not consistent with the provisions of this Protocol, they shall not be used by the Member State as an instrument to evade any obligations undertaken by that Member State under the Treaty.

20. Nothing in this Protocol shall be construed to require a Member State to disclose information relating to accounts of individual customers or any other confidential information, or information held by public institutions.

21. On the basis of international principles and standards or international best practices, not lower than the standards and best practices already applied in the Member States, the latter shall develop harmonised requirements in the sphere of financial market regulation in the following service sectors:

the banking sector;

the insurance sector;

the service sector in the securities market.

22. In the banking sector, the Member States shall harmonise requirements for the regulation of and supervision over credit institutions guided by the international best practices and the Core Principles for Effective Banking Supervision of the Basel Committee on Banking Supervision, including in relation to:

1) the term of "a credit institution" and the legal status of the credit institution;

2) the procedures and conditions for the disclosure of information by credit institutions, banking groups and their affiliates, and bank holding companies;

3) the requirements for accounting (financial) statements based on International Financial Reporting Standards;

4) the procedure and conditions for the establishment of a credit institution, in particular in relation to:

the requirements for founding documents;

the procedure for state registration of a credit institution in the form of a juridical person (branch);

determination of the minimum authorised capital of a credit institution, the procedure for its formation and payment methods;

the requirements for professional qualifications and business reputation of executives of a credit institution;

the procedures and conditions for issuing licenses to conduct banking operations, including requirements for documents required to obtain a license to conduct banking operations;

- 5) grounds for refusal of registration of a credit institution and issuance of a license to conduct banking operations;
- 6) the method, procedure and conditions of liquidation (including compulsory liquidation) or reorganisation of a credit institution;
- 7) grounds for revocation of a license to conduct banking operations issued to a credit institution;
- 8) the procedure and specific features of reorganisation of credit institutions in the form of merger, affiliation and transformation;
- 9) ensuring financial reliability of a credit institution, including the determining of other activities permitted for credit institutions, apart from banking operations, as well as of prudential standards, required reserves and special provisions;
- 10) the procedure for supervision by authorised authorities of the Member States over credit institutions, bank holding companies and banking groups;
- 11) the amount, procedure and terms of application of sanctions against credit institutions and bank holding companies;
- 12) the requirements for activities and financial reliability of banking groups and bank holding companies;
- 13) the establishment and functioning of a system to insure deposits of the population (including the amount of reimbursement on deposits);
- 14) the procedures for financial rehabilitation and bankruptcy of credit institutions (including regulation of the rights of creditors, priority of claims);
- 15) a list of transactions recognised as banking operations;
- 16) a list and the status of organisations entitled to conduct certain process parts of banking operations.

23. In the insurance sector, the Member States shall harmonise requirements for the regulation of and supervision over professional participants of the insurance market guided by the international best practices and the Core Principles of Insurance Supervision of the International Association of Insurance Supervisors, including in relation to:

1) the term of "a professional participant of the insurance market" and the legal status of the professional participant of the insurance market;

2) ensuring financial sustainability of the professional participant of the insurance market, including in relation to:

insurance reserves sufficient to fulfil its insurance, coinsurance, reinsurance and mutual insurance obligations;

composition and structure of assets accepted to cover insurance reserves;

the minimum level and the procedure for the formation of the authorised and equity capital;

the terms and procedures for the transfer of insurance portfolio;

3) the requirements for accounting (financial) statements based on International Financial Reporting Standards;

4) the procedure and conditions for the establishment and licensing of insurance activities;

5) the procedure for supervision by the authorised authorities of the Member States over the activities of professional participants in the insurance market;

6) the amount, procedure and terms of the application of sanctions to participants and/or professional participants of the insurance market for violations in the financial market;

7) the requirements for professional qualifications and business reputation of professional participants of the insurance market;

8) the grounds for refusal to issue a license to conduct insurance activities;

9) the method, procedure and conditions of liquidation of a professional participant of the insurance market, including compulsory liquidation (bankruptcy);

10) the grounds for revocation of a license for insurance activities issued to a professional participant of the insurance market, as well as for its invalidation, restriction or suspension;

11) the procedure and specific features of reorganisation of professional participants of the insurance market in the form of a merger, affiliation or transformation;

12) the requirements for the composition of insurance groups and insurance holding companies and their financial reliability.

24. In the service sector of the securities market, the Member States shall harmonise requirements for the following activities:

brokerage activities in the securities market;

dealer activities in the securities market;

management of securities, financial instruments, assets, investment portfolios of pension funds and collective investments;

activities to identify mutual obligations (clearing);

depository activities;

maintaining a registry of holders of securities;

activities to organise trading in the securities market.



25. The Member States shall harmonise the requirements for the regulation of and supervision over the securities market guided by international best practices and principles of the International Organisation of Securities Commissions, the Organisation for Economic Cooperation and Development, including in relation to:

1) determining the procedure for the formation and payment of the authorised capital, as well as the requirements for capital adequacy;

2) the procedure and conditions for issuing licenses for activities in the securities market, including the requirements for documents required to obtain such licenses;

3) the requirements for professional qualifications and business reputation of professional participants of the securities market;

4) the grounds for refusal to grant a license for activities in the securities market, as well as for its invalidation, restriction or suspension;

5) the requirements for accounting (financial) statements based on International Financial Reporting Standards, as well as requirements for the organisation of internal accounting and internal control;

6) the procedure, method and terms of liquidation (including compulsory liquidation) or reorganisation of a professional securities market participant;

7) the grounds for revocation of a professional securities market participant's license to operate in the securities market;

8) the amount, procedure and conditions of the application of sanctions to participants and/or professional participants of the securities market for violations in the financial market;

9) the procedure for supervision by the authorised authorities of the Member States over the activities of subjects (participants) in the securities market;

10) the requirements for activities of professional participants of the securities market;

11) the requirements for emission (issue) of securities of the issuer;

12) the requirements for placement and circulation of foreign securities in the securities markets of the Member States;

13) the requirements for the volume, quality and frequency of publication of information;

14) enabling the placement and circulation of securities of issuers of the Member States on the entire territory of the Union subject to registration of the emission (issue) of securities by the regulatory authority of the state of registration of the issuer;

15) the requirements in the field of information disclosure, combating illegal use of insider information and manipulations in the securities market.

26. The Member States shall harmonise audit requirements based on International Auditing Standards.

27. The Member States shall develop mechanisms for interaction between authorised authorities of the Member States in the sphere of regulation, control and supervision of activities in their financial markets, including in the banking sector, insurance sector and the services sector of the securities market.

The Member States shall exchange information, including confidential information, in accordance with an international treaty within the Union.

28. Each Member State shall ensure that the legislation of that Member State that affects or may affect the matters covered by this Protocol is published in the official source and, if possible, on a dedicated website on the Internet so that any person whose rights and/or obligations may be affected by such legislation could become familiar with it.

Such legislation shall be published with clarification of its purposes, in due time ensuring legal certainty and reasonable expectations of persons the rights and/or obligations of which may be affected by the legislation of the Member State, but in any case before the effective date thereof.

29. Each Member State shall determine a mechanism for responding to written inquiries of any person with regard to the current and/or planned legislative acts on matters covered by this Protocol. Responses to all inquiries shall be provided to such interested person not later than within 30 calendar days from the date of receipt.

30. In order to prevent systemic risks in the financial markets, the Member States shall harmonise their legislation with regard to the requirements for activities of rating agencies in compliance with the principles of transparency, accountability and responsibility.

31. A Member State may recognise prudential measures of any other Member State when determining the application of measures relating to the supply of financial services. This recognition may be achieved through harmonisation of the legislation of the Member States or otherwise and may be based on an agreement or arrangement with a Member State concerned or accorded unilaterally.

32. A Member State being party to an agreement or arrangement for recognition of prudential measures of another Member State, both potential

and current, shall enable other Member States to negotiate their accession to such agreements or arrangements, which may contain rules, control, enforcement mechanisms for such rules and, if possible, procedures related to the exchange of information between the parties to such agreements and arrangements.

33. Specific requirements for activities in the financial markets of the Member States shall be harmonised so as to ensure that the remaining differences do not hinder the effective functioning of the financial market within the Union.

34. Nothing in this Protocol shall preclude a Member State from taking or applying the following measures, provided that such measures are not applied in a manner that creates a means of arbitrary or unjustifiable discrimination between persons of the Member States relating to trade in services, incorporation and/or activities:

1) required to protect public morals or maintain public order. Exceptions with regard to the public order may only be applied in cases where there is a genuine and sufficiently serious threat to one of the fundamental interests of the society;

2) required to protect life or health of people, animals or plants;

3) required to comply with the legislation or regulations under the provisions of this Protocol, including those relating to:

the prevention of misleading and fraudulent practices or consequences of non-compliance with civil law contracts;

the protection of privacy of individuals in processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

4) inconsistent with paragraphs 4 and 6 of this Protocol with regard to the provision of national treatment, provided that the differences in the actually accorded treatment are aimed at ensuring equitable or effective taxation of or collection of taxes on persons of another Member State in respect of trade in services;

5) inconsistent with paragraphs 4 and 7 of this Protocol, provided that the difference in treatment is the result of an agreement on taxation, including on the avoidance of double taxation, concluded by the Member State concerned.

35. Nothing in this Protocol shall be construed so as to prevent any Member State from taking any measures it deems necessary to protect its fundamental interests in the field of the national defence or state security.

36. The Member States shall ensure gradual reduction of exceptions and restrictions specified in their individual national lists in Annexes 1 and 2 to this Protocol.

37. The Member States shall terminate all measures specified in their individual national lists in Annexes 1 and 2 to this Protocol in respect of those financial service sectors, where the Member States have fulfilled the terms of legislative harmonisation and mutual recognition of licenses.

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Annex 1  
to the Protocol on Financial  
Services

**LIST**  
**of sub-sectors of financial services, in which the Member States shall accord national treatment under paragraph 4 of the Protocol on Financial Services (Annex 17 to the Treaty on the Eurasian Economic Union) and assume obligations under paragraph 10 of the same Protocol**

Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
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I. THE REPUBLIC OF BELARUS

1. Insurance against risks associated with:  international marine transportations  international commercial air transportations  international commercial space launches    international insurance covering, in whole or in	No restrictions	—	—	—
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Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
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part:

international passenger transportations

international transportations of exported (imported) cargos and carrying vehicles, including liabilities arising in connection therewith

transportation of goods using international transport

liability for transboundary transportation of individual vehicles only after accession to the international system of contracts and insurance certificates of Green Card

2. Reinsurance and retrocession

No restrictions

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3. Services of insurance agents

Restrictions

Insurance mediation associated with the

Presidential Decree No.530

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Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
and insurance brokers		conclusion and distribution of insurance contracts on behalf of foreign insurers on the territory of the Republic of Belarus shall be prohibited (with the exception of the sectors listed in paragraph 1 of this list, as well as of reinsurance activities of insurance brokers)	of the Republic of Belarus of August 25, 2006, On Insurance Activities	
4. Auxiliary insurance services, including consulting and actuarial services, risk assessment and claim settlement services	No restrictions	–	–	–
<b>II. THE REPUBLIC OF KAZAKHSTAN</b>				
1. Insurance against risks associated with: international marine transportations international commercial air transportations international commercial space launches international insurance covering, in whole or in part: international passenger	Restrictions	No restrictions, except for the following cases: Property interests located on the territory of the Republic of Kazakhstan of a juridical person or its separate subdivisions and property interests of a natural person who is a resident of the Republic of Kazakhstan may only be insured by an insurance company that is a resident of the Republic of Kazakhstan. It shall be prohibited for natural and juridical persons that are residents of the Republic of Kazakhstan to make payments and transfers related to the payment of	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D



Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
<p>transportations international transportations of exported (imported) cargos and carrying vehicles, including liabilities arising in connection therewith</p> <p>transportation of goods using international transport</p> <p>liability for transboundary transportation of individual vehicles only after accession to the international system of contracts and insurance certificates of Green Card</p>		<p>insurance premiums (fees) in favour of non-residents of the Republic of Kazakhstan. Compulsory insurance contracts shall be on the net retention of insurers that are residents of the Republic of Kazakhstan</p>		
2. Reinsurance and retrocession	Restrictions	The aggregate amount of insurance premiums transferred to reinsurance organisations that are residents of the Republic of Kazakhstan under effective reinsurance contracts, net of commissions payable to the reinsurer (assignor), shall not	Resolution No. 131 of the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organisations of August 22,	N/D

Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
		exceed 60 percent (and after accession to the WTO, 85 percent) of the total amount of insurance premiums receivable under effective insurance (reinsurance) contracts. Compulsory insurance contracts shall be on the net retention of insurers or shall be transferred for reinsurance to reinsurers that are residents of the Republic of Kazakhstan	2008, On approval of the guidelines on standard values and methods of calculation of prudential standards for insurance (reinsurance) organisations, forms and terms of reporting on the implementation of prudential standards	
3. Services of insurance agents and insurance brokers	Restrictions	No restrictions, except for the following cases: mediation for the conclusion of an insurance contract on behalf of an insurance company that is not a resident of the Republic of Kazakhstan, except for civil liability insurance contracts of owners of vehicles travelling outside the Republic of Kazakhstan, shall be prohibited on the territory of the Republic of Kazakhstan, unless otherwise provided for in international treaties ratified by the Republic of Kazakhstan	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D
4. Auxiliary insurance services, including consulting and actuarial services, risk	No restrictions	—	—	—

Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
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assessment and claim  
settlement services

### III. THE RUSSIAN FEDERATION

1. Insurance against risks  
associated with:

No restrictions

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international marine  
transportations

international commercial  
air transportations

international commercial  
space launches

international insurance  
covering, in whole or in  
part:

international passenger  
transportations

international  
transportations of  
exported (imported)  
cargos and carrying  
vehicles, including  
liabilities arising in  
connection therewith

transportation of goods

Sector (Sub-sector)	Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
using international transport liability for transboundary transportation of individual vehicles only after accession to the international system of contracts and insurance certificates of Green Card				
2. Reinsurance and retrocession	No restrictions	—	—	—
3. Services of insurance agents and insurance brokers	Restrictions	Insurance mediation associated with the conclusion and distribution of insurance contracts on behalf of foreign insurers on the territory of the Russian Federation shall be prohibited (with the exception of the sectors listed in paragraph 1 of this list)	Law No.4015-I of the Russian Federation of November 27, 1992, On the Organisation of Insurance Business in the Russian Federation	—
4. Auxiliary insurance services, including consulting and actuarial services, risk assessment and claim settlement services	No restrictions	—	—	—

Annex 2  
to the Protocol on Financial Services

**List of  
Restrictions Retained by the Member States for Incorporation and/or Activities**

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
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I. THE REPUBLIC OF BELARUS

1. Restrictions under paragraphs 6 and 11 of the Protocol on Financial Services (Annex 17 to the Treaty on the Eurasian Economic Union) (hereinafter "Annex 17")

if the quota for foreign investors in the authorised capital of insurance companies of the Republic of Belarus exceeds 30 percent, the Ministry of Finance of the Republic of Belarus shall cease registration of insurance companies with foreign investments and/or terminate the issuance of licenses for insurance activities to such companies

Presidential Decree No.530 of the Republic of Belarus of August 25, 2006, On Insurance Activities, Resolution No.1174 of the Council of Ministers of the Republic of Belarus of September 11, 2006, On determining quotas for foreign investors in the authorised capital of insurance companies of the Republic of Belarus

N/D

each insurance company shall obtain prior authorisations from the Ministry of Finance of the Republic of Belarus to increase the

Presidential Decree No.530 of

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
	<p>amount of its authorised capital at the expense of foreign investors and/or insurance companies that are subsidiary (dependent) business entities of these foreign investors, to alienate shares in its authorised capital (stakes) amounting to 5 percent or more of the authorised capital of the insurance company, to alienate shares in its authorised capital (stakes) in favour of foreign investors and/or insurance companies that are subsidiary (dependent) business entities of these foreign investors.</p> <p>Belorussian participants of insurance companies in the Republic of Belarus shall obtain prior authorisations from the Ministry of Finance to alienate shares in their authorised capital (stakes) into the ownership (economic or operational management) of foreign investors and/or insurance companies that are subsidiary (dependent) business entities of these foreign investors.</p> <p>The above prior authorisation shall be refused in the following cases:</p> <ul style="list-style-type: none"> <li>if it results in an excess of the quota for the participation of foreign capital in the authorised capital of insurance companies of the Republic of Belarus</li> <li>if the juridical person to which the insurer or its shareholder intends to alienate the shares in the authorised capital has been operating less than 3 years and has no profit as a result of its activities in the last 3 years</li> <li>if it is required to ensure the national security of the Republic of Belarus (including in the economic sphere) or to protect the interests of national insurance companies</li> </ul>	<p>the Republic of Belarus of August 25, 2006, On Insurance Activities</p>	

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
	<p>if insurance companies that are subsidiary (dependent) business entities of foreign investors and/or with a share owned by foreign investors in their authorised capital exceeding 49 percent, may create separate subdivisions on the territory of the Republic of Belarus and act as founders (participants) of other insurance companies after obtaining prior authorisation from the Ministry of Finance of the Republic of Belarus. The above prior authorisation shall be refused if it results in an excess of the quota for the participation of foreign capital in the authorised capital of insurance companies of the Republic of Belarus</p> <p>insurance companies that are subsidiaries or related companies of foreign investors may not engage in life insurance in the Republic of Belarus (except for life insurance contracts with natural persons ), compulsory insurance (including compulsory state insurance), property insurance related to deliveries, provision of services or performance of work for the state, as well as insurance of the property interests of the Republic of Belarus and its administrative-territorial entities.</p> <p>Payment by foreign investors of shares in the authorised capital (shares) of insurance companies and insurance brokers shall be made exclusively in cash</p>	<p>Presidential Decree No.530 of the Republic of Belarus of August 25, 2006, On Insurance Activities</p> <p>Presidential Decree No.530 of the Republic of Belarus of August 25, 2006, On Insurance Activities</p>	
2. Restrictions under	insurance agents and insurance brokers may only be represented by	Presidential Decree No.530 of	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
paragraphs 6 and 11 of Annex 17	persons of the Republic of Belarus	the Republic of Belarus of August 25, 2006, On Insurance Activities	
3. Restrictions under paragraphs 6 and 11 of Annex 17	<p>the participation of foreign capital in the banking system of the Republic of Belarus is limited to 50 percent.</p> <p>Credit institutions with foreign investment may only be created upon prior authorisation by the National Bank of the Republic of Belarus. The National Bank of the Republic of Belarus shall cease state registration of banks with foreign investments upon achievement of a fixed amount (quota) of participation of foreign capital in the banking system of the Republic of Belarus.</p> <p>The National Bank of the Republic of Belarus shall be entitled to take any measures to enforce this restriction. Issuance of the above authorisation shall be considered with account of exhaustion of the quota for the participation of foreign capital in the banking system of the Republic of Belarus, as well as the financial status and business reputation of respective non-resident founders</p>	The Banking Code of the Republic of Belarus of October 25, 2000, No. 441-Z, Resolution No.129 of the Board of the National Bank of the Republic of Belarus of September 1, 2008, On the Amount (Quota) of Participation of Foreign Capital in the Banking System of the Republic of Belarus	N/D
4. Restrictions under paragraphs 6 and 11 of Annex 17	Licenses to operate in the financial services sphere in the Republic of Belarus shall be issued to juridical persons of the Republic of Belarus established in the organisational legal form prescribed by the legislation of the Republic of Belarus	Banking Code of the Republic of Belarus of October 25, 2000, No. 441-Z	N/D
5. Restrictions under paragraphs 6 and 11 of Annex 17	functions of the manager, deputies and chief accountant of an insurance company may be performed only by nationals of the Republic of Belarus, as well as by foreign nationals and stateless persons permanently residing in the Republic of Belarus, and only	Presidential Decree No.530 of the Republic of Belarus of August 25, 2006, On Insurance Activities	N/D



Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
	under employment contracts		
6. Restrictions under paragraphs 6 and 11 of Annex 17	Activities requiring a license may only be conducted by juridical persons of the Republic of Belarus and individual entrepreneurs duly registered in the Republic of Belarus. Activities subject to licensing shall be determined in accordance with the legislation of the Republic of Belarus	Presidential Decree No.450 of the Republic of Belarus of September 1, 2010, Regulation on Licensing of Certain Activities	N/D
<b>II. THE REPUBLIC OF KAZAKHSTAN</b>			
1. Restrictions under paragraphs 6 and 11 of Annex 17	The share of a authorised authority in the capital of a bidding process organiser may exceed 50 percent of the total voting shares	Law No. 461-II of the Republic of Kazakhstan of July 2, 2003, On the Securities Market	N/D
2. Restrictions under paragraphs 6 and 11 of Annex 17	Activities requiring a license may only be conducted by juridical persons or individual entrepreneurs of the Republic of Kazakhstan. Activities subject to licensing shall be determined in accordance with the legislation of the Republic of Kazakhstan	Law No. 214-III of the Republic of Kazakhstan of January 11, 2007, On Licensing	N/D
3. Restrictions under paragraphs 6 and 11 of Annex 17	Banks shall be established in the form of joint-stock companies	Law No.2444 of the Republic of Kazakhstan of August 31, 1995, On Banks and Banking Activities in the Republic of Kazakhstan	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
4. Restrictions under paragraphs 6 and 11 of Annex 17	Opening of branches of non-resident banks in the Republic of Kazakhstan shall be prohibited	Law No.2444 of the Republic of Kazakhstan of August 31, 1995, On Banks and Banking Activities in the Republic of Kazakhstan	N/D
5. Restrictions under paragraphs 6 and 11 of Annex 17	insurance (reinsurance) companies shall be established in the form of joint stock companies	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D
6. Restrictions under paragraphs 6 and 11 of Annex 17	Opening of branches of non-resident insurance companies in the Republic of Kazakhstan shall be prohibited	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D
7. Restrictions under paragraphs 6 and 11 of Annex 17	Insurance brokers shall be established in the organisational legal form of limited liability partnerships or joint-stock companies	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D
8. Restrictions under paragraphs 6 and 11 of Annex 17	The voluntary pension savings fund shall be established in the form of a joint stock company	Law No.105-V of the Republic of Kazakhstan of June 21,2013, On Pension Provision in the Republic of Kazakhstan	N/D
9. Restrictions under paragraphs 6 and 11 of Annex 17	It shall be prohibited in the Republic of Kazakhstan to open branches and representative offices of pension savings funds, which are non-residents of the Republic of Kazakhstan	Law No.105-V of the Republic of Kazakhstan of June 21, 2013, On Pension Provision in the Republic of Kazakhstan	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
10. Restrictions under paragraphs 6 and 11 of Annex 17	The central depository shall be the only organisation on the territory of the Republic of Kazakhstan engaged in depository activities. The central depository shall be established in the form of a joint stock company	Law No. 461-II of the Republic of Kazakhstan of July 2, 2003, On the Securities Market	N/D
11. Restrictions under paragraphs 6 and 11 of Annex 17	A professional securities market participant shall be a juridical person established in the organisational legal form of a joint stock company (except for transfer agents)	Law No. 461-II of the Republic of Kazakhstan of July 2, 2003, On the Securities Market	N/D
12. Restrictions under paragraphs 6 and 11 of Annex 17	The stock exchange shall be a juridical person established in the organisational legal form of a joint stock company	Law No. 461-II of the Republic of Kazakhstan of July 2, 2003, On the Securities Market	N/D
13. Restrictions under paragraphs 6 and 11 of Annex 17	A bank holding company, a non-resident of the Republic of Kazakhstan, directly holding 25 percent or more of the outstanding shares of the bank (except for privileged shares and shares redeemed by the bank) or having the opportunity to directly use 25 percent or more of the voting shares of the bank, may only be represented by a financial institution, non-resident of the Republic of Kazakhstan, subject to consolidated supervision in its country of residence	Law No.2444 of the Republic of Kazakhstan of August 31, 1995, On Banks and Banking Activities in the Republic of Kazakhstan	N/D
14. Restrictions under paragraphs 6 and 11 of Annex 17	The single savings pension fund shall be the only organisation on the territory of the Republic of Kazakhstan engaged in activities to collect mandatory pension contributions and mandatory occupational pension contributions	Law No.105-V of the Republic of Kazakhstan of June 21, 2013, On Pension Provision in the Republic of Kazakhstan	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
15. Restrictions under paragraphs 6 and 11 of Annex 17	the common registrar shall be the only organisation on the territory of the Republic of Kazakhstan engaged in maintenance of a registry of holders of securities	Law No. 461-II of the Republic of Kazakhstan of July 2, 2003, On the Securities Market	N/D
16. Restrictions under paragraphs 6 and 11 of Annex 17	an insurance holding company, non-resident of the Republic of Kazakhstan, directly holding 25 percent or more of the outstanding shares of the insurance (reinsurance) company (except for privileged shares and shares redeemed by the insurance (reinsurance) company) or having the opportunity to directly use 25 percent or more of the voting shares of the insurance (reinsurance) company, may only be represented by a financial institution	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D
17. Restrictions under paragraphs 6 and 11 of Annex 17	The insurance guarantee fund shall be the only organisation on the territory of the Republic of Kazakhstan guaranteeing insurance payments to policyholders (the insured, beneficiaries) in cases of compulsory liquidation of insurance companies under mandatory insurance contracts	Law No.423-II of the Republic of Kazakhstan of June 3, 2003, On Insurance Guarantee Fund	N/D
18. Restrictions under paragraphs 6 and 11 of Annex 17	An organisation providing mandatory deposit guarantees shall be a non-profit organisation established in the organisational legal form of a joint stock company. The founder (the sole shareholder of the organisation) providing mandatory deposit guarantees shall be represented by the authorised authority	Law No. 169-III of the Republic of Kazakhstan of July 7, 2006, On mandatory guarantees on deposits placed in second-tier banks of the Republic of Kazakhstan	N/D
19. Restrictions under paragraphs 6 and 11 of	the credit bureau with state participation shall be established in the organisational legal form of a joint stock company and the only	Law No. 573-II of the Republic of Kazakhstan of July 6, 2004,	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
Annex 17	specialised non-profit organisation collecting information required for the compilation of credit histories from suppliers on a mandatory basis	On Credit Bureaus and Formation of Credit Histories in the Republic of Kazakhstan	
20. Restrictions under paragraphs 6 and 11 of Annex 17	A database of insurance contracts shall be compiled and maintained by a non-profit organisation established in the organisational legal form of a joint stock company with state participation	Law No.126-II of the Republic of Kazakhstan of December 18, 2000, On Insurance Activities	N/D
<b>III. THE RUSSIAN FEDERATION</b>			
1. Restrictions under paragraphs 6 and 11 (Annex 17)	<p>Insurance companies that are subsidiaries of foreign investors (main organisations) or with a share in their authorised capital held by foreign investors of more than 49 percent may not engage in insurance of life, health and property of nationals in the Russian Federation at the expense of funds allocated for this purpose from the corresponding budget to federal executive authorities (policyholders), as well as insurance related to the procurement of goods, works and services for state and municipal requirements and insurance of property interests of state agencies and municipal organisations.</p> <p>Insurance companies in the Russian Federation that are subsidiaries of foreign investors (main organisations) or with a share in their authorised capital held by foreign investors of more than 51 percent, may not engage in insurance of property interests associated with survival of nationals to a certain age or period or the onset of other events in the life of nationals, as well as with their death, and compulsory insurance of civil liability of owners of vehicles.</p> <p>An insurance company that is a subsidiary of a foreign investor</p>	Law No.4015-I of the Russian Federation of November 27, 1992, On the Organisation of Insurance Business in the Russian Federation	N/D

up to  
August 22,  
2017

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
	<p>(main organisation) or with a share in its authorised capital held by a foreign investor of more than 49 percent may engage in insurance activities in the Russian Federation if the foreign investor (main organisation) has been an insurance company for at least 5 years, operating under the legislation of the respective state.</p> <p>The legislation of the Russian Federation sets a limit amount (quota) of 50 percent for the participation of foreign capital in the authorised capital of insurance companies. Information on the amount (quota) of foreign capital of insurance companies, introduction or termination of restrictions on foreign investment specified in the fifth and seventh indents of this paragraph shall be published in accordance with the legislation of the Russian Federation.</p> <p>If the amount (quota) of foreign capital in the authorised capital of insurance companies exceeds 50 percent, the insurance supervisory authority shall cease the issuance of licenses to conduct insurance activities to insurance companies that are subsidiaries of foreign investors (main organisation) or with a share in its authorised capital held by a foreign investor of more than 49 percent.</p> <p>An insurance company shall obtain prior authorisation of the insurance supervisory authority in order to increase its authorised capital at the expense of foreign investors and/or their subsidiaries and alienate its shares (shares in the authorised capital) in favour of foreign investors (including sales to foreign investors); Russian shareholders (participants) shall be required to obtain prior authorisation of the supervisory authority to alienate their shares (shares in the authorised capital) of an insurance company in favour of foreign investors and/or their subsidiaries.</p>		

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
	<p>If the set amount (quota) of foreign capital in the authorised capital of insurance companies is exceeded, the insurance supervisory authority shall refuse prior authorisation to all insurance companies that are subsidiaries of foreign investors (main organisation) or with a share in its authorised capital held by a foreign investor in excess of 49 percent or becoming in excess thereof as a result of these transactions.</p> <p>All foreign investors shall pay for their shares (stakes) in insurance companies exclusively in cash in the currency of the Russian Federation.</p> <p>Notwithstanding the provisions of this paragraph, insurance companies licensed to conduct insurance activities prior to the accession of the Russian federation to the WTO shall be allowed to resume their activities under the terms of respective licenses</p>		
2. Restrictions under paragraphs 6 and 11 of Annex 17	Insurance agents and insurance brokers may only be represented by nationals of the Russian Federation (this restriction shall not apply to insurance agents that are natural persons , not registered as individual entrepreneurs)	Law No.4015-I of the Russian Federation of November 27, 1992, On the Organisation of Insurance Business in the Russian Federation	N/D
3. Restrictions under paragraphs 6 and 11 of Annex 17	<p>The participation of foreign capital in the banking system of the Russian Federation shall be limited to 50 percent.</p> <p>For the purposes of controlling the quota of foreign participation in the banking system of the Russian Federation prior authorisations of the Central Bank shall be required to:</p> <p style="padding-left: 40px;">establish a credit institution with foreign participation, including</p>	International obligations of the Russian Federation concerning services and based on the Protocol of December 16, 2011, on the Accession of the Russian Federation to the Marrakesh Agreement Establishing the	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
	subsidiaries and affiliates increase the authorised capital of a credit institution at the expense of non-resident(s) alienate shares (stakes) of a credit institution to non-residents	World Trade Organisation of April 15, 1994	
4. Restrictions under paragraphs 6 and 11 of Annex 17	Licenses to operate in the financial services sphere in the Russian Federation shall be issued to juridical persons of the Russian Federation established in the organisational legal form prescribed by the legislation of the Russian Federation	Federal Law No.395-I of December 1, 1990, On Banks and Banking Activities, Federal Law No.39-FZ of April 22, 1996, On Securities Market, Federal Law No.4015-I of November 27, 1992, On the Organisation of Insurance Business in the Russian Federation, Federal Law No.7-FZ of February 7, 2011, On Clearing and Clearing Activities, Federal Law No.325-FZ of November 21, 2011, On Organised Bidding, Federal Law No.75-FZ of May 7, 1998, On Non-State Pension Funds, Federal Law No.156-FZ of November 29, 2001, On Investment Funds, Federal Law No.29-FZ of March 14, 2013, On Amendments to Certain Legislative Acts of the Russian	N/D



Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
5. Restrictions under paragraphs 6 and 11 of Annex 17	<p>For credit institutions with foreign investments, restrictions shall be imposed in the following cases:            if a person acting as the sole executive authority of a Russian credit organisation is a foreign national or a stateless person, the collegial executive authority of this credit institution shall be comprised of nationals of the Russian Federation by at least 50 percent.</p> <p>The number of employees that are nationals of the Russian Federation shall not be less than 75 percent of the total number of employees of a Russian credit organisation with foreign investments</p>	<p>Federation</p> <p>Order No. 02-195 of the Bank of Russia of April 23, 1997, On Introduction of the Regulation "On specific features of registration of credit institutions with foreign investments and the procedure for</p> <p>the prior approval by the Bank of Russia of an increase in the authorised capital of a registered credit institution at the expense of non-residents"</p>	N/D
6. Restrictions under paragraphs 6 and 11 of Annex 17	<p>The number of foreign personnel in a representative office of a foreign credit institution, as a rule, shall not exceed 2 people. When more accredited employees are required by a representative office, the requirement shall be substantiated in a written statement addressed to the President of the Bank of Russia, on the basis of which a decision shall be made</p>	<p>Order No.02-437 of the Bank of Russia of October 7, 1997, On the procedure for opening and operation in the Russian Federation of representative offices of foreign credit institutions</p>	N/D
7. Restrictions under paragraphs 6 and 11 of Annex 17	<p>the management (including the sole executive authority) and the chief accountant of a Russian insurance entity (juridical person) shall reside permanently on the territory of the Russian Federation</p>	<p>Law No.4015-I of the Russian Federation of November 27, 1992, On the Organisation of Insurance Business in the</p>	up to January 1, 2015

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
Russian Federation			
8. Restrictions under paragraphs 6 and 11 of Annex 17	<p>Activities requiring a license may only be conducted by juridical persons of the Russian Federation and individual entrepreneurs duly registered in the Russian Federation.</p> <p>Activities subject to licensing shall be determined in accordance with the legislation of the Russian Federation</p>	Federal Law No. 99-FZ of May 4, 2011, On Licensing of Certain Activities (and the legislation governing the activities listed in paragraph 2 of Article 1 of the Law), Federal Law No. 395-Of December 1, 1990, On Banks and Banking Activities	N/D
9. Restrictions under paragraphs 6 and 11 of Annex 17	The share of each shareholder (related group of persons) in the authorised capital of a bidding organiser may not exceed 10 percent, except in cases where the shareholder (related group of persons) is represented by a authorised authority or financial market infrastructure organisations of the Russian Federation, members of the same holding group	—	N/D
10. Restrictions under paragraphs 6 and 11 of Annex 17	Insurance histories in the Russian Federation shall be maintained by a single organisation established and operating under the legislation of the Russian Federation	—	N/D
11. Restrictions under paragraphs 6 and 11 of Annex 17	<p>An organisation obtaining the status of a central depository shall be the only organisation on the territory of the Russian Federation to fulfil the functions of a central depository</p> <p>The central depository shall be established in the form of a joint</p>	Law No. 414-FZ of the Russian Federation of December 7, 2011, On Central Depository	N/D

Restriction	Description of Restriction	Grounds for Application of Restrictions (Regulatory Legal Act)	Validity of Restriction
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stock company

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ANNEX 18  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on the Procedure for Collection of Indirect Taxes**  
**and the Mechanism for controlling**  
**their Payments on Export and Import**  
**of Goods, Performance of Works and Provision of Services**

I. General Provisions

1. This Protocol has been developed in accordance with Articles 71 and 72 of the Treaty on the Eurasian Economic Union and determines the procedure for collection of indirect taxes and the mechanism of control over their payments on export and import of goods, performance of works and provision of services.

2. The terms used in this Protocol shall have the following meanings:

"audit services" means services for conducting audits of accounting, tax and financial reporting statements;

"accounting services" means services for setting, keeping, and reconstruction of accounting records, compilation and/or submission of tax, accounting and financial reporting statements;

"movable property" means property other than immovable property and vehicles;

"design services" means services for the design of artwork, the appearance of products, building façades, interiors of buildings; industrial design;

"import of goods" means the importation of goods by taxpayers (payers) to the territory of one Member State from the territory of another Member State;

"engineering services" means engineering and consultancy services for the preparation of the process of manufacture and sale of goods (works, services), preparation for construction and operation of industrial, infrastructure, agricultural and other facilities, as well as pre-design and design services (preparation of feasibility studies, design development, technical testing and analysis of test results);

"competent authorities" means ministries of finance and economy, tax and customs authorities of the Member States;

"consultancy services" means services for providing clarifications and recommendations and other forms of consultations, including identification and/or assessment of problems and/or possibilities of a person with regard to administrative, economic, financial (including tax and accounting) issues, as well as planning, organisation and implementation of business activities, and personnel management;

"indirect taxes" means the value added tax (hereinafter "VAT") and excise taxes (excise tax or excise duty);

"marketing services" means services related to research, analysis, planning and forecasting in the sphere of manufacture and circulation of goods (works, services) in order to identify measures to create the necessary economic conditions for the manufacture and circulation of goods (works, services), including descriptions of goods (works, services), development of pricing and advertising strategies;

"taxpayer (payer)" means a payer of taxes, levies and duties of the Member States (hereinafter "a taxpayer");

"scientific research" means research under customers' specifications;

"immovable property means land plots, subsoil areas, isolated water objects and all that is firmly connected to the land/ground, that is, facilities that may not be moved without disproportionate damage to their intended use, including forests, perennial plantings, buildings, structures, pipelines, power transmission lines, enterprises as property complexes and space facilities;

"zero VAT rate" means imposition of VAT at the rate of zero percent with the right to deduct (offset) corresponding amounts of VAT;

"research, development and design work" means development of samples of new products, design documentation for new products or new technologies;

"work" means activities yielding material results that may be used by juridical persons and/or natural persons;

"advertising services" means services for creating, distributing and posting information intended for an unspecified audience and designed to shape and maintain interest in a juridical or natural person, goods, trademarks, works and services, by any means and in any form;

"goods "means any movable and immovable property, vehicles, all kinds of energy marketed or intended for sale;

"vehicles" means air and sea vessels, inland navigation vessels, mixed (river and sea) vessels; railway or tramway rolling stock units; buses; motor vehicles, including trailers and semi-trailers; freight containers; dump trucks;

"service" means activities yielding intangible results that are sold or consumed in the course of the activities, as well as the transfer and provision of patents, licenses, trademarks, copyrights or other rights;

"data processing services" means services for collection and compilation of information, systematisation of information (data) arrays and putting the results of this information processing at disposal of a user;

"export of goods" means exportation of goods sold by a taxpayer from the territory of one Member State to the territory of another Member State;

"legal services" means services of a legal nature, including provision of consultations and clarifications, preparation and legal examination of documents, representation of clients in courts.

## II. Procedure for Applying Indirect Taxes on Export of Goods

3. When exporting goods from the territory of one Member State to the territory of another Member State, the taxpayer of the Member State from the territory of which the goods are exported, a zero VAT rate and/or exemption from excise taxes upon submission to the tax authority of the documents provided for by paragraph 4 of this Protocol shall be applied.

When exporting goods from the territory of one Member State to the territory of another Member State, the taxpayer shall be entitled to tax deductions (offsets) in the procedure similar to that is provided for by the legislation of the Member State and applied in respect of goods exported from the territory of that Member State outside the Union.

The place of sale of goods shall be determined in accordance with the legislation of the Member States, unless otherwise determined in this paragraph.

In the case of sale of goods by a taxpayer of one Member State to a taxpayer of another Member State, when conveyance (transportation) of

goods commences outside the Union and ends in another Member State, the place of sale of goods shall be deemed the territory of the Member State where the goods are placed under the customs procedure of release for domestic consumption.

4. In order to confirm the validity of application of a zero VAT rate and/or exemption from excise taxes, the taxpayer of the Member State from the territory of which the goods are exported shall submit to the tax authority the following documents (copies) with the tax declaration:

1) agreements (contracts) concluded with a taxpayer of another Member State or a taxpayer that is not a member of the Union (hereinafter "agreements (contracts)"), on the basis of which the goods are exported; in the case of a lease of goods or a credit on goods (commercial loan, material loan), lease agreements (contracts), credit on goods (commercial loan, material loan) agreements (contracts); agreements (contracts) for the manufacture of goods; tolling agreements (contracts);

2) a bank statement confirming the actual receipt of proceeds from the sale of exported goods at the account of the exporting taxpayer, unless otherwise provided for by the legislation of the Member State.

If the agreement (contract) provides for settlements in cash, found to conform to the legislation of the Member State from the territory of which the goods are exported, the taxpayer shall submit to the tax authority a bank statement (copy thereof) confirming the deposit of amounts received by the taxpayer onto its bank account and copies of cash receipts confirming the actual receipt of proceeds from the purchaser of the goods, unless otherwise provided for by the legislation of the Member State from the territory of which the goods are exported.



In the case of export of goods under a lease agreement (contract) providing for transfer of ownership for such goods to the lessee, the taxpayer shall submit to the tax authority a bank statement (copy thereof) confirming the actual receipt of lease payments (in compensation for the initial cost of the goods (leased items)) at the account of the exporting taxpayer, unless otherwise provided for by the legislation of the Member State.

In the case of foreign barter trade transactions or the provision of a credit on goods (commercial loan, material loan), the exporting taxpayer shall submit to the tax authority documents confirming the import of goods (performance of works, provision of services) received (acquired) under these transactions.

The documents referred to in this sub-paragraph shall not be submitted to the tax authority if their submitting is not provided for in the legislation of the Member State in respect of goods exported from the territory of that Member State outside the Union;

3) a statement of import of goods and payment of indirect taxes executed in the form provided for by an international interagency treaty and marked by the tax authority of the Member State to the territory of which the goods are imported indicating the payment of indirect taxes (release or other procedure for the fulfilment of tax obligations) (hereinafter "the statement") (in hard copy, in its original or in a copy, at the discretion of tax authorities of the Member States) or a list of statements (in hard copy or electronically with an electronic (digital) signature of the taxpayer).

The taxpayer shall include in the list of statements all details and information specified in the statements the information on which has been reported to the tax authorities in the form provided for by an international interagency treaty.

The form, filling procedure and format of the list of statements shall be as set by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

In the case of sale of goods exported from the territory of one Member State to the territory of another Member State and placing thereof under the customs procedure of a free customs zone or a free warehouse on the territory of another Member State, a copy of the customs declaration under which such goods are placed under the customs procedure of a free customs zone or a free warehouse, certified by the customs authority of another Member State, shall be submitted to the tax authority of the first Member State instead of the above statement.

4) transport (shipping) and/or other documents required by the legislation of the Member State and confirming the movement of goods from the territory of one Member State to the territory of another Member State. These documents shall not be submitted if execution of these documents is not provided for by the legislation of the Member State for certain types of movement of goods, including the movement of goods without the use of vehicles;

5) other documents confirming the validity of a zero VAT rate and/or exemption from excise taxes provided for by the legislation of the Member State from the territory of which the goods are exported.

The documents specified in this paragraph, except for the statement (the list of statements) shall not be submitted to the tax authority if non-presentation of documents confirming the validity of the application of a zero VAT rate and/or exemption from excise taxes with the tax declaration is consistent with the legislation of the Member State from the territory of which the goods are exported.

The documents provided for by this paragraph shall not be submitted with the relevant tax declaration for excise taxes if they have already been submitted with the VAT tax declaration, unless otherwise provided for by the legislation of the Member State.

All documents provided for by sub-paragraphs 1, 2, 4, 5 and the fourth indent of sub-paragraph 3 of this paragraph may be submitted in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of such documents shall be specified by tax authorities of the Member States or other regulatory legal acts of the Member States.

5. Documents provided for by paragraph 4 of this Protocol shall be submitted to the tax authority within 180 calendar days from the date of shipment (transfer) of goods.

In case of non-presentation of these documents within the determined time limit, the indirect taxes shall be payable to the budget for the tax (reporting) period including the date of shipment of the goods, or any other tax (reporting) period determined by the legislation of the Member State with the right to deduct (offset) corresponding VAT amounts according to the legislation of the Member State from the territory of which the goods were exported.

For the purposes of VAT calculations in sales of goods, the date of shipment shall be the date of the first primary accounting (reporting) document issued to the purchaser of the goods (the first carrier) or the date of issuance of another binding document provided for by the legislation of the Member State for a VAT taxpayer.

For the purposes of calculations of excise taxes on excisable goods manufactured of own raw materials, the date of shipment of goods shall be

the date of the first primary accounting (reporting) document issued to the purchaser (consignee) of the goods; and on excisable tolling goods, the date of shipment shall be the signing date of the acceptance certificate for the excisable goods, unless otherwise provided for by the legislation of the Member State on the territory of which the excisable goods were manufactured.

In the case of non-payment, partial payment or delayed payment of indirect taxes in violation of the time limit determined in this paragraph, the tax authority shall recover such indirect taxes and penalties in the procedure and amount determined by the legislation of the Member State from the territory of which the goods were exported and shall apply means of securing the fulfilment of the obligations to pay indirect taxes, penalties and sanctions as determined by the legislation of that Member State.

In the case of presentation by a taxpayer of the documents provided for by paragraph 4 of this Protocol, the amount of indirect taxes paid shall be deducted (offset) or refunded in accordance with the legislation of the Member State from the territory of which the goods were exported, upon expiration of the time limit determined in this paragraph. The amounts of interest and penalties paid for violation of terms for payment of indirect taxes shall be non-refundable.

6. The volume of goods and excise rates in force on the date of shipment of excisable goods exported into the Member States and excise taxes shall be recorded in the relevant tax declaration on excise taxes.

7. The tax authority shall verify the validity of the application of a zero VAT rate and/or exemption from excise taxes and deductions (offsets) of these taxes and adopts (delivers) a respective decision under the legislation of the Member State from the territory of which the goods were exported.

In case of non-presentation of the statement to the tax authority, the tax authority shall be entitled to issue (adopt) a decision confirming the validity of the application of a zero VAT rate and/or exemption from excise taxes or deductions (offsets) of these taxes in respect of transactions for the sale of goods exported from the territory of one Member State into the territory of another Member State, if the tax authority of one Member State has available an electronic confirmation from the tax authority of another Member State certifying the actual payment of indirect taxes in full (or exemption from indirect taxes).

8. If the information on the movement of goods and payment of indirect taxes submitted by a taxpayer does not correspond to the data obtained within the exchange of information determined between tax authorities of the Member States, the tax authority shall recover indirect taxes and penalties in the procedure and amount provided for by the legislation of the Member State from the territory of which the goods were exported and shall apply means of securing the fulfilment of the obligations to pay indirect taxes, penalties and sanctions as determined by the legislation of that Member State.

9. The provisions of this section with regard to VAT shall also apply to goods representing results of works performed under manufacturing agreements (contracts) and exported from the territory of the Member State on the territory of which they were manufactured to the territory of another Member State. The above-mentioned goods shall not be regarded as tolling goods.

10. The tax base for excise taxation of goods representing results of works performed under tolling agreements (contracts) shall be represented as the volume and quantity (other indices) of excisable tolling goods, in kind, in respect of which fixed (specific) excise tax rates have been set, or the cost of

excisable tolling goods in respect of which ad valorem excise rates have been set.

11. The tax base for VAT on export of goods, when increased (decreased) due to an increase (decrease) in the price of goods sold or a reduction in the amount (volume) of goods sold in connection with their return due to inadequate quality and/or incomplete delivery, shall be adjusted in the tax (reporting) period in which the parties to the agreement (contract) change the price (agree the refund) of exported goods, unless otherwise provided for by the legislation of a Member State.

When exporting goods (leased items) from the territory of one Member State to the territory of another Member State under a lease agreement (contract) providing a transfer of ownership to the lessee, under a credit on goods (commercial loan, material loan) agreement (contract), or an agreement (contract) for the manufacture of goods, a zero VAT rate and/or exemption from excise duties (if such transaction is subject to excise duties under the legislation of the Member State) shall be applied upon submission to the tax authority of the documents provided for by paragraph 4 of this Protocol.

The VAT tax base for goods (leased items) exported from the territory of one Member State to the territory of another Member State under a lease agreement (contract) envisaging a transfer of ownership to the lessee shall be determined as of the date specified in the lease agreement (contract) for each lease payment, in the amount of the initial cost of goods (leased items) under each lease payment.

Tax deductions (offsets) shall be executed in the procedure provided for by the legislation of a Member State to the extent attributable to the cost of goods (leased items) under each lease payment.

The VAT tax base for goods exported from the territory of one Member State to the territory of another Member State under a credit on goods (commercial loan, material loan) agreement (contract) shall be represented by the cost of goods transferred (provided) provided for by the agreement (contract), if no cost is specified therein, by the cost indicated in the shipping documents, and if no cost is specified in the agreement (contract) and shipping documents, by the cost of goods recorded in accounting records.

12. In order to ensure complete payment of indirect taxes, the legislation of the Member State governing the pricing principles for taxation purposes may be applied.

### III. Procedure for Collection of Indirect Taxes on Import of Goods

13. Indirect taxes on goods imported into the territory of one Member State from the territory of another Member State (except as determined in paragraph 27 of this Protocol and/or for placing imported goods under the customs procedure of a free customs zone or a free warehouse) shall be levied by the tax authority of the Member State into the territory of which the goods were imported at the place of registration of taxpayers, owners of the goods, including taxpayers applying special tax treatments, including with account of the specific features provided for by paragraphs 13.1-13.5 of this Protocol.

For the purposes of this section, the owner of the goods shall be a person exercising the right of ownership with respect to the goods or a person to which the right of ownership for the goods is transferred under the agreement (contract).

13.1. If the goods are acquired under an agreement (contract) between a taxpayer of one Member State and a taxpayer of another Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent.

13.2. If the goods are acquired under an agreement (contract) between a taxpayer of one Member State and a taxpayer of another Member State and imported from the territory of a third Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods.

13.3. If the goods are sold by a taxpayer of one Member State through a commission agent, mandatary or agent to a taxpayer of another Member State and imported from the territory of the first or a third Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent.

13.4. If a taxpayer of one Member State acquires goods previously imported into the territory of that Member State by a taxpayer of another Member State, with outstanding indirect taxes available for such goods, these indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent (if the goods are sold by the taxpayer of another Member State via a commission agent, mandatary or agent).



If a taxpayer of one Member State acquires goods previously imported into the territory of that Member State by a commission agent, mandatary or agent (taxpayer of that Member State) under a commission, mandate or agency agreement (contract) concluded with a taxpayer of another Member State, with outstanding indirect taxes available for such goods, these indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by the commission agent, mandatary or agent that imported the goods.

13.5. If the goods are acquired under an agreement (contract) between a taxpayer of one Member State and a taxpayer of a state that is not a member of the Union and imported from the territory of another Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent (if the goods are sold via a commission agent, mandatary or agent).

14. For the purposes of VAT payment, the tax base shall be determined on the date of registration of the taxpayer's imported goods (but not later than the time limit determined by the legislation of the Member State into the territory of which the goods are imported) on the basis of the cost of purchased goods (including goods produced under a manufacturing agreement (contract)), as well as goods received under a credit on goods (commercial loan, material loan) agreement (contract), tolling goods and excise taxes payable on excisable goods.

The cost of purchased goods (including goods produced under a manufacturing agreement (contract)) shall be taken as the transaction price to

be paid to the supplier for the goods (works, services) under the terms of the agreement (contract).

The cost of goods obtained under a barter agreement (contract), as well as under a credit on goods (commercial loan, material loan) agreement (contract), shall be represented by the cost of goods specified in the agreement (contract), if no cost is specified in the agreement (contract), by the cost indicated in the shipping documents, and if no cost is specified in the agreement (contract) and shipping documents, by the cost of goods indicated in accounting records.

For the purposes of determining the tax base, the cost of goods (including goods produced under a manufacturing agreement (contract)) expressed in foreign currencies shall be converted into the local currency at the exchange rate of the national (central) bank of the Member State on the date of acceptance of the goods for registration.

The tax base for the import of tolling products into the territory of one Member State from the territory of another Member State shall be taken as the cost of tolling and excise taxes payable on excisable tolling products. The cost of tolling expressed in foreign currencies shall be converted into local currency at the exchange rate of the national (central) bank of the Member State on the date of acceptance of tolling products for registration.

15. The tax base for the import of goods (leased items) into the territory of one Member State from the territory of another Member State under a lease agreement (contract) providing the transfer of ownership to the lessee shall be specified as the portion of the cost of goods (leased items) provided for by the lease agreement (contract) as on its payment date (regardless of the actual amount and date of payment). Lease payment in foreign currencies shall be converted into local currency at the exchange rate of the national

(central) bank of the Member State on the date corresponding to the time (date) of determining the tax base.

16. The tax base for excise taxes shall be represented by the amount and quantity (other indices) of imported excise goods, including tolling goods, in kind, for which fixed (specific) rates of excise taxes have been set, or the cost of imported excisable goods, including tolling goods, with respect to which ad valorem excise rates have been set.

The tax base for the calculation of excise duties shall be determined on the date of registration of imported excisable goods, including tolling goods, by the taxpayer (but not later than the time limit determined by the legislation of the Member State into the territory of which the excisable goods are imported).

17. The amount of indirect taxes payable on goods imported into the territory of one Member State from the territory of another Member State shall be calculated by the taxpayer at the tax rates set by the legislation of the Member State into the territory of which the excisable goods are imported.

18. In order to ensure complete payment of indirect taxes, the legislation of the Member State governing the pricing principles for taxation purposes may be applied.

19. Indirect taxes, excluding excise taxes on marked excisable goods, shall be paid not later than on the 20th day of the month following the month: of acceptance of imported goods for registration; of the date of payment provided for by the lease agreement (contract).

Excise taxes on marked excisable goods shall be paid within the terms determined by the legislation of the Member State.

20. The taxpayer shall submit to the tax authority the respective tax declaration in the form determined by the legislation of the Member State or

in the form approved by the competent authority of the Member State into the territory of which the goods are imported, including under a lease agreement (contract), not later than on the 20th day of the month following the month of registration of imported goods (the date of payment provided for by the lease agreement (contract)). With the tax declaration, the taxpayer shall submit to the tax authority the following documents:

1) a statement in hard copy (four copies) and in electronic form or a statement in electronic form with an electronic (digital) signature of the taxpayer;

2) a bank statement confirming the actual payment of indirect taxes on imported goods, or any other document confirming the fulfilment of tax obligations to pay indirect taxes, if provided for by the legislation of the Member State. If a taxpayer has paid (recovered) excess amounts of taxes, duties or indirect taxes to be refunded (offset) both, at the importation of goods into the territory of one Member State from the territory of another Member State and at the sale of goods (works, services) on the territory of the Member State, the tax authority shall adopt (deliver) a decision on offsetting thereof in payment of indirect taxes on imported goods in accordance with the legislation of the Member State into the territory of which the goods are imported. In this case, a bank statement (copy thereof) confirming the actual payment of indirect taxes on imported goods shall not be submitted. In case of a lease agreement (contract), the documents referred to in this sub-paragraph shall be submitted when due under the lease agreement (contract);

3) transport (shipping) and/or other documents required by the legislation of the Member State and confirming the movement of goods from the territory of one Member State to the territory of another Member State.

These documents shall not be submitted if execution of these documents is not provided for by the legislation of the Member State for certain types of movement of goods, including the movement of goods without the use of vehicles;

4) detailed tax invoices drawn up in accordance with the legislation of the Member State when shipping the goods, if execution thereof (invoicing) is provided for by the legislation of the Member State.

If the legislation of the Member State does not provide for the execution of a detailed tax invoice (invoicing) or if the goods are purchased from a taxpayer of a non-member state, other document(s) issued (made out) by the seller and confirming the cost of goods imported shall be submitted to the tax authority instead of the detailed tax invoice;

5) agreements (contracts) under which the goods imported into the territory of a Member State from the territory of another Member State are purchased; in the case of a lease of goods (leased items), lease agreements (contracts); in the case of a credit on goods (commercial loan, material loan), credit on goods (commercial loan, material loan) agreements (contracts); as well as manufacturing or tolling agreements (contracts);

6) an information statement (in the cases provided for by paragraphs 13.2 - 13.5 of this Protocol), submitted to the taxpayer of one Member State by the taxpayer of another Member State or by a taxpayer of a non-member state (signed by the manager (individual entrepreneur) and certified with the company seal) that sells the goods previously imported from the territory of a third Member State, containing the following information on the taxpayer of the third Member State and the agreement (contract) concluded with the taxpayer of that third Member State on the acquisition of imported goods:

taxpayer identification number in the Member State;

full name of the taxpayer (organisation (individual entrepreneur)) of the Member State;

location (residence) of the taxpayer in the Member State;

number and date of the agreement (contract);

number and date of the specifications.

If the taxpayer of the Member State selling the goods is not the owner of the goods sold (is a commission agent, mandatary or agent), the information specified in indents two to six of this sub-paragraph shall be submitted in respect of the owner of the goods sold.

If the information statement is submitted in a foreign language, a Russian translation must be required.

Information statements shall not be submitted if the information required under this sub-paragraph is contained in the agreement (contract) referred to in sub-paragraph 5 of this paragraph;

7) commission, mandate or agency agreements (contracts) (if concluded);

8) agreements (contracts), under which the goods imported into the territory of a Member State from the territory of another Member State were purchased, under commission, mandate or agency agreements (contracts) (in the cases provided for by paragraphs 13.2 - 13.5 of this Protocol, except when indirect taxes are paid by the commission agent, mandatary or agent).

Documents referred to in sub-paragraphs 2 – 8 of this paragraph may be submitted as copies certified in the procedure determined by the legislation of a Member State or in electronic form under the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of the said

documents shall be determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

In case of a lease agreement (contract), at the first VAT payment, the taxpayer shall submit to the tax authority all documents specified in subparagraphs 1 – 8 of this paragraph. Thereafter, the taxpayer shall submit to the tax authority the documents (copies thereof) indicated in subparagraphs 1 and 2 of this paragraph, simultaneously with the tax declaration.

Documents referred to in this paragraph, except for the statements and information statements, shall not be submitted to the tax authority if non-presentation thereof simultaneously with the tax declaration is in accordance with the legislation of the Member State into the territory of which the goods are imported.

21. An updated (substituted) statement shall be submitted either in hard copy (four copies) and in electronic form or in electronic form with an electronic (digital) signature of the taxpayer. Simultaneously with the updated (substituted) statement, the documents provided for by subparagraphs 2 - 8 of paragraph 20 of this Protocol shall be provided, if they have not been previously presented to the tax authority.

If submitting the updated (substituted) statement does not entail changes to the previously submitted tax declaration, the taxpayer shall not submit a revised (additional) tax declaration, unless otherwise determined by the legislation of a Member State. Submission of such an updated statement shall not entail the reconstruction of previously deductible VAT amounts paid when importing the goods.

An updated (substituted) statement shall not be submitted in the cases determined by the legislation of the Member State.

22. In cases of non-payment, not full payment of indirect taxes on imported goods or payment of such taxes on a later date as against the date determined in paragraph 19 of this Protocol, as well as upon detecting facts of non-submitting tax declarations, their submitting with violation of the period determined in paragraph 20 of this Protocol or in cases of non-compliance of the data specified in the tax declarations with the data obtained within the exchange of information between tax authorities of the Member States, the tax authority shall recover the indirect taxes and penalties in the procedure and amount determined by the legislation of the Member State into the territory of which the goods are imported and shall apply means of securing the fulfilment of the obligations to pay indirect taxes, penalties and sanctions as determined by the legislation of that Member State.

23. When imported goods are returned in the month of their registration, the transactions for import of these goods shall not be recorded in the tax declaration if the goods are returned due to inadequate quality and/or incomplete delivery.

Return of goods due to inadequate quality and/or incomplete delivery shall be confirmed by the claim agreed by the parties to the agreement (contract), as well as by documents corresponding to subsequent transactions with such goods. These documents may include transfer and acceptance certificates for the goods (if the returned goods are not transported), transport (shipping) documents (if the returned goods are transported), destruction certificates or other documents. In the case of partial return of such goods, the above documents (copies thereof) shall be submitted to the tax authority simultaneously with the documents provided for by paragraph 20 of this Protocol.



When imported goods are returned on the above grounds upon expiration of the month in which they were accepted for registration, the taxpayer shall submit to the tax authority a corresponding updated (additional) tax declaration and documents (copies thereof) referred to in the second indent of this paragraph.

The documents referred to in the second indent of this paragraph may be submitted in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of such documents shall be specified by tax authorities of the Member States or other regulatory legal acts of the Member States.

In the case of a partial return of goods due to inadequate quality and/or incomplete delivery, an updated (substituted) statement shall be presented to the tax authority without information on the partially returned goods. The statement shall be submitted either in hard copy (four copies) and in electronic form or in electronic form with an electronic (digital) signature of the taxpayer.

In the case of a full return due to inadequate quality and/or incomplete delivery of goods the details of which were recorded in the previously submitted statement, the updated (substituted) statement shall not be submitted to the tax authority. The taxpayer shall inform the tax authorities on the details of the previously submitted statement containing information on the goods returned in full in the form and procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

In case of a partial or full return of goods due to inadequate quality and/or incomplete delivery, the VAT previously paid on the import of these

goods and subject to deduction shall be paid in the tax period in which the goods are returned, unless otherwise provided for by the legislation of the Member State.

24. In case of an increase of the cost of imported goods upon expiration of the month in which the goods were accepted for registration by the taxpayer, the tax base for the purposes of VAT payment shall be increased by the difference between the updated and the previous cost of the imported goods. The VAT payment and submission of tax declaration shall be completed not later than on the 20th day of the month following the month in which the parties to the agreement (contract) changed the price of imported goods.

The difference between the updated and the previous cost of the acquired imported goods shall be recorded in the tax declaration submitted by the taxpayer to the tax authority simultaneously with the following:

a statement (indicating the difference between the updated and the previous cost) in hard copy (four copies) and in electronic form or in electronic form with an electronic (digital) signature of the taxpayer;

the agreement (contract) or other document specified by the parties to the agreement (contract) confirming the increase in the price of imported goods, and an adjustment detailed tax invoice (if provided for by the legislation of the Member State). These documents may be submitted as copies certified in the procedure determined by the legislation of a Member State or in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of the said documents shall be determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

25. When goods imported into the territory of a Member State in accordance with its legislation without the payment of indirect taxes are used for purposes other than those for which the exemption or alternative payment procedure are granted, the import of such goods shall be subject to indirect taxes in the procedure determined by this section.

26. The amounts of indirect taxes paid (offset) on goods imported into the territory of one Member State from the territory of another Member State shall be subject to deduction (offset) in the procedure provided for by the legislation of the Member State into the territory of which the goods are imported.

27. Excise taxes on goods subject to excise marking (accounting and control marks, labels) shall be levied by the customs authorities of the Member State, unless otherwise provided for by the legislation of the Member State.

#### IV. Procedure for Collection of Indirect Taxes in the Performance of Works and Provision of Services

28. Indirect taxes on the performance of works and provision of services shall be collected on the territory of a Member State which is recognised as the place of sale of the works and services (with the exception of the works referred to in paragraph 31 of this Protocol).

In the performance of works or provision of services, the tax base, the rates of indirect taxes, the procedure for their collection and tax exemptions (immunity from taxation) shall be in accordance with the legislation of the Member State the territory of which is recognised as the place of sale of the works and services, unless otherwise determined in this section.

29. The territory of a Member State shall be deemed the place of sale of the works and services if:

1) the works and services are directly related to immovable property located on the territory of that Member State.

The provisions of this sub-paragraph shall also apply to lease, rent and other types of charter of immovable property;

2) the works and services are directly related to movable property or vehicles located on the territory of that Member State;

3) the services in the sphere of culture, art, education (training), physical culture, tourism, leisure and sports are provided on the territory of that Member State;

4) the taxpayer of that Member State is the buyer of :

consultancy, legal, accounting, auditing, engineering, advertising, design, marketing, data processing services, as well as scientific research, design and experimental and technological and experimental ( technological) works;

works and services for the development of computer programmes and databases (computer software and information products), adaptations and modifications thereof, support for such programs and databases;

recruitment services for the staff working at the location of the purchaser.

The provisions of this sub-paragraph shall also apply to:

transfer, granting, assignment of patents, licenses and other documents certifying state-protected industrial property rights, trademarks, trade names, service marks, copyright, related rights or other similar rights;

rent, lease and other types of charter of movable property, except for the rent, lease and other types of charter of vehicles;

provision of services by a person recruiting on its behalf for the main party to an agreement (contract) or on behalf of the main party to an agreement (contract) another person to perform the works, services provided for in this sub-paragraph;

5) the works are performed or the services are provided by the taxpayer of that Member State, unless otherwise provided for by sub-paragraphs 1- 4 of this paragraph.

The provisions of this sub-paragraph shall also apply to rent, lease and other types of vehicles chartering.

30. The following documents shall be deemed confirming the place of sale of works or services:

agreement (contract) for the execution of works or provision of services concluded between taxpayers of the Member States;

documents confirming the execution of works, provision of services;

other documents required by the legislation of the Member States.

31. When conducting tolling operations in respect of customer-supplied goods imported into the territory of a Member State from the territory of another Member State with subsequent exportation of tolling products to the territory of another state, the procedure for collecting VAT and controlling its payment shall be as specified under section II of this Protocol, unless otherwise determined in this section. In this case, the VAT base shall be determined as the cost of tolling operations performed.

32. In order to confirm the validity of application of a zero VAT rate to the performance of works referred to in paragraph 31 of this Protocol, the following documents (copies thereof) shall be submitted in hard copy to the tax authorities, simultaneously with the tax declaration:

1) agreement (contract) between taxpayers of the Member States;

- 2) documents confirming the fact of execution of works;
- 3) documents confirming the export (import) of goods referred to in paragraph 31 of this Protocol;
- 4) a statement (in hard copy, in its original or in a copy, at the discretion of tax authorities of the Member States) or a list of statements (in hard copy or electronically with an electronic (digital) signature of the taxpayer).

The list of statements shall be submitted in the procedure determined by sub-paragraph 3 of paragraph 4 of this Protocol.

In the case of export of tolling products outside the Union, the statement (the list of statements) shall not be provided to the tax authority.

In the case of export of tolling products from the territory of one Member State to the territory of another Member State and placing thereof under the customs procedure of a free customs zone or a free warehouse on the territory of another Member State, a copy of the customs declaration under which such goods are placed under the customs procedure of a free customs zone or a free warehouse, certified by the customs authority of another Member State, shall be submitted to the tax authority of the first Member State instead of the above statement (list of statements).

- 5) a customs declaration confirming the export of tolling products outside the Union;

- 6) other documents provided for by the legislation of the Member States.

All documents provided for by sub-paragraphs 1, 2, 3, 5, 6 and the fourth indent of sub-paragraph 4 of this paragraph may be submitted in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member

States. The format of such documents shall be specified by tax authorities of the Member States or other regulatory legal acts of the Member States.

The documents provided for by this paragraph, except for the statement (the list of statements) shall not be submitted to the tax authority if non-submission of documents confirming the validity of the application of a zero VAT rate and/or exemption from excise taxes simultaneously with the tax declaration is consistent with the legislation of the Member State on the territory of which the goods are tolled.

33. If a taxpayer performs/provides several types of works/services the taxation of which is governed by this section, and the performance/provision of certain works/services is auxiliary to the performance/provision of other works/services, the place of sale of main works/services shall also be regarded as the place of sale of auxiliary works/services.

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ANNEX 19  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on General Principles and Rules of Competition**

I. General provisions

1. This Protocol has been developed in accordance with Section XVIII of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and determines the specific features of its application, the penalties for violation of the general rules of competition in transboundary markets on the territories of two or more Member States (hereinafter "the transboundary market"), the procedure for conducting by the Commission of control over compliance with the general rules of competition in transboundary markets (including cooperation with the authorised authorities of the Member States), interaction between the authorised authorities of the Member States when conducting control over compliance with the competition (antitrust) law, as well as introduction of state price regulation and challenging decisions of the Member States on its introduction.

2. The terms used in this Protocol, as well as for the purposes of Section XVIII of the Treaty, shall have the following meanings:

1) "vertical agreement" means an agreement between economic entities (market participants), under which one of them acquires goods or is a potential purchaser thereof, and the other provides goods or is a potential seller thereof;



2) "interchangeable goods" means goods that are comparable by their functional purpose, application, qualitative and technical characteristics, price and other parameters to the extent that the purchaser actually substitutes or is willing to substitute one type goods with the other in consumption (including for industrial purposes);

3) "state price regulation" means setting by state government and local authorities of the Member States prices (tariffs), surcharges to prices (tariffs), maximum or minimum prices (tariffs), maximum or minimum surcharges to prices (tariffs) in the procedure determined by the legislation of the Member States;

4) "state or municipal preferences" means provision of benefits to individual economic entities (market participants) by executive and local authorities of the Member States and by other authorities or organisations exercising the functions thereof, ensuring more favourable terms for activities through the transfer of state or municipal property and other objects of civil rights or property exemptions, state or municipal guarantees;

5) "group of persons" means a set of natural persons and/or juridical persons corresponding to one or more of the following criteria:

an economic company (partnership, economic partnership) and a natural person or a juridical person if such natural person or juridical person holds more than 50 percent of the total number of votes of voting shares (equities) in the authorised (share) capital of the economic company (partnership, economic partnership) through participation in the economic company (partnership, economic partnership) or under the powers transferred by other parties including under written agreements;

an economic entity (market participant) and a natural person or a juridical person exercising the functions of the sole executive authority of such economic entity (market participant);

an economic entity (market participant) and a natural person or a juridical person entitled to issue mandatory instructions to such economic entity (market participant) on the basis of constituent documents of the economic entity (market participant) or a contract (agreement) concluded with the economic entity;

economic entities (market participants) in which over 50 percent of members of collegial executive authorities and/or the Board of Directors (Supervisory Board, the Board of the Fund) are represented by the same natural persons ;

a natural person, his/her spouse, parents (including adoptive parents), children (including adopted children), and siblings;

persons each of which is included in a group with the same person on the grounds specified in indents two to six of this sub-paragraph, as well as other persons included in a group with any of these persons on any of the grounds specified in indents two to six of this paragraph;

an economic company (partnership, economic partnership), natural persons and/or juridical persons included in one group of persons on any of the grounds specified in indents two to seven of this sub-paragraph if such natural persons or juridical persons hold more than 50 percent of the total number of votes of voting shares (equities) in the authorised (share) capital of the economic company (partnership, economic partnership) through participation in the economic company (partnership, economic partnership) or under the powers transferred by other parties.

A group of persons shall be regarded as a single economic entity (market participant), and the provisions of Section XVIII of the Treaty and this Protocol relating to economic entities (market participants) shall apply to a group of persons, except in cases provided for by this Protocol.

For the purposes of implementing competition (antitrust) policy on the territories of the Member States, the term "group of persons" may be specified in the legislation of the Member States, including as to the amount of disposing shares (equities) by one person in the authorised (share) capital of another person wherein such disposal (participation) is recognised as a group of persons ;

6) "discriminatory conditions" means conditions of access to a commodity market, conditions of production, exchange, consumption, purchase, sale and other types of transfer of goods, when an economic entity (market participant) or several economic entities (market participants) are at a disadvantage compared with another economic entity (market participant) or other economic entities (market participants) subject to the conditions, restrictions and specific features provided for by the Treaty and/or other international treaties of the Member States;

7) "dominant position" means the position of an economic entity (market participant) (group of persons) or several economic entities (market participants) (groups of persons) in the market of particular goods enabling such economic entity (market participant) (group of persons) or economic entities (market participants) (group of persons) to exert a decisive influence on the general terms for circulation of goods at the respective commodity market, and/or to remove other economic entities (market participants) from the commodity market, and/or to impede access to this commodity market to other economic entities (market participants);

8) "competition" means competitiveness of economic entities (market participants), when independent actions of each of them eliminate or limit the ability of each of them to unilaterally influence the general conditions for circulation of goods on the relevant commodity market;

9) "confidential information" means all kinds of information protected by regulatory legal acts of the Member States, except for the information regarded as State secret (State secrets) under the legislation of the Member States;

10) "coordination of economic activities" means agreement of actions of economic entities (market participants) by a third person, not included in the same group of persons with any of these economic entities (market participants) and not operating in that commodity market(s), in which the actions of economic entities (market participants) are agreed;

11) "indirect control" means the possibility of a juridical person or a natural person to determine decisions to be made by a juridical person through a juridical person or several juridical persons bound by direct control relationship;

12) "monopolistically high price" means a price set by the economic entity (market participant) holding the dominant position, if this price exceeds the amount of costs required for the production and sale of respective goods and profits and the price determined under the conditions of competition in a commodity market with a comparable composition of buyers or sellers of goods, conditions of goods circulation, conditions of access to the commodity market, government regulations, including taxation and customs and tariff regulation (hereinafter "a comparable commodity market"), if such a market is available inside or outside the Union. A price set by a natural monopoly entity within the tariff for respective goods

determined under the legislation of the Member States may not be regarded as a monopolistically high price;

13) "monopolistically low price" means a price set by the economic entity (market participant) holding the dominant position, if this price is lower than the amount of costs required for the production and sale of respective goods and profits and the price determined under the conditions of competition in a comparable commodity market, if such a market is available inside or outside the Union;

14) "unfair competition" means any actions of an economic entity (market participant) (group of persons ) or several economic entities (market participants) (groups of persons ), aimed at obtaining an advantage in business activities, contrary to the legislation of the Member States, business customs, requirements of integrity, reasonableness and fairness, which have caused or may cause damage to competing economic entities (market participants) or their business reputation;

15) "signs of restriction of competition" means reduction of the number of economic entities (market participants) not included into a single group of persons in a commodity market, increase or decrease in the price of goods not resulting from corresponding changes in other general conditions of circulation of goods in the commodity market, refusal of economic entities (market participants) not included into a single group of persons to conduct independent activities in the commodity market, determining general conditions of goods circulation in the commodity market by agreement between economic entities (market participants) or under binding instructions issued by another person, or as a result of agreement by economic entities (market participants) not included in the same group of persons of their actions in the commodity market, as well as under other circumstances that

enable an economic entity (market participant) or several economic entities (market participants) to unilaterally influence the general conditions of circulation of goods in the commodity market;

16) "direct control" means the possibility of a juridical person or natural person to determine decisions to be made by a juridical person through one or more of the following actions:

exercising the functions of its executive authority;

obtaining the right to determine the conditions of business operations of a juridical person ;

disposing more than 50 percent of the total number of votes granted by shares (equities) in the authorised (share) capital of the juridical person ;

17) "agreement" means an agreement executed in writing in the form a document or multiple documents, as well as an agreement in oral form;

18) "goods" means objects of civil rights (including work, service, including financial service) intended for sale, exchange or other types of circulation;

19) "commodity market" means the sphere (including geographical) of circulation of goods which may not be replaced by other goods or of interchangeable goods, within which the purchaser may acquire goods based on economic, technical or other opportunity or expediency, and when such possibility or expediency is unavailable outside its scope;

20) "economic entity (market participant)" means a commercial organisation or a non-profit organisation operating with generation of profit, an individual entrepreneur, as well as a natural person whose professional income-generating activities are subject to state registration and/or licensing under the legislation of the Member States;

21) "economic concentration" means transactions and other actions that influence or may influence the competitive situation.

3. The dominant position of an economic entity (market participant) shall be determined based on the analysis of the following circumstances:

1) the share of the economic entity (market participant) and its relationship with shares of competitors and customers;

2) the possibility for the economic entity (market participant) to unilaterally determine the level of prices of goods and exert a decisive influence on the general conditions for circulation of goods in the relevant commodity market;

3) availability of economic, technological, administrative or other restrictions on access to the commodity market;

4) the period within which the economic entity (market participant) may exert a decisive influence on the general conditions of circulation of goods in the commodity market.

4. The legislation of the Member States may determine other (additional) conditions for recognition of the dominant position of economic entities (market participants).

The dominant position of an economic entity (market participant) in the transboundary market shall be determined by the Commission in accordance with the methodology of assessing the status of competition in the transboundary market approved by the Commission.

## II. Acceptability of Agreements and Exceptions

5. The agreements provided for by paragraphs 4 and 5 of Article 76 of the Treaty, as well as agreements of economic entities (market participants)

on joint activities that may lead to the consequences referred to in paragraph 3 of Article 76 of the Treaty, may be deemed acceptable if they do not impose any restrictions on economic entities (market participants) that are irrelevant to the objectives of these agreements and do not enable the elimination of competition in the respective commodity market, and if the economic entities (market participants) prove that such agreements have resulted or may result in:

1) improved production (sale) of goods or promotion of technical (economic) progress or improved competitiveness of goods manufactured in the Member States in the world commodity market;

2) receiving by consumers of a proportionate part of the benefits (advantages) acquired by the relevant persons through such actions.

6. "Vertical" agreements shall be permitted if:

1) they constitute commercial concession agreements;

2) the share of each economic entity (market participant) that is a party to such an agreement in the commodity market of the goods covered by the vertical agreement does not exceed 20 percent .

7. The provisions of paragraphs 3-6 of Article 76 of the Treaty shall not extend to agreements between economic entities (market participants) included in the same group if one of these economic entities (market participants) has established direct or indirect control with respect to the other economic entity (market participant) or if such economic entities (market participants) are under direct or indirect control of a common person, except for agreements between economic entities (market participants) engaged in activities that may not be performed in parallel by a single economic entity (market participant) under the legislation of the Member States.



### III. Control over Compliance with the General Rules of Competition

8. The authorised authorities of the Member States shall be in charge of suppression of violations by economic entities (market participants), as well as by natural persons and non-profit organisations of the Member States that are not economic entities (market participants), of the general rules of competition determined in Article 76 of the Treaty on the territories of the Member States.

9. The Commission shall be in charge of suppression of violations by economic entities (market participants), as well as by natural persons and non-profit organisations of the Member States that are not economic entities (market participants), of the general rules of competition determined in Article 76 of the Treaty on the territories of the Member States, if such violations have or may have an adverse effect on competition in transboundary markets, except for violations adversely affecting competition in transboundary financial markets, the suppression of which shall be carried out in accordance with the legislation of the Member States.

10. The Commission shall:

1) review statements (materials) on the presence of signs of a violation of the general rules of competition determined in Article 76 of the Treaty, which has or may have an adverse effect on competition in transboundary markets, as well as conduct the necessary investigations;

2) initiate and review cases of violations of the general rules of competition determined in Article 76 of the Treaty, which have or may have an adverse effect on competition in transboundary markets, based on requests from authorised authorities of the Member States, economic entities (market

participants) of the Member States, state government authorities of the Member States and natural persons, or on its own initiative;

3) issue rulings, adopt decisions binding for economic entities (market participants) of the Member States, including on the application of penalties to economic entities (market participants) of the Member States in the cases provided for in Section XVIII of the Treaty and in this Protocol, on actions aimed at termination of violations of the general rules of competition, elimination of consequences of such violations, ensuring competition, avoidance of actions that may constitute an obstacle to the emergence of competition and/or may result in restriction or elimination of competition in the transboundary market and violation of the general rules of competition in the cases provided for in Section XVIII of the Treaty and in this Protocol;

4) request and receive information from state government and local authorities, other authorities or organisations of the Member States exercising their functions, juridical persons and natural persons, including confidential information required for the exercise of powers to control compliance with the general rules of competition in transboundary markets;

5) submit, not later than June 1 to the Supreme Council, the annual reports on the competitive situation in transboundary markets and measures taken to suppress violations of the general rules of competition at these markets, and post the approved reports on the official website of the Union on the Internet;

6) post decisions on reviewed cases of violations of the general rules of competition on the official website of the Union on the Internet;

7) exercise other powers required for the implementation of the provisions of Section XVIII of the Treaty and this Protocol.

11. The procedure for examination of statements (materials) on violations of the general rules of competition in transboundary markets, the procedure for conducting investigations of violations of the rules of general competition in transboundary markets, as well as the procedure for conducting the proceedings on violations of the general rules of competition in transboundary markets shall be approved by the Commission. Results of the analysis of the competitive situation conducted by the Commission when examining a case of violation of the general rules of competition shall be included in the Commission's decision adopted following examination of the case, except for confidential information.

For the purposes of exercising the powers to control compliance with the general rules of competition in transboundary markets required for the implementation of the provisions of Section XVIII of the Treaty and of this Protocol, the Commission shall approve:

- the method for assessing the competitive situation;
- the method for determining monopolistically high (low) prices;
- the methods for calculation and procedure for imposition of penalties;
- specific features of application of the general rules of competition in various economic sectors (if necessary);

- the procedure for cooperation (including information exchange) between the Commission and the authorised authorities of the Member States.

12. In order to ensure the investigation and preparation of case materials on violations of the general rules of competition in transboundary markets determined by Article 76 of the Treaty, the Commission shall operate a respective structural unit (hereinafter – "the authorised structural unit of the Commission").

13. When examining statements (materials) on violation of the general rules of competition in transboundary markets, conducting investigations of violation of the general rules of competition in transboundary markets examining cases on violation of the general rules of competition in transboundary markets, the authorised structural unit of the Commission shall request all information required for examination of statements (materials), conducting investigation, examination of the case from state government authorities, local authorities, other authorities or organisations of the Member States exercising their functions, juridical and natural persons .

Economic entities (market participants), non-profit organisations, state government authorities, local authorities, other authorities or organisations (and officials thereof) of the Member States exercising their functions and natural persons are obliged to submit to the Commission upon its request, within the determined periods, the information, documents, statements, clarifications as may be required by the Commission in accordance with its powers.

14. Decisions of the Commission on the imposition of a penalty, decisions of the Commission binding the offender to perform certain actions shall be deemed enforcement documents and shall be enforceable by authorities enforcing judicial acts and acts of other authorities and officials of the Member State of registration of the offending economic entity (market participant), non-profit organisation that is not an economic entity (market participant), or of the Member State of permanent or temporary residence of the offending natural person.

Acts and actions (omissions) of the Commission in the sphere of competition shall be contested in the Court of the Union in the procedure

provided for by the Statute of the Court of the Union (Annex 2 to the Treaty) subject to the provisions of this Protocol.

If the Court of the Union initiates proceedings following an appeal against a decision of the Commission in the case of violation of the general rules of competition in transboundary markets, the effect of the decision of the Commission shall be suspended until the effective date of the decision of the Court of the Union .

The Court of the Union shall admit to examination an appeal against a decision of the Commission in the case of violation of the general rules of competition in transboundary markets without prior application of the applicant to the Commission for resolving the matter in the pretrial procedure.

15. Acts and actions (omissions) of the authorised authorities of the Member States may be contested with the judicial authorities of the Member States in accordance with the procedural legislation of the Member States.

#### IV. Penalties for Violation of the General Rules of Competition in Transboundary Markets Imposed by the Commission

16. In accordance with the method of calculation and the procedure for imposing penalties to be approved by the Commission, the Commission shall impose penalties for violations of the general rules of competition in transboundary markets determined in Article 76 of the Treaty, as well as for non-submission or late submission of requested data (information) to the Commission or for submission of knowingly false information to the Commission, in the following amounts:

1) unfair competition inadmissible under paragraph 2 of Article 76 of the Treaty shall be subject to penalties in the amount of RUB 20,000 to

110,000 for officials and individual entrepreneurs and RUB 100,000 to 1,000,000 for juridical persons;

2) conclusion by an economic entity (market participant) of an agreement inadmissible under paragraphs 3-5 of Article 76 of the Treaty, as well as participation therein, shall be subject to a penalty in the amount of RUB 20,000 to 150,000 for officials and individual entrepreneurs, and, for juridical persons, in the amount of one to fifteen percent of the proceeds gained by the offender from selling goods (works, services) in the market of which the violation occurred or the amount of expenditure of the offender on the purchase of goods (works, services) in the market of which the violation occurred, but not more than one-fiftieth of the overall proceeds of the offender from selling all goods (works, services) and no less than RUB 100,000; and if the amount of proceeds of the offender from selling goods (works, services) in the market of which the violation occurred exceeds 75 percent of the total proceeds of the offender from selling all goods (works, services) the penalty in the amount of three thousandths to three hundredths of the amount of the proceeds gained by the offender from selling goods (works, services) in the market of which the violation occurred or of the amount of expenditure of the offender for the purchase of goods (works, services) in the market of which the violation occurred, but not more than one-fiftieth of the overall income of the offender from selling all goods (works, services) and no less than RUB 100,000;

3) coordination of economic activities of economic entities (market participants) inadmissible under paragraph 6 of Article 76 of the Treaty shall be subject to penalties in the amount of RUB 20,000 to 75,000 for natural persons, RUB 20,000 to 150,000 for officials and individual entrepreneurs, and RUB 200,000 to 5,000,000 for juridical persons;

4) committing by an economic entity (market participant) holding a dominant position in the commodity market of actions constituting an abuse of the dominant position and inadmissible under paragraph 1 of Article 76 of the Treaty shall be subject to a penalty in the amount of RUB 20,000 to 150,000 for officials and individual entrepreneurs, and, for juridical persons, in the amount of one to fifteen percent of the proceeds gained by the offender from selling goods (works, services) in the market of which the violation occurred or the amount of expenditure of the offender on the purchase of goods (works, services) in the market of which the violation occurred, but not more than one-fiftieth of the overall proceeds of the offender from selling all goods (works, services) and no less than RUB 100,000; and if the amount of proceeds of the offender from selling goods (works, services) in the market of which the violation occurred exceeds 75 percent of the total proceeds of the offender from selling all goods (works, services) the penalty in the amount of three thousandth to three hundredths of the proceeds gained by the offender from selling goods (works, services) in the market of which the violation occurred or of the amount of expenditure of the offender on the purchase of goods (works, services) in the market of which the violation occurred, but not more than one-fiftieth of the overall income of the offender from selling all goods (works, services) and no less than RUB 100,000;

5) non-submission or late submission to the Commission of information (data) provided for by Section XVIII of the Treaty and in this Protocol, including failure to provide statements (information) at the request of the Commission, as well as deliberate submission to the Commission of knowingly false statements (information), shall be subject to a penalty in the amount of RUB 10,000 to 15,000 for natural persons, RUB 10,000 to 60,000

for officials and individual entrepreneurs, and RUB 150,000 to 1,000,000 for juridical persons.

For the purpose of this Protocol, officials shall refer to managers or employees of economic entities (market participants) and non-profit organisations that are not economic entities (market participants) performing organisational and regulatory or administrative and business functions, as well as heads of organisations operating as the sole executive authorities of economic entities (market participants) and non-profit organisations that are not economic entities (market participants). For the purposes of this Protocol, natural persons carrying out professional income-generating activities that are subject to state registration and/or licensing under the legislation of the Member States shall be liable for violations of the general rules of competition in transboundary markets as being officials.

17. The penalties provided for by sub-paragraphs 1-5 of paragraph 16 of this Protocol shall be transferred to the budget of the Member State of registration of the offender (for juridical persons) or of the Member State of permanent or temporary residence of the offender (for natural persons ).

18. The penalties provided for by paragraph 16 of this Protocol shall be paid by an economic entity (market participant), a natural person or a non-profit organisation that is not an economic entity (market participant) in the national currency of the Member State of registration of the economic entity (market participant) or non-profit organisation, or of permanent or temporary residence of the natural person, having violated the general rules of competition under this Protocol, at the rate set by the national (central) bank of the said Member State as of the date of adopting by the Commission of the decision to impose the penalty.



19. A person (group of persons) having voluntarily informed the Commission of their concluding an agreement prohibited by Article 76 of the Treaty shall be exempt from liability for the offence under sub-paragraph 2 of paragraph 16 of this Protocol subject to accumulation of the following conditions:

at the time the of application of a person, the Commission did not have at its disposal any information or documents concerning the offence;

the person initially or subsequently refused to participate in the agreement inadmissible in accordance with Article 76 of the Treaty;

the information and documents submitted are sufficient to determine the event of offence.

The exemption from liability shall be granted to the person that is first to fulfil all the conditions provided for by this paragraph.

20. Statements filed on behalf of several persons that are parties to an agreement that is inadmissible under Article 76 of the Treaty shall be rejected.

21. Amount of penalties for violations of the general rules of competition in transboundary markets determined in this section may be amended by decision of the Supreme Council, with the exception of penalties imposed on juridical persons and calculated based on the proceeds generated by the offender from selling goods (works, services) or expenditures of the offender for the purchase of goods (works, services) in the market of which the offence is committed.

## V. Cooperation between Authorised Authorities of the Member States

22. For the purposes of implementing Section XVIII of the Treaty and this Protocol, the authorised authorities of the Member States shall cooperate within the law enforcement activities by sending notifications, requests for information, inquiries and orders to conduct certain procedural activities, exchange of information, coordination of the law enforcement activities of the Member States, as well as implementation of the law enforcement activities at the request of any Member State.

This cooperation shall be carried out by the central offices of the authorised authorities of the Member States.

23. The authorised authority of a Member State shall notify the authorised authority of another Member State if it becomes aware that its law enforcement activities may affect the interests of another Member State in the sphere of protection of competition.

24. In this Protocol, the law enforcement activities that may affect the interests of another Member State in the sphere of protection of competition shall refer to the activities of the authorised authorities of the Member States:

- 1) relating to the law enforcement activities of another Member State;
- 2) relating to anti-competitive actions (except for mergers and acquisitions and other actions), including those undertaken on the territory of another Member State;
- 3) relating to transactions (other actions), when one of the parties or a person controlling one or more parties to the transaction or otherwise determining the conditions of their business activities is a person registered or incorporated under the legislation of another Member State;
- 4) relating to the use of coercive measures requiring or prohibiting any actions on the territory of another Member State within enforcement of the competition (antitrust) legislation.

25. Notifications of transactions (other actions) shall be sent:

1) not later than the date of the decision of the notifying authorised authority of the Member State on extension of the transaction examination period;

2) if a decision is made on a transaction without an extension of the examination period, not later than the date of the decision on the transaction, within a reasonable time allowing the notified Member State to express its opinion on the transaction.

26. In order to ensure the possibility of taking into account the opinion of another Member State, notifications referred to in sub-paragraphs 1, 2 and 4 of paragraph 24 of this Protocol shall be sent to that Member State at the stage of examination of the case upon discovery of new facts to be notified to another Member State, within reasonable time periods allowing the notified Member State to express its opinion, but in any case prior to adoption of a decision in the case or conclusion of a friendly settlement agreement.

27. Notifications shall be sent in writing and shall contain sufficient information to allow the notified Member State to conduct a preliminary analysis of the consequences of the law enforcement activities of the notifying Member State affecting the interests of the notified Member State.

28. The authorised authorities of the Member States may submit requests for information and documents, as well as orders to conduct certain procedural activities.

29. A request for information and documents, an order to conduct certain procedural activities shall be executed in writing on a letterhead of the authorised authority of a Member State and shall indicate:

1) the number of the respective case (if any) information on which is requested, a detailed description of the offence and other facts related thereto,

legal qualification of the act under the legislation of the requesting Member State enclosing the text of the applicable law;

2) full names of persons in respect of which proceedings are conducted and of witnesses, their domicile or residence, nationality, place and date of birth; for juridical persons, names and addresses (if available);

3) the exact address of the addressee and name of document to be served (in requests for serving of documents);

4) a list of information and actions to be submitted or executed (in order to conduct questioning, the circumstances to be clarified and specified and the sequence and wording of questions to be addressed to the questioned person shall be indicated).

30. A request for information and documents, an order to conduct certain procedural activities may also contain:

1) an indication of the period for implementing required activities;

2) a motion for conducting in a determined procedure the activities specified in the request;

3) a motion to allow for representatives of authorised authorities of the requesting Member State to attend the implementation of the activities specified in the request as well as, unless it does not conflict with the legislation of each of the Member States, to participate therein;

4) other motions related to the execution of a request or an order.

31. A request for information and documents and an order to conduct certain procedural activities shall be signed by the heads of the requesting authorised authorities of the Member States or their deputies. The above request or order shall be attached with copies of documents referenced to in the text of the request or order, as well as other documents required for the proper execution of the request or order.

32. Orders to conduct expert examinations and other procedural activities requiring additional expenses to be incurred by an executing Member State shall be sent by prior agreement between the authorised authorities of the Member States.

33. Authorised authorities of the Member States may send procedural documents by mail directly to participants of respective cases located on the territory of another Member State.

34. It shall be allowed to send a repeated request for information and documents and order to conduct certain procedural activities, if additional information or clarification of the information obtained in the execution of the previous request or order are required.

35. A request for information and documents and an order to conduct certain procedural activities shall be executed within 1 month from the date of receipt or in any other period agreed in advance by the authorised authorities of the Member States.

When it is required to apply to some other state authority of the Member State or economic entity (market participant) of the requested Member State, the above period shall be extended by the time of execution of such application.

36. The requested authorised authority of a Member State shall conduct the actions specified in the request or order and answers all questions contained therein. The requested authorised authority of a Member State may, on its own initiative, conduct any actions not stipulated in the said request or order, but related to the execution thereof.

37. In case of a failure or impossibility to execute a request or order within the time specified in paragraph 35 of this Protocol, the requested authorised authority of a Member State shall inform the requesting authorised

authority of a Member State of such impossibility or of the expected time of execution of the request or order.

38. The authorised authorities of the Member States shall examine the practice of execution of requests for information and documents and orders to conduct certain procedural activities and keep each other informed of any cases of improper execution thereof.

39. Documents drawn up or certified by an institution or a specially authorised official within his/her jurisdiction and bearing the official seal on the territory of a Member State shall be accepted on the territories of other Member States without any special certification.

40. Legal assistance in cases of administrative offences may be refused if execution of a request or order may prejudice the sovereignty, security, public order or other interests of the requested Member State or is contrary to its legislation.

41. Each Member State shall independently bear the expenses arising in connection with the execution of requests and orders.

In certain cases, the authorised authorities of the Member States may agree on a different procedure for undertaking expenses.

42. When executing orders to conduct certain procedural and other actions, the authorised authorities of the Member States shall conduct the following:

- 1) questioning persons subject to the proceedings in the respective case, as well as witnesses;
- 2) discovery of documents required for the proceedings in the case;
- 3) examination of territories, premises, documents and belongings of the person who is subject of the order (except for such person's dwelling);

4) obtaining information required for the proceedings in or examination of the case from government agencies and officials;

5) serving of documents or copies thereof on participants of the respective case;

6) expert examination and other actions.

43. Procedural and other actions under respective cases shall be conducted in accordance with the legislation of the requested Member State.

44. If, under the legislation of the requested Member State, certain procedural activities require delivering specific decisions by authorised officials, these shall be delivered at the place of execution of the order.

45. Upon agreement by authorised authorities of the Member States, certain procedural actions on the territory of the requested Member State may be carried out in the presence and with the participation of representatives of the authorised authority of the requesting Member State pursuant to the legislation of the requested Member State.

46. Subject to the requirements of their legislation, authorised authorities of the Member States shall exchange information:

1) on the situation of commodity markets, approaches and practical results of demonopolisation under economic restructuring, methods and practical experience in prevention, limiting and suppression of monopolistic activities and development of competition;

2) contained in the national registries of companies holding dominant positions and engaged in the supply of products to commodity markets of the Member States;

3) on the practice of examination of cases concerning violations of the competition (antitrust) legislation of the Member States.

47. The authorised authorities of the Member States shall cooperate in the development of national legislation and regulations on competition (antitrust) policy through the exchange of information and methodological assistance.

48. The authorised authority of a Member State shall provide to the authorised authority of another Member State any information on anti-competitive practices at its disposal, if such information is, in the opinion of the authorised authority of the providing Member State, related to the law enforcement activity of the authorised authority of another Member State or may serve as a basis for such activity.

49. The authorised authority of a Member State shall be entitled to send to the authorised authority of another Member State a request for respective information outlining the circumstances of the case requiring the use of the information requested.

The authorised authority of a Member State having received such a request shall provide to the requesting authorised authority of another Member State the information available to it, if such information is regarded by the authorised authority as relevant to the law enforcement activity of the authorised authority of the requesting Member State or may serve as the basis for such activities.

All information requested shall be delivered within the terms agreed by authorised authorities of the Member States, but not later than within 60 calendar days from the date of receipt of the request.

The received information shall only be used for the purposes of the relevant request or consultation and shall not be disclosed or transferred to third persons without the consent of the authorised authority of the Member State that has transmitted the information.



50. If a Member State finds that any anti-competitive practices conducted on the territory of another Member State adversely affect its interests, it may notify thereof the Member State on the territory of which the anti-competitive practices are conducted and request this Member State to initiate appropriate law enforcement actions aimed to suppress the anti-competitive practices. This cooperation shall be implemented through the authorised authorities of the Member States.

The notification shall contain information about the nature of anti-competitive practices and their possible consequences for the interests of the notifying Member State, as well as a proposal on exchange of additional information and other types of cooperation which the notifying Member State is authorised to offer.

51. Upon receipt of a notification in accordance with paragraph 50 of this Protocol and after negotiations between the authorised authorities of the Member States (if conducting such negotiations is required), the notified Member State shall decide on the initiation of the law enforcement actions or extension of those previously initiated law enforcement actions in respect of the anti-competitive practices specified in the notification. The notified the Member States shall inform the notifying Member State of the decision made. When conducting the law enforcement actions in respect of the anti-competitive actions specified in the notification, the Member State shall inform the notifying Member State on the results of appropriate law enforcement actions.

When deciding on initiation of the law enforcement actions, the notified Member State shall be governed by its legislation.

The provisions of paragraphs 50 and 51 of this Protocol shall not limit the right of the notifying Member State to exercise the law enforcement actions provided by the legislation of that Member State.

52. In the case of mutual interest in the implementation of law enforcement actions in respect of related transactions (executed actions), the authorised authorities of the Member States may agree to cooperate in the exercise of law enforcement actions. When deciding on such cooperation in the exercise of law enforcement actions, the authorised authorities of the Member States shall take into account the following factors:

1) the possibility of more efficient use of material and information resources oriented to the law enforcement activities and/or reduction of the expenses incurred by the Member States in the course of the exercise of law enforcement activities;

2) the possibility of obtaining information by the Member States required for the exercise of the law enforcement activity;

3) the expected outcome of such cooperation - increasing possibilities for cooperating Member States to achieve the objectives of their law enforcement activity.

53. A Member State having duly notified the other Member State may restrict or terminate cooperation within this Protocol and implement law enforcement actions independently of the other Member State in accordance with its legislation.

54. The Member States shall conduct agreed competition policy in respect of actions of economic entities (market participants) of third countries, if such actions may negatively affect the competition in commodity markets of the Member States, through the application of the legislation rules of the Member States to such economic entities (market

participants) in the same manner and to the same extent, irrespective of their legal form and place of registration, on equal terms, as well as in cooperation in the procedure determined by this section.

55. Information and documents provided within the cooperation on the matters specified in paragraphs 22-53 of this Protocol shall be confidential and may be used only for the purposes specified in this Protocol. The use of such information for other purposes and transfer thereof to third persons shall only be allowed with the written consent of the authorised authority of the Member State that has provided the information.

56. The Member States shall ensure the protection of this information, documents and other data, including personal data, provided by the authorised authority of another Member State.

## VI. Cooperation between the Commission and the Authorised Authorities of the Member States for Monitoring Compliance with the General Rules of Competition

57. The Commission and the authorised authorities of the Member States shall interact when authorised authorities of the Member States submit statements on violations of the general rules of competition with the Commission, when the Commission examines the statements on violations of the general rules of competition in transboundary markets, during the Commission's investigations of such violations, during examination by the Commission of cases of violation of general rules of competition in transboundary markets, as well as in other cases.

When the authorised authorities of the Member States are mutually interested in the discussion of the most pressing issues of the law enforcement practice, information exchange and problems of harmonisation

of the legislation of the Member States, the Commission, in cooperation with the authorised authorities of the Member States, shall organise meetings at the level of the heads of the authorised authorities of the Member States and the member of the Board of the Commission in charge of competition and antitrust regulation.

The Commission shall cooperate with the central offices of the authorised authorities of the Member States.

58. A decision to refer the statement on a violation of the general rules of competition for examination to the Commission may be taken by the authorised authority of a Member State at any stage of its examination, conducted with account of the specific features determined by the legislation of the Member State referring the statement.

Upon taking such a decision, the authorised authority of a Member State shall send a respective written application to the Commission.

The application shall contain:

the name of the submitting authority;

the name of the economic entity (market participant), the actions (omissions) of which contain signs of violation of the general rules of competition;

a description of the actions (omissions) containing signs of violation of the general rules of competition;

borders of the commodity market, in which the signs of violation have been identified;

the provisions of Article 76 of the Treaty, which, in the opinion of the authorised authority of the Member State, have been violated.

The application shall be attached with documents in the examination of which signs of violation of the general rules of competition were identified

and which are necessary, in the opinion of the authorised authority of the Member State, for examination of the application by the Commission.

Submitting an application of the authorised authority of a Member State to the Commission shall be deemed as grounds to suspend examination of the statement on violation of the general rules of competition by the authorised authority until the Commission adopts a decision to investigate the violation of the general rules of competition, or to refer the statement (materials) to the authorised authorities of the Member States with appropriate jurisdiction, or to return the statement.

The authorised authority of a Member State shall notify the applicant of the referral of its statement to the Commission within 5 business days from the date of its sending to the Commission.

In a period not exceeding 5 business days from the date of receipt of the statement of violation of the general rules of competition in transboundary markets, the Commission shall notify the authorised authorities of the Member States and the applicant of the acceptance of the said statement for examination.

59. A decision of the Commission to investigate the violation of the general rules of competition in transboundary markets or to refer the statement (materials) to the authorised authorities of the Member States with appropriate jurisdiction shall be regarded as grounds for termination of examination of the statement by the authorised authority of the Member State.

60. A decision to refer the statement (materials) for examination to the authorised authority of a Member State may be taken at any stage of its examination, if the Commission finds that suppression of the violation of the

general rules of competition lies within the jurisdiction of the authorised authority.

In the case of such a decision, the authorised structural unit of the Commission shall prepare the appropriate request to the authorised authority of the Member State to be signed by the member of the Board of the Commission in charge of competition and antitrust regulation.

The application shall contain:

the name of the economic entity (market participant), the actions (omissions) of which contain signs of violation of the general rules of competition;

a description of the actions (omissions) containing signs of violation of the general rules of competition;

borders of the commodity market, in which the signs of violation have been identified;

The request shall be attached with documents in the examination of which signs of violation of the general rules of competition were identified and which are necessary, in the opinion of the Commission, for examination of the request by the authorised authority of the Member State.

Within 5 business days from the date of sending the statement, the Commission shall notify the applicant of the referral of its statement to the authorised authority of a Member State.

61. When investigating violations of the general rules of competition and examining cases of violation of the general rules of competition in transboundary markets, the Commission may send to the authorised authorities of the Member States a reasoned submission to conduct the following procedural activities, if the information obtained on request is insufficient to adopt a decision:

questioning persons subject to the investigation or corresponding proceedings, as well as witnesses;

reclaiming documents required for the investigation or proceedings;

inspecting territories, premises, documents and belongings of the person subject to the investigation or proceedings in the case of violation of the general rules of competition (except for such person's dwelling);

serving of documents or copies thereof on participants of the relevant case;

expert examination and other actions.

The procedural activities that are conducted on the territory of the Member State of registration of the offender who is under investigation by the Commission or subject to proceedings in a case of violation of the general rules of competition, shall be exercised in the presence and/or with the participation of employees of the authorised structural unit of the Commission as well as a representative of the authorised authority of the Member State on the territory of which the violation has occurred and/or adverse effects on competition have been identified.

When conducting procedural activities on the territory of the Member State where the violation has occurred and/or adverse effects on competition have been identified, employees of the authorised structural unit of the Commission and a representative of the authorised authority of the Member State of registration of the offender shall be present.

Should it be impossible for employees of the authorised structural unit of the Commission and/or a representative of the concerned authorised authority of a Member State to attend procedural activities, the authorised authority of a Member State executing the reasoned submission of the Commission shall be entitled to conduct such procedural activities

independently, provided that written notifications of the impossibility of attending such procedural activities are sent no later than 5 business days prior to their conducting.

62. A reasoned submission to conduct certain procedural activities shall be executed in writing and contain:

1) the number of the case (if any) information on which is requested, a detailed description of the offence and other facts related thereto, legal qualification of the act under Article 76 of the Treaty;

2) full names of persons subject to the investigation or proceedings conducted by the Commission and of witnesses, their domicile or residence, nationality, place and date of birth; for juridical persons, names and addresses (if such information is available);

3) the exact address of the addressee and name of document to be served (when required);

4) a list of information and actions to be submitted or executed (in order to conduct questioning, the circumstances to be clarified and specified and the sequence and wording of questions to be addressed to the questioned person shall be indicated).

63. A reasoned submission to conduct certain procedural activities may also contain:

1) an indication of the period for implementing required activities;

2) a motion for conducting the activities specified in the submission in a determined order ;

3) full names of employees of the authorised structural unit of the Commission who shall attend the implementation of the activities specified in the submission as well as, unless it does not conflict with the legislation of the requesting Member State, participate therein;



4) other motions related to the execution of the submission.

64. A reasoned submission to conduct certain procedural activities shall be signed by a member of the Board of the Commission in charge of competition and antitrust regulation. A reasoned submission shall be attached with copies of documents referenced to in its text, as well as other documents required for its proper execution.

65. The authorised authority of a Member State executing a reasoned submission of the Commission shall conduct procedural activities listed in the reasoned submission of the Commission under the legislation of its Member State and only in respect of persons residing on the territory of an executing Member State.

66. A reasoned submission to conduct an expert examination and other procedural activities, the execution of which requires additional expenses on behalf of an executing Member State, shall be executed on agreement of the issue of reimbursement by the Commission and the authorised authority of the Member State to which address the submission is sent.

67. A reasoned submission to conduct certain procedural activities shall be executed within 1 month of its receipt or within another period agreed upon in advance by the Commission and the authorised authority of the Member State to which address the submission is sent.

When it is required to apply to some other state authority of the Member State or economic entity (market participant) of an executing Member State, the above periods shall be extended by the time of execution of such application.

68. The authorised authority of an executing Member State shall conduct the actions referred to in the reasoned submission and answer the

questions raised, as well as may, on its own initiative, conduct any actions not provided for by the said submission, but related to the execution thereof.

69. In case of a failure to execute the reasoned submission or impossibility to execute it within the periods specified in paragraph 67 of this Protocol, the authorised authority of a Member State shall inform the Commission of the impossibility of execution of the said submission or of the expected time of its execution.

70. The reasoned submission to conduct certain procedural activities may be rejected, in whole or in part, only if its execution may prejudice the sovereignty, security or public order of an executing Member State or is contrary to its legislation, which shall be notified to the Commission in writing by the Member State. The Board of the Commission shall be entitled to introduce the issue of the lawfulness of a refusal of an authorised authority of a Member State to execute a reasoned submission for examination to the Council of the Commission.

71. Documents prepared or certified by an institution or a specially authorised official within his/her jurisdiction and bearing the official seal on the territory of a Member State the authorised authority of which received a reasoned submission, shall be accepted by the Commission without any special certification.

72. It shall be allowed to send a repeated reasoned submission to conduct certain procedural activities, if additional information or clarifications of the information obtained in the execution of the previous submission are required.

73. If a reasoned submission to conduct certain procedural activities is sent, within a single case of violation of the general competition rules in transboundary markets, to two or more authorised authorities of the Member

States, the interaction between such authorised authorities of the Member States and the Commission shall be coordinated by employees of the authorised structural unit of the Commission.

74. When investigating a violation of the general rules of competition and conducting proceedings on cases of violation of the general rules of competition in transboundary markets, the Commission may submit to authorised authorities of the Member States requests for information and documents.

75. A request for information and documents shall be executed in writing and contain:

the purpose of the request;

the number of the case (if any) information on which is requested, a detailed description of the offence and other facts related thereto, legal qualification of the act under Article 76 of the Treaty and this Protocol;

information on the person subject to the case examined (if available):

for natural persons, full name, domicile or residence, nationality, place and date of birth;

for juridical persons, name and location;

the period within which information shall be provided, but not less than 10 business days from the date of receipt of the request;

list of information to be submitted.

The above requests shall be attached with copies of documents referenced to in the text of the requests, as well as other documents required for the proper execution thereof.

76. The authorised authority of a Member State shall provide the information at its disposal within the period determined in the request.

77. In case of a failure to execute a request (if its execution may prejudice the sovereignty, security and public order of the Member State or is contrary to its legislation), the requested authorised authority of the Member State shall inform the Commission thereof within a period not exceeding 10 business days from the date of receipt of the request, indicating the reason for the impossibility of providing the information, and if the information may not be provided within the period determined by the Commission, indicating the period for submission of the information.

78. If when investigating a violation of the general rules of competition and conducting proceedings on cases of violation of the general rules of competition in transboundary markets the Commission sends a request for information and documents to government authorities of the Member States, juridical and/or natural persons of a Member State, the Commission shall simultaneously send a copy of such request to the authorised authority of the Member State of operation of the requested government authority, registration of the requested juridical person, temporary or permanent residence of the requested natural person.

79. When any additional information or clarifications are required for information obtained within the execution of the previous request, a repeated request for information and documents may be sent to the authorised authority of a Member State.

80. Documents provided to the Commission by authorised authorities of the Member States and containing confidential information shall be handled under an international treaty within the Union.

## VII. Introduction of State Price Regulation for Goods and Services on the Territories of the Member States

81. The Member States shall introduce state price regulation in commodity markets that are not in a situation of natural monopoly in exceptional cases, including emergencies, natural disasters, national security matters, provided that the problems that have emerged may not be eliminated through any measures having a less negative impact on the competitive situation.

82. As an interim measure, the Member States may introduce state price regulation for certain types of socially relevant goods on certain territories for a certain period in the procedure provided for by the legislation of the Member States.

The total period of application of state price regulation under this paragraph with regard to one type of socially relevant goods in a particular area may not exceed 90 calendar days in 1 year. This period may be extended by agreement with the Commission.

83. The Member State shall notify the Commission and other Member States of the introduction of state price regulation under paragraphs 81 and 82 of this Protocol within a period not exceeding 7 calendar days from the date of adoption of the respective decision.

84. The provisions of paragraphs 81-83 of this Protocol shall not apply to state price regulation of all services, including the services of natural monopoly entities, as well as to the sphere of state procurement and goods interventions.

85. In addition to the services listed in paragraph 84 of this Protocol, the provisions of paragraphs 81-83 of this Protocol shall not apply to state price regulation for the following goods:

- 1) natural gas;
- 2) liquefied gas for domestic use;

- 3) electric and thermal energy;
- 4) vodka, liquor and other alcoholic beverages of more than 28 per cent (minimum price);
- 5) ethyl alcohol from food raw materials (minimum price);
- 6) solid fuel, heating oil;
- 7) products of the nuclear power cycle;
- 8) kerosene for domestic purposes;
- 9) oil and petroleum products;
- 10) pharmaceuticals;
- 11) tobacco products.

86. If the Commission receives an appeal from a Member State contesting the decision of another Member State to introduce state price regulation stipulated in paragraphs 81 and 82 of this Protocol, the Commission may adopt a decision on the need for cancellation of the state price regulation upon availability of the grounds provided for by paragraph 87 of this Protocol.

87. A decision on the need for cancellation of the state price regulation may be adopted by the Commission if this regulation results or may result in restriction of competition, including:

- creating barriers to entry to the market;
- reducing the number of economic entities (market participants) in such market not included in the same group of persons .

The Member State contesting the decision on the introduction of state price regulation by another Member State shall prove that the objectives of the introduction of state price regulation may be achieved by other means having a less negative impact on the competitive situation.

The Commission shall decide on the availability or lack of the need for the cancellation of the state price regulation within a period not exceeding 2 months from the date of receipt of the appeal under paragraph 86 of this Protocol.

88. The Commission shall review the appeal of a Member State contesting the decision of another Member State to introduce state price regulation in the procedure determined by the Commission.

89. A decision of the Commission on the need for cancellation of the state price regulation taken pursuant to paragraph 87 of this Protocol shall be sent to the authority of the Member State having adopted the decision to introduce the state price regulation not later than on the day following the day of adoption of the decision and shall be enforced under the legislation of the Member State having adopted the decision to introduce the state price regulation .

If a Member State does not agree with the decision of the Commission on the need for cancellation of the state price regulation, the matter shall be committed to the Supreme Council. In this case, the Commission's decision shall not be enforceable prior to its examination by the Supreme Council.

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**PROTOCOL**  
**on Common Regulation Principles and Rules for Activities of**  
**Natural Monopoly Entities**

I. General Provisions

1. This Protocol has been developed pursuant to Article 78 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and aims to create a legal framework for the application of common principles and general rules for the regulation of activities of natural monopoly entities of the Member States in the spheres specified in Annex 1 to this Protocol.

2. The terms used in this Protocol shall have the following meanings:

"domestic market" means the market of a Member State used for circulation of services of natural monopoly entities;

"access to services of natural monopoly entities" means provision by natural monopoly entities of one Member State of services related to natural monopolies to consumers of another Member State on terms no less favourable than those provided for similar services to consumers of the first Member State, when technically feasible;

"natural monopoly" means a situation of the services market when the creation of a competitive environment to meet the demand for a particular type of services is not possible or is economically infeasible due to the specific technological features of production processes and provision of these services;



"legislation of the Member States" means the national legislation of each Member State relating to spheres of natural monopolies;

"national authorities of the Member States" means authorities of the Member States carrying out regulation and/or control over natural monopoly entities;

"provision of services" means provision of services and manufacture (sale) of goods representing an object of civil turnover;

"consumer" means a subject of civil rights (a natural or juridical person) using or intending to use any services provided by natural monopoly entities;

"natural monopoly entity" means an economic entity providing services in the spheres of natural monopolies determined by the legislation of the Member States;

"sphere of natural monopolies" means a sphere of circulation of a service legally regarded as a natural monopoly, where a consumer may purchase services of natural monopoly entities.

## II. General Principles for Regulation of Activities of Natural Monopoly Entities

3. In regulation and/or control over activities of natural monopoly entities in the spheres of natural monopolies specified in Annexes 1 and 2 to this Protocol, the Member States shall be guided by the following principles:

1) maintenance of a balance of interests of consumers and natural monopoly entities of the Member States, ensuring availability of services and their appropriate quality for consumers, efficient functioning and developing natural monopoly entities;

2) improving the efficiency of regulation aimed at reduction in the number of spheres of natural monopolies henceforth by creating conditions for development of competition in these spheres;

3) use of flexible tariff (price) regulation of natural monopoly entities taking into account the industry specifics, scope of their activities, market conditions, medium-term (long-term) macroeconomic and industry forecasts, as well as tariff (price) regulation measures in respect of these entities, including the possible application of a differentiated tariff that may not be set on the basis of affiliation of a consumer (consumer groups) to any of Member State;

4) introduction of regulation when an analysis of the respective domestic market detects that the market is in a state of natural monopoly;

5) reduction of barriers to entry to domestic markets, including by ensuring access to services of natural monopoly entities;

6) applying procedures for regulation of activities of natural monopoly entities, ensuring independence of decisions, continuity, openness, objectivity and transparency;

7) mandatory conclusion by natural monopoly entities of service contracts with consumers for the provision of regulated services, if technically feasible, which shall be determined in accordance with the legislation of the Member States, unless otherwise provided for by the provisions of Sections XX and XXI of the Treaty;

8) ensuring compliance of natural monopoly entities with the rules of access to services of natural monopoly entities;

9) focus of regulation on a specific natural monopoly entities;

10) ensuring compliance of set tariffs (prices) with the quality of services in the spheres of natural monopolies subject to regulation;

11) protection of interests of consumers, including with respect to various violations of natural monopoly entities associated with the use of tariffs (prices) for regulated services;

12) creation of economic conditions making it beneficial for natural monopoly entities to reduce costs, introduce new technologies and to improve the efficiency of use of investments.

### III. Types and Methods of Regulation of Natural Monopoly Entities

4. The Member States shall apply the types (forms, ways, methods, instruments) of regulation of natural monopoly entities of the Member States based on the common principles and rules for the regulation of natural monopolies determined by this Protocol.

5. In the regulation of activities of natural monopoly entities, the following types (forms, ways, methods, instruments) of regulation shall be applied:

- 1) tariff (price) regulation;
- 2) types of regulation determined by this Protocol;
- 3) other types of regulation determined by the legislation of the Member States.

6. Tariff (price) regulation of services rendered by natural monopoly entities, including determining the cost of connection (joining) to services of natural monopoly entities, may be ensured through the following:

- 1) setting (approval) by the national authority tariffs (prices) for regulated services of natural monopoly entities, including their limit levels

based on the methodology (formula) and rules of application thereof approved by the national authority, as well as respective control over compliance with the fixed tariffs (prices) by a national authority;

2) determining (approval) by the national authority the methodology and rules of application thereof to be used by natural monopoly entity to set and apply the tariffs (prices), as well as control over setting and application of tariffs (prices) by natural monopoly entities by a national authority.

7. In tariff (price) regulation, the national authorities of the Member States may also apply the following methods of tariff (price) regulation or a combination thereof, in accordance with the legislation of the Member States:

- 1) the method of economically justified costs;
- 2) the method of indexation;
- 3) the method of investment capital profitability;
- 4) the method of comparative analysis of the efficiency of activities of natural monopoly entities.

8. The tariff (price) regulation shall take into account:

- 1) compensation to natural monopoly entities of economically justified costs related to carrying out the regulated activities;
- 2) obtaining economically justified profit;
- 3) encouraging natural monopoly entities to lower costs;
- 4) setting tariffs (prices) for services of natural monopoly entities taking into account the reliability and quality of such services.

9. When setting the tariffs (prices), the following may be taken into account:

1) specific features of functioning of natural monopolies on the territories of the Member States, including specific features of technical requirements and regulations;

2) state subsidies and other state support measures;

3) market conditions, including the level of prices in unregulated market segments;

4) territorial development plans;

5) state taxation, budget, innovation, environmental and social policy;

6) energy efficiency measures and ecological aspects.

10. Regulation of tariffs (prices) for services of a natural monopoly entity provides for separate accounting of expenditures, including investments, as well as income and operating assets, by types of regulated services of natural monopoly entities when calculating the costs of the natural monopoly entity.

11. Tariffs (prices) for services of natural monopoly entity may be regulated based on long-term regulation parameters, which may include the level of reliability and quality of regulated services, the dynamics of changes in costs associated with the supply of the respective services, the rate of return, the periods of return on invested capital and other parameters.

For the purposes of regulation of tariffs (prices) for services of natural monopoly entity, long-term regulation parameters obtained using the method of comparative analysis of the efficiency of activities of natural monopoly entities may be applied.

12. Specific features of application of paragraphs 4-11 of this Protocol in certain spheres of natural monopolies may be determined in Sections XX and XXI of the Treaty.

#### IV. Rules of Access to Services of Natural Monopoly Entities

13. The Member States shall determine in their legislation the rules of regulation ensuring access to services of natural monopoly entities as specified in paragraph 2 of this Protocol.

National authorities of the Member States shall ensure control over observation of the rules of access and connection (joining, use) of consumers to services of natural monopoly entities.

14. The rules of ensuring consumer access to services of natural monopoly entities shall include:

1) the essential terms of contracts, as well as the procedure for their conclusion and execution;

2) the procedure for determining the availability of technical capabilities;

3) the procedure for submitting information on services provided by natural monopoly entities, their cost, access terms, potential sales volumes, technical and technological capabilities of providing such services;

4) the conditions for obtaining public information, allowing to provide to interested persons the possibility to compare the terms of circulation of and/or access to services of natural monopoly entities;

5) a list of information that may not be regarded as trade secret;

6) the procedure for handling complaints and claims and resolution of disputes regarding access to services of natural monopoly entities.

15. Natural monopoly entities of the Member States shall be allowed to apply differentiated terms of access to their services for consumers of the Member States (taking into account the specific features of each individual

sphere of natural monopoly, as determined in Sections XX and XXI of the Treaty), if such terms are not applied based on the principle of affiliation of consumers with any Member State, subject to observation of the legislation of each Member State.

16. Without prejudice to the provisions of paragraph 15 of this Protocol, the legislation of the Member States shall not contain any rules determining for consumers of the Member States any differentiated terms of access to services of natural monopoly entities on the basis of their affiliation with any Member State.

17. Specific features of application of paragraphs 13-16 of this Protocol in specific spheres of natural monopolies, including transit, are determined in Sections XX and XXI of the Treaty.

#### V. National Authorities of the Member States

18. The Member States shall have national authorities entitled to regulate and/or control activities of natural monopoly entities in accordance with the legislation of the Member States.

National authorities of the Member States shall operate in accordance with the legislation of the Member States, the Treaty, as well as other international treaties of the Member States.

19. The functions of national authorities of the Member States shall include:

1) tariff (price) regulation of services rendered by natural monopoly entities;

2) regulation of access to services of natural monopolies, including setting fees (prices, tariffs, charges) for the connection (joining) to services of

natural monopoly entities, in cases provided for by the legislation of the Member States;

3) protection of the interests of consumers of services of natural monopolies;

4) consideration of complaints and claims, settlement of disputes regarding setting and applying regulated tariffs (prices) and access to services of natural monopoly entities;

5) examination, approval or integration of investment programmes of natural monopoly entities and control over their implementation;

6) ensuring observance by natural monopoly entities of the restrictions provided for by the legislation of the Member States on referral information to trade secret;

7) controlling activities of natural monopoly entities, including through inspections and in other forms (monitoring, analysis, expert examinations);

8) other functions provided for by the legislation of the Member States.

## VI. Competence of the Commission

20. The Commission shall exercise the following powers:

1) adopting a decision on expansion of spheres of natural monopolies in the Member States when a Member State intends to include in the sphere of natural monopolies another sphere of natural monopolies not specified in Annexes 1 or 2 to this Protocol, following a respective application of the Member State to the Commission.

2) analysing and suggesting methods to coordinate the development and implementation of decisions of national authorities relating to the spheres of natural monopolies;



3) conducting comparative analyses of the systems and practices of regulation of natural monopoly entities in the Member States with preparing respective annual reports and memoranda;

4) promoting harmonisation of regulation measures in the spheres of natural monopolies in respect of ecological aspects and energy efficiency;

5) submitting for consideration by the Supreme Council the results of ongoing work referred to in sub-paragraphs 3-4 of this paragraph, as agreed with the national authorities of the Member States, as well as proposals for establishing regulatory legal acts of the Member States in the sphere of natural monopolies, as agreed with the Member States, which shall be subject to approach, and determine the sequence of implementation of respective measures to harmonise the legislation in this sphere;

6) controlling the implementation of Section XIX of the Treaty.

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Annex 1  
to the Protocol on Common  
Regulation Principles and Rules for  
Activities of Natural Monopoly  
Entities

**Spheres of Natural Monopolies in the Member States**

Item No.	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
1.	Transportation of oil and petroleum products via main pipelines	Services to transport oil and/or petroleum products via main pipelines	Transportation of oil and petroleum products via main pipelines
2.	Transmission and distribution of electricity	Services for the transmission and/or distribution of electricity	Services for the transmission of electricity
3.		Services for technical dispatching of supply and consumption of electricity; services for balancing the output and consumption of electricity;  services to ensure availability of electric power for the load (January 1, 2016)	Services for operational dispatch management in the electric power industry
4.	Services provided by railway transport communications ensuring the traffic of public transport, management of railway traffic and rail transportations	Services of main railway networks	Railway transportations

Annex 2  
to the Protocol on Common  
Regulation Principles and Rules for  
Activities of Natural Monopoly  
Entities

**Spheres of Natural Monopolies in the Member States**

Item No.	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
1.	Transportation of gas via main and spur pipelines	Storage services, transportation of marketable gas via connecting and main pipelines and/or gas distribution systems, operation of group tank units, as well as transportation of raw gas via connecting pipelines	Gas transportation via pipelines
2.	Services of transport terminals, airports;  air navigation services	Services of air navigation;  services of ports and airports	Services at transport terminals, ports and airports
3.	Public telecommunications and public postal services	Telecommunications services, in the absence of a competitive service provider due to the technological impossibility or economic infeasibility of the provision of these types of services, except for universal telecommunications services;  services for property lease	Public telecommunications services and public postal services

Item No.	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
		(rent) or charter of cable ducts and other fixed assets technologically related to connection of telecommunication networks to the public telecommunications network;  public postal services	
4.	Transmission and distribution of thermal energy	Services for the production, transmission, distribution and/or supply of thermal energy	Services for the transmission of thermal energy
5.	Centralised water supply and disposal	Water supply and/or disposal services	Water supply and disposal using centralised systems and utility infrastructure systems
6.			Services for the use of the inland waterway infrastructure
7.		Railway services using railway transport under concession contracts	
8.		Approach route services	
9.			Icebreaker support of vessels in the waters of the Northern Sea Route

ANNEX 21  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Ensuring Access to Services of Natural Monopoly Entities in the**  
**Electric Power Sphere, including Fundamental Pricing and Tariff**  
**Policy**

1. This Protocol has been developed in accordance with Articles 81 and 82 of the Treaty on the Eurasian Economic Union (hereinafter "the Treaty") and determines the common principles and rules of access to services of natural monopoly entities in the electric power sphere.

2. The terms used in this Protocol shall have the following meanings:

"domestic demands for electricity (power)" means the volumes of electricity (power) required for consumption on the territories of the respective Member States;

"access to services of natural monopoly entities in the electric power sphere" means the possibility for a subject of the domestic market of one Member State to use the services of natural monopoly entities in the electric power sphere on the territory of another Member State;

"substitution of electricity (power)" means interconnected and simultaneous supply of equal capacities of electricity (power) into an electric power system and out to various supply points located at the border(s) of a Member State;

"interstate transmission of electricity (power)" means provision of services by authorised organisations of the Member States on the movement and/or substitution of electricity (power).

Depending on the legislation of a Member State, the respective relations shall be formalised in transmission (transit) service agreements or other civil law contracts, including purchase and sale contracts of electricity (power);

"common electric power market of the Member States" means a system of relations between subjects of domestic electricity markets of the Member States relating to the purchase and sale of electricity (power) and related services, operating on the basis of common rules and respective agreements;

"movement of electricity (power)" means ensuring the electricity transfers (power transfers) produced on the territory of a Member State via the grid of another Member State between supply points located at its boundary (boundaries);

"subjects of domestic electricity market" means persons that are subjects of the market of electricity (power) of a Member State and operate in the electric power sphere in accordance with the legislation of that Member State, including the production of electricity (power), purchase and sale of electricity (power), electricity distribution, electric power supply to consumers, provision of services for the transmission of electricity (power), operational dispatch management in the electric power industry, sales of electricity (power), and organisation of purchase and sale of electricity;

"services of natural monopoly entities in the electric power sphere " means services for the transmission of electric power via electric grid, operational dispatch management in the electric power industry and other services related to the sphere of natural monopolies in accordance with the legislation of the Member States.

3. Interaction between the Member States in the sphere of electric power shall be based on the following principles:

the use of technical and economic advantages of parallel operation of electric power systems of the Member States;

avoidance of economic damage in the implementation of such parallel operation;

the use of mechanisms based on market relations and fair competition as one of the main tools for building up a sustainable system to meet the demand for electricity (power);

gradual establishing a common electric power market of the Member States on the basis of parallel electric power systems of the Member States, taking into account specific features of existing models of electricity (power) markets of the Member States;

gradual harmonisation of the legislation of the Member States in the electric power sphere;

harmonisation of technical standards and regulations.

Regulation of activities of natural monopoly entities in the electric power sphere is conducted on the basis of common principles, rules and methods determined in Section XIX of the Treaty.

4. The Member States shall promote coordination of their electric power development programmes of their states to ensure effective cooperation in the field of electric power in the long term.

5. The common electric power market of the Union shall be formed on the basis of the following principles:

cooperation based on equality, mutual benefit and avoidance of economic damage to any Member State;

balancing of economic interests of producers and consumers of electricity, as well as other subjects of the common electric power market of the Member States;

gradual harmonisation of legislation of the Member States in the electric power sphere, including in terms of information disclosure by subjects of the common electric power market of the Member States;

priority use of mechanisms based on market relations and fair competition in order to form a sustainable system to meet the demand for electricity (power) in competitive activities;

ensuring easy access to services of natural monopoly entities in the electric power sphere under the existing technical capabilities on condition of the priority use of these services for covering the domestic demands of the Member States in the implementation of interstate transmission of electricity (power);

gradual transformation of the structure of national vertically integrated companies in the electric power sphere in order to identify competitive and monopolistic activities;

development of interstate relations of the Member States in the electric power sphere in accordance with the agreed common electric power market model of the Member States;

gradual formation of the common electric power market of the Member States on the basis of parallel electric power systems of the Member States, taking into account specific features of existing models of electric power markets of the Member States;



the use of technical and economic advantages of parallel operation of electric power systems of the Member States in compliance with the mutually agreed terms of parallel operation;

at the respective stage of market integration, ensuring access of producers and consumers of electricity to electricity markets of the Member States with regard to the interests of their national economies;

trade in electricity between subjects of the Member States taking into account the energy security of the Member States.

6. Within the existing technical capacities, the Member States shall ensure free access to services of natural monopoly entities in the electric power sphere, provided the priority use of these services to cover the domestic demands of the Member States for electricity (power) based on the following principles:

equal requirements to subjects of the domestic market of electricity (power), as determined by the legislation of the Member State on the territory of which the services are provided;

taking into the account the legislation of the Member States in the provision of access to services of natural monopolies in the electric power sphere, subject to the priority use of these services for satisfying the domestic demands of the Member States;

ensuring proper technical condition of electric power facilities, affecting parallel operation of electric power systems of the Member States in the provision of services of natural monopoly entities in the electric power sphere;

contractual formalisation of relations arising between subjects of domestic electricity markets of the Member States;

provision of paid services by natural monopoly entities of the Member States in the electric power sphere.

7. Interstate transmission of electricity (power) shall be ensured based on the following principles:

1) interstate transmission of electricity (power) via the electric power system of a neighbouring Member State shall be performed by the Member States within the existing technical capability, subject to the priority supply of domestic demands for electricity (power) of the Member States;

2) technical capabilities for interstate transmission of electricity (power) shall be determined based on the following priorities:

ensuring domestic demands for electricity (power) of the Member State the electric power system of which is to be used for interstate transmission;

ensuring interstate transmission of electricity (power) from one part of the electric power system of a Member State to its another part via the electric power system of a neighbouring Member State;

ensuring interstate transmission of electricity (power) from the electric power system of a Member State to the electric power system of one Member State via the electric power system of another Member State;

ensuring interstate transmission of electricity (power) via the electric power system of a Member State in order to fulfil the obligations in respect of electric power engineering entities of third states;

3) in interstate transmission of electricity (power), authorised organisations of the Member States shall be guided by the principle of reimbursement of the costs of interstate transmission of electricity (power) on the basis of the legislation of the Member State;

4) interstate transmission of electricity (power) in fulfilment of obligations in respect of electric power engineering entities of third countries shall be regulated on a bilateral basis taking into account the legislation of the respective Member State.

8. In order to ensure unhindered interstate transmission of electricity (power) via electric power systems, the Member States shall implement a package of agreed preliminaries, namely:

before the start of a new calendar year of supply of electricity (power), authorised organisations of the Member States shall declare the planned volumes of electricity (power) intended for interstate transmission for entering in the national forecast balances of output and consumption of electricity (power), including for the purpose of accounting such supplies in the calculation of tariffs for services of natural monopoly entities;

based on the calculations of the planned cost of interstate transmission of electricity (power), authorised organisations of the Member States shall conclude contracts pursuant to the agreements reached.

In order to ensure unhindered interstate transmission of electricity (power) via electric power systems of the Member States, authorised authorities of the Member States shall apply the common Methodology for Interstate Transmission of Electricity (Power) between the Member States, including the procedure for determining the technical conditions and volumes of interstate transmission of electricity (power), as well as agreed approaches to pricing for services related to the interstate transmission of electricity (power), contained in the Annex to this Protocol.

The organisations selected in accordance with the legislation of the Member States shall ensure interstate transmission of electricity (power) on the entire territory of their states in accordance with the above Methodology.

9. Implementation of interstate transmission of electricity (power) and operation of power supply network facilities required to ensure interstate transmission of electricity (power) shall be conducted in accordance with regulatory legal and technical documents of the Member State providing services related to implementation of interstate transmission of electricity (power).

10. In case of rejection of interstate transmission of electricity (power), the authorised organisation of the Member States shall submit supporting materials indicating the reasons for the rejection.

11. Pricing (tariff setting) for services of natural monopoly entities in the electric power sphere shall be carried out in compliance with the legislation of the Member States.

Tariffs for services of natural monopoly entities in the electric power sphere in the common electric power market of the Member States shall not exceed similar domestic tariffs for subjects of their domestic electricity markets.

12. All differences in relations regarding interstate transmission of electricity (power) shall be settled taking into account other existing international treaties.

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## Annex

### to the Protocol on Access to Services of Natural Monopoly Entities in the Electric Power Sphere, including Fundamental Pricing and Tariff Policy

#### **Methodology for Interstate Transmission of Electricity (Power) between the Member States**

1. The basic provisions on the procedure for filing a declaration and forming annual forecast volumes of interstate transmission of electricity (power) to be included in the forecast balances of output and consumption of electricity (power), including those taken into account in the calculation of tariffs for services of natural monopoly entities

1.1. On the territory of the Republic of Belarus.

1.1.1. Annual forecast volumes of interstate transmission of electricity (power) (hereinafter "ITE") over the national electric grid of the Republic of Belarus shall be determined by the organisation in charge of ITE, on the basis of the application submitted.

1.1.2. An application for the upcoming calendar year shall be submitted not later than April 1 of the previous year. An application shall indicate the annual ITE and maximum power, broken down by months.

1.1.3. When considering an application, the authorised organisation of the Republic of Belarus shall be guided by the existing technical capabilities, determined in accordance with this Methodology.

If the volume of ITE declared exceeds the available technical capabilities for the entire year or any separate month, the authorised

organisation of the Republic of Belarus shall send a reasoned rejection to the organisation, which has submitted an application.

1.1.4. Declared ITE volumes, approved by the authorised organisation of the Republic of Belarus, shall be formalised in the form of an appendix to the contract for electricity transmission and taken into account in the calculation of tariffs for electricity transmission services.

1.1.5. The volumes of electricity intended for ITE may be adjusted by agreement between authorised organisations of the Member States before November 1 of the year preceding the year of the planned ITE.

1.2. On the territory of the Republic of Kazakhstan.

1.2.1. Annual forecast volumes of ITE over the national electric grid of the Republic of Kazakhstan shall be determined on the basis of an ITE application submitted by an organisation authorised for the implementation of ITE to the transmission system operator of the Republic of Kazakhstan.

1.2.2. An application for the upcoming calendar year shall be submitted not later than April 1 of the previous year. An application shall contain the annual ITE volume, broken down by months, indicating electricity reception and output points on the border of the Republic of Kazakhstan.

1.2.3. When considering a declaration, the system operator of the Republic of Kazakhstan shall be guided by the existing technical capabilities, determined in accordance with this Methodology. If the volume of ITE declared exceeds the available technical capabilities for the entire year or any separate month, the system operator of the Republic of Kazakhstan shall send a reasoned rejection to the organisation, which has submitted an application.

1.2.4. Declared ITE volumes, approved by the system operator of the Republic of Kazakhstan, shall be formalised in the form of an appendix to the

contract for electricity transmission and taken into account in the calculation of tariffs for electricity transmission services.

1.2.5. Upon compilation of a forecast balance of electricity and power of the Unified Electric System of the Republic of Kazakhstan (hereinafter "the UES of Kazakhstan"), the volumes of supply of electricity under bilateral intergovernmental treaties shall be determined and agreed with wholesale market entities before October 15 of the year preceding the planning year.

1.2.6. The volumes of electricity intended for ITE may be adjusted at the suggestion of the entities authorised for ITE organisations and implementation before November 1 of the year preceding the year of the planned ITE.

### 1.3. On the territory of the Russian Federation.

1.3.1. In accordance with the Procedure for the compilation of a consolidated forecast balance within the UES of Russia for constituent entities of the Russian Federation, the authorised organisation (the organisation managing the Unified National (All-Russian) Electric Grid (hereinafter "UNEG") of the Russian Federation) shall, before April, 1 of the year preceding the year of the planned supply, send its proposals, agreed with authorised organisations of the Member States engaged in the management of the national electric grid, to the Federal Tariff Service of the Russian Federation (FTS of Russia) and the system operator of UES of Russia.

1.3.2. The agreed proposals shall be reviewed by the FTS of Russia and taken into account in drawing up a consolidated forecast balance of output and consumption of electricity (power) by constituent entities of the Russian Federation for the following calendar year within the time limits provided for by the legislation of the Russian Federation.

1.3.3. The volumes of electricity and power intended for ITE and approved as part of the consolidated forecast balance of output and consumption of electricity (power) for the constituent entities of the Russian Federation for the year of supply shall be taken into account in the calculation of prices (tariffs) for services of natural monopolies in the electric power sphere.

1.3.4. The volumes of electricity and power intended for ITE may be adjusted on the proposal of the organisation managing the UNEG, subject to their approval by authorised authorities (organisations) of the Member States before November 1 of the year preceding the year of the planned supply, with respective adjustments of the prices (tariffs) set for the services of natural monopolies in the electric power sphere.

## 2. Procedure for determining the technical feasibility and planned volumes of ITE based on the planned annual, monthly, daily and diurnal operation modes of electric power systems, including the provisions determining the functions and powers of the Planning Coordinator

### 2.1. Terms.

For the purposes of section 2 of this Methodology, the following terms shall be used:

Controlled cross-section means a set of power transmission lines (PTL) and other elements of the electric grid identified by dispatch centres of system operators of electric power systems of the Member States, power transfers in which are controlled in order to ensure stable operation, reliability and durability of electric power systems.

Maximum allowable power flow means the highest flow in the grid cross-section that satisfies all the requirements for normal operation.



Interstate cross-section means a supply point or group of points identified by system operators of electric power systems of the Member States, located on interstate power transmission line(s) connecting electric power systems (separate power districts) of neighbouring states, distinguished by the tasks of technical planning and parallel operation electric power modes.

Other terms used herein shall have the meanings determined in the Protocol on Access to Services of Natural Monopoly Entities in the Electric Power Sphere, including Fundamental Pricing and Tariff Policy (Annex 21 to the Treaty on the Eurasian Economic Union).

## 2.2. General Provisions.

### 2.2.1. Problems to be solved at planning stages:

– annual planning: verification of the technical feasibility of implementation of the stated volumes of electricity (power) supply between the Member States and ITE between the Member States accounted for in the forecast balances of output and consumption of electricity (power), taking into account annual maintenance planning schedules for the power supply network equipment limiting export and import cross-sections, and adjustment thereof, if necessary;

– monthly planning: verification of the technical feasibility of implementation of the stated volumes of electric power supply and ITE between the Member States accounted for in the annual forecast balances of output and consumption of electricity (power), taking into account the monthly planning schedules of repairs of power supply network equipment limiting its export and import cross-sections, and adjustment thereof, if necessary;

– daily planning and diurnal mode adjustments: verification of the technical feasibility of implementation of the stated day-ahead hourly volumes of supplies and ITE between the Member States, taking into account the actual circuits and modes, planned, unplanned and emergency shut-downs of power supply network equipment, limiting export and import cross-sections, the volume of supplies and ITE between the Member States.

2.2.2. Planning (feasibility calculation) for the planned volumes of ITE between the Member States shall be conducted between the UES of Russia and the UES of Kazakhstan and between the UES of Russia and Integrated Electric System of Belarus (the IES of Belarus) using the computational model of parallel electric power systems (hereinafter "the computational model").

2.2.3. The computational model shall represent a mathematical model of technologically interconnected parts of the UES of Russia, UES of Kazakhstan and IES of Belarus to the extent required for planning purposes, and including a description of:

- columns and parameters of the electric grid equivalent circuit;
- active and reactive nodal loads;
- active and reactive generation in the nodes;
- minimum and maximum active and reactive generation power;
- transmission constraints.

2.2.4. The computational model shall be based on an equivalent circuit approved by system operators of electric power systems of the Member States, as a rule, with respect to basic modes corresponding to the agreed hours of winter maximum and minimum loads and summer maximum and minimum loads (basic design schedules). Maximum allowable transfers in interstate and domestic controlled sections shall be indicated for the typical

circuits and modes, if they substantially affect the implementation of interstate supplies (exchange).

2.2.5. The system operator of UES of Russia shall be the planning coordinator.

2.2.6. The composition of computational models and continuously updated information for each planning stage, including lists of power facilities and electric power systems (equivalents of electric power systems) included in the computational models, the procedure and time regulations for their compilation and updates, data exchange formats and methods for planning of annual, monthly, daily and diurnal operation modes of electric power systems shall be determined by documents approved by the system operator of UES of Russia and the UNEG management organisation jointly with the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan.

2.3. Functions and powers of the planning coordinator and other system operators of Electric Power Systems of the Member States.

2.3.1. The planning coordinator shall:

- form basic computational models;
- organise the information exchange with the organisation carrying out the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan for planning purposes;
- calculate electric power modes on the basis of data obtained from the organisation carrying out the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan for planning purposes;
- adjust the interstate flow between electric power systems of the Member States (parts thereof) if the results of calculations demonstrate

infeasibility of the electric modes or excess over the maximum allowable flows in controlled sections of the computational model under the stated amounts of supplies and ITE, taking into account the principles of priority specified in sub-paragraph 2 of paragraph 4 of the Protocol on Access to Services of Natural Monopoly Entities in the Electric Power Sphere, including Fundamental Pricing and Tariff Policy (Annex 21 to the Treaty on the Eurasian Economic Union):

1) ensure domestic demands of the Member State the electric power system of which shall be used for ITE;

2) ensure interstate transmission of electricity (power) from one part of the electric power system of a Member State to another part thereof via the electric power system of a neighbouring Member State;

3) ensure interstate transmission of electricity (power) from the electric power system of one Member State to the electric power system of another Member State via the electric power system of a another Member State;

4) ensure interstate transmission of electricity (power) via the electric power system of a Member State in order to fulfil the obligations in respect of electric power engineering entities of third states, non-members of the Union;

– communication of the results of the above calculations to the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan.

2.3.2. If the calculations demonstrate infeasibility of electric modes or excess of the maximum allowable flows in controlled cross-sections of the computational model, the planning coordinator shall inform the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the management organisation of the

UNEG, of the values of the required adjustments to the quantities of net transfers (balances) of the electric power systems.

The organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the management organisation of the UNEG shall adjust the volumes of electricity (power) supply under all contracts, including ITE, on the basis of the above-mentioned priority principle, or take other measures to eliminate violations of allowable transfer requirements in controlled cross-sections identified on the basis of calculations by the planning coordinator.

Information on the adjusted contractual volumes of electricity (power) supplies under all contracts, including ITE between the Member States, shall be communicated by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the UNEG management organisation to the subjects of domestic electricity markets of the Member States under the contracts.

2.3.3. In case of non-receipt from the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan of the relevant planning data or in case of receipt of data containing technical errors or deliberately false information, the planning coordinator shall be entitled to use substitute information, the content and procedure for application of which shall be governed by the documents approved by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia.

#### 2.4. Annual Planning.

2.4.1. Annual planning shall be carried out on the terms and in the procedure determined by the organisation performing the functions of the

system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia.

2.4.2. The organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia shall prepare draft maintenance schedules for the power supply network equipment for the planned calendar year and submit them to the planning coordinator. The planning coordinator shall compile a coordinated maintenance schedule for the power supply network equipment for the planned calendar year and send it to the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the UNEG management organisation. A list of power supply network facilities the maintenance of which shall be agreed for the annual (and monthly) maintenance schedule and the time regulations for its drawing up shall be determined by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia.

2.4.3. The organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan shall submit to the planning coordinator the information required for the annual planning of the respective national electric power system (consumption, generation, net transfers, power supply network equipment maintenance) compiled on the basis of the forecast balances of electricity and power at the peak hour of a typical business day.

2.4.4. The planning shall result in obtaining an updated forecast values of net transfers for the UES of Russia and the UES of Kazakhstan, and the UES of Russia and the IES of Belarus.

2.4.5. The planning coordinator shall calculate the modes and send the calculation results to the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan.

## 2.5. Monthly Planning

2.5.1. Monthly planning shall be carried out on the terms and in the procedure determined by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia, after the same pattern as used for annual planning, with the exchange of data and results divided up by month.

## 2.6. Daily and Diurnal Planning.

2.6.1. Daily and diurnal planning shall be carried out on the terms and in the procedure determined by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia.

2.6.2. The organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan shall, on a daily basis, submit to the planning coordinator the data required for updating the computational model for the planned day (hereinafter "day X") in the form of sets of 24-hour updated data (from 12 a.m. to 12 p.m.), including:

- planned maintenance of power supply network equipment elements of 220 kV and higher of the electric power system;

- hourly diagrams of consumption and generation of electric power, cumulatively, for the electric power system (including for separate power districts determined by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan

and the system operator of UES of Russia when compiling the computational model);

– hourly diagrams of net power flow (electric power system deficit shall be regarded as a positive net power flow).

The UNEG management organisation shall submit to the planning coordinator cumulative values for the hourly diagrams of electricity supply between the UES of Russia, the UES of Kazakhstan and the IES of Belarus, as agreed with the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan, under all types of contracts, including ITE between the Member States.

2.6.3. If the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan fail to submit the data for updating the computational model to the planning coordinator, the latter shall use substitute information determined by the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the system operator of UES of Russia, as agreed when compiling the computational model.

2.6.4. The planning coordinator shall update the computational model and calculate the electric modes.

2.6.5. The planning coordinator shall calculate the modes and send the calculation results in the agreed format to the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan.

2.6.6. If the declared volumes of supplies and ITE between the Member States are infeasible, the organisation performing the functions of the system operator of IES of Belarus, the system operator of UES of Kazakhstan and the UNEG management organisation shall take measures to adjust the



volume of supplies and ITE, taking into account the priority specified in paragraph 2.3.1 of this Methodology.

2.6.7. If, due to unpredictable changes in power consumption and/or circuits and modes and/or changes in the terms of supply contracts, an adjustment of the planned volumes of supply and ITE between the Member States is required, within an operational day, the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan shall submit to the planning coordinator:

- the data for updating the computational model for the current day in the form of sets of hourly updated data for the remaining hours of day X in the volume corresponding to the information transmitted for planning purposes for the next 24 hours;

- an application indicating the proposed changes to the planned volume of supplies and ITE between the Member States.

2.6.8. For each time stage within 24 hours, a critical time shall be set for submitting data ("gate closure") and communication of the results of calculations. It shall not be allowed to send data after the "gate closure". The planning coordinator shall update the computational model and calculate the electric modes for the remaining hours of day X.

2.6.9. The planning shall result in compilation of an updated hourly schedule of supplies and ITE between the Member States for the remaining hours of day X. Should it be impossible to compile updated hourly schedules due to changes in circuits and modes conditions after the time of the diurnal adjustment of modes, the supplies and ITE between the Member States may be changed on the terms of emergency assistance or forced electricity supply under respective special contracts for the supply of electricity concluded between authorised economic entities of the Member States.

3. List of subjects of the Member States authorised to organise and implement ITE, indicating the functions of each organisation within ensuring ITE

3.1. On the territory of the Republic of Belarus.

3.1.1. On the territory of the Republic of Belarus, ITE shall be organised and implemented by the IES of Belarus and the organisation performing the management functions for the IES of Belarus, with the execution of the following functions:

– services for electricity transmission via the transmission electric grid (by subordinate organisations of the organisation performing the management functions for the IES of Belarus, under the overall coordination of the latter);

– services for ITE technical dispatching (by the organisation performing the management functions for the IES of Belarus);

– interaction with electric power systems of neighbouring states to manage their parallel operation and ensure sustainability (by the organisation performing the management functions for the IES of Belarus).

3.2. On the territory of the Republic of Kazakhstan.

3.2.1. On the territory of the Republic of Kazakhstan, ITE shall be organised and implemented by the system operator, executing the following functions:

– services for electricity transmission via the National electric grid;

– provision of services for technical dispatching of supply and consumption of electricity;

– services on balancing the output and consumption of electricity;

– interaction with electric power systems of neighbouring states to manage their parallel operation and ensure sustainability thereof.

### 3.3. On the territory of the Russian Federation.

3.3.1. As in accordance with the legislation of the Russian Federation, the implementation of ITE between the Member States via the UES of Russia shall require a set of actions related to the following:

3.3.1.1. Provision of services for operational dispatch management in the electric power industry, including the management of parallel operation of the UES of Russia and electric power systems of other Member States, ensuring substitution of electricity (power) and coordinated planning;

3.3.1.2. Provision of services for the transmission (movement) of electricity via the Unified National (All-Russian) Electric Grid, including to ensure ITE between the Member States;

3.3.1.3. Specific features of the turnover of electricity and power in the wholesale electricity and power market of the Russian Federation, including when it is required to ensure coordinated and simultaneous supplies of equal amounts of electricity (power) into the UES of Russia and out via different supply points located at the border(s) of the Russian Federation and the Member States.

3.3.2. The ITE between the Member States shall be ensured by the following authorised organisations:

3.3.2.1. The system operator of UES of Russia, to be in charge of organisation and management of parallel operation of the UES of Russia with the UES of Kazakhstan and the IES of Belarus;

3.3.2.2. The UNEG management organisation, to be in charge of the provision of services related to the movement (using the principle of substitution) of electricity under ITE procedures between the Member States via the UES of Russia and organisation of parallel operation of the UES of Russia with the UES of Kazakhstan and the IES of Belarus, including

cooperation with foreign authorised organisations on ITE planning (annual, monthly, hourly), distribution of actual hourly volumes of electricity moved across the state borders of the Russian Federation and the Member States, taking into account the adjusted planned volumes under commercial contracts; determining hourly deviations of actual volumes of electricity moved across the state borders between the Russian Federation and the Member States from the planned values; commercial metering of electricity in supply points located at common borders of the Member States;

3.3.2.3. A commercial operator, an organisation in charge of arranging wholesale trade in electricity, power and other goods and services admitted to trading on the wholesale market;

3.3.2.4. An organisation in charge of the provision of services for the calculation of requirements and obligations of participants in the wholesale market;

3.3.2.5. A commercial agent, a participant of the wholesale electricity and power market, conducting export and import operations, providing access for the volumes of electricity (power) declared for ITE between the Member States to participate in relations on the wholesale electricity and power market and ensuring settlement of differences associated with deviations of actual net transfers from the planned values.

#### 4. List of Components to be Included in Tariffs for natural monopoly entities in ITE

##### 4.1. On the territory of the Republic of Belarus.

4.1.1. The costs of  $C_{net}$  services for the ITE via the transmission grid of the Republic of Belarus (hereinafter "TN") to be included in tariffs for natural

monopoly entities in the implementation of ITE between the Member States shall be calculated by the formula:

$$C_{net} = C(1 + IF)(1 + P)(1 + DT), \text{ where:}$$

$C$  – the total TN maintenance and operation costs attributable to the ITE between the Member States, determined in the procedure prescribed by the authorised state authority;

$IF$  – contributions to the innovation fund (percentage);

$P$  – contributions for profit (percentage) determined in the procedure determined by the legislation of the Republic of Belarus;

$DT$  – deductions for taxes (percentage);

The total costs  $C$  shall include: the costs of maintenance and repairs; wages; depreciation; other capital disbursements (auxiliary materials, third-party energy, social security contributions, etc.); the cost of compensation for the loss of electricity.

4.1.2. The tariff for ITE services in the grids of the IES of Belarus shall be calculated by the formula:

$$T = \frac{C_{net}}{E_t}, \text{ where:}$$

$T$  – tariff for ITE services in the grids of the IES of Belarus;

$E_t$  – the total volume of ITE between the Member States in the grids of the IES of Belarus.

4.2. On the territory of the Republic of Kazakhstan.

4.2.1. In accordance with the legislation of the Republic of Kazakhstan, the tariff for electricity transmission, including ITE between the Member States, applied for consumers engaged in the transmission of electricity, including ITE, via the national electric grid (hereinafter "the NEG"), shall be calculated by the following formula:

$$(T = \frac{Z + P}{W_{total}}) \text{ (KZT/kWh), where:}$$

$T$  – the tariff for electricity transmission, including ITE between Member States applied for consumers engaged in the transmission of electricity, including ITE, via NEG networks (KZT/kWh);

$Z$  – the overall costs of the NEG of the Republic of Kazakhstan for the transmission of electricity, including ITE, determined in the procedure under the legislation (mln. KZT);

$P$  – the level of profit necessary for the efficient functioning of the NEG in the provision of services for the transmission of electricity, including ITE, determined in the procedure under the legislation of the Republic of Kazakhstan (mln. KZT);

$W_{total}$  – the total volume of electricity transmitted by NEG under agreements and contracts (mln. kWh).

4.2.2. In accordance with the legislation of the Republic of Kazakhstan, in the calculation of tariff for electricity transmission of the NEG, tariff revenues shall include the total costs of electricity transmission for the NEG and the level of profit required for its efficient functioning in the provision of services for the transmission of electricity (determined on the basis of involvement of assets).

The costs included in the tariff for electricity transmissions services shall be determined in accordance with the legislation of the Republic of Kazakhstan.

4.3. On the territory of the Russian Federation.

4.3.1. General Provisions.

In accordance with the legislation of the Russian Federation, the tariff for the provision of electricity transmission services via UNEG shall be set in

the form of 2 rates: rates for the maintenance of the electric grids and compensation rates for electricity losses in the UNEG.

Similarly, the cost components included in the tariff for the provision of services of ITE between the Member States via the UES of Russia shall be divided into the cost component for the maintenance of UNEG facilities and the cost component for compensation of electricity and power losses in the UNEG.

4.3.2. Determination of costs included in tariffs of natural monopoly entities in ITE between the Member States.

4.3.2.1. List of cost components of the tariff for the services of ITE between the Member States for the maintenance of the UNEG.

The rate for the maintenance of the UNEG shall be applied to payments for the power declared for ITE between the Member States and determined at the exit point of the electricity transfer from the electric power system of the state the electric grid of which is used for ITE between the Member States.

In calculating the rates for the maintenance of UNEG facilities the following economically justified costs set by the national regulatory authority for the relevant settlement period shall be taken into account:

- operating costs;
- uncontrollable costs;
- recovery of invested capital (depreciation charges) of investments;
- return on invested capital.

4.3.2.2. List of cost components of the tariff for the services of ITE between the Member States for compensation of electricity and power losses in the UNEG.

The costs of compensation for losses of electricity and power in the UNEG shall be determined based on the standard electricity losses in the

UNEG reduced by the volume of electricity losses recorded in the equilibrium prices for electricity and the purchase prices of electricity and power in the wholesale market at the end of each settlement period for the supply point cluster of the appropriate exit point of the flow of electricity from the electric power system of the state the electric grid of which is used for ITE between the Member States, taking into account the cost of services of infrastructure organisations of the respective national market.

#### 5. List of components associated with the ITE, not included in the tariffs for natural monopoly entities

##### 5.1. On the territory of the Republic of Belarus.

In the Republic of Belarus, the system costs  $C_{\text{sys}}$  shall include the costs of maintaining reserve generation capacities required to ensure the ITE between the Member States, approved by the authorised public authority and determined taking into account the proportion of the total ITE power in the aggregate amount of power transmitted via networks of the IES of Belarus, as well as the costs of services of ITE technical dispatching between the Member States.

##### 5.2. On the territory of the Republic of Kazakhstan.

In accordance with the legislation of the Republic of Kazakhstan, the tariff for ITE services between the Member States shall not take into account any costs.

##### 5.3. On the territory of the Russian Federation.

In order to ensure the replacement of electricity (power), the volume of electricity subject to ITE between the Member States shall be accounted in the wholesale market when submitting price bids, in the day-ahead competitive selection of price bids, in determining market prices and the



share of system costs associated with the coordinated and simultaneous supply of equal volumes of electricity (power) at different supply points at the border(s) of the UES of Russia. The system costs shall consist of the following components:

5.3.1. A component associated with the compensation of the cost of electricity load losses and system constraints in the ITE between the Member States implemented via the UES of Russia (the difference in nodal prices):

$$S_m^1 = \sum_{h \subset m} (\max[\lambda_h^{ext} - \lambda_h^{ent}; 0]) \times V_h^{ITE} , \text{ where:}$$

$\lambda_h^{ext}$  – the price set as a result of the day-ahead competitive selection of price bids in hour  $h$  of month  $m$  in the export-import cross-section corresponding to the exit point of the electricity transfer from the UES of Russia under the ITE;

$\lambda_h^{ent}$  – the price set as a result of the day-ahead competitive selection of price bids in hour  $h$  of month  $m$  in the export-import cross-section corresponding to the entry point of the electricity transfer into the UES of Russia under the ITE;

$V_h^{ITE}$  – the volume of ITE via the UES of Russia in hour  $h$  month  $m$ .

5.3.2. A component associated with the availability of reserve generation capacities to implement the operation modes of the UES of Russia ensuring the ITE:

$$S_m^2 = Peak_m \times (K_{planFTPZi}^{res} - 1) \times P_{COM\_prel}^{FTPZi} , \text{ where:}$$

$Peak_m$  – the peak power corresponding to the maximum declared hourly amount of the ITE in month  $m$ ;

$K_{planFTPZi}^{res}$  – planned reserve ratio in FPTZi accounted for by the system operator in the competitive selection of power for the respective year;

$P_{COM\_prel}^{FTPZi}$  – preliminary price of the competitive selection for consumers in FPTZi for the respective year (determined by the system operator in accordance with the rules of the wholesale market of electricity and power);

$FTPZi$  – free power transfer zone including the supply points corresponding to the exit point of electricity from the UES of Russia in the implementation of ITE.

In determining the cost of ITE, the difference between the planned prices for consumers shall be taken into account, as determined by the results of competitive power selection in free power transfer zones (groups of free power transfer zones) corresponding to the entry and exit points of ITE.

## 6. Requirements for contractual registration of ITE in accordance with the legislation of the Member States

### 6.1. On the territory of the Republic of Belarus.

The ITE between the Member States implemented via the electric power system of the Republic of Belarus shall be subject to agreement of the volume of electricity and power intended for the ITE in accordance with section 1 and paragraphs 2.4, 2.5 and 2.6 of section 2 of this Methodology and ITE contracts concluded with the authorised organisation of the Republic of Belarus.

The cost of ITE services under each contract shall be determined by the following formula:

$$C_{ITE} = C_{net} + C_{syst} .$$

### 6.2. On the territory of the Republic of Kazakhstan.

On the territory of the Republic of Kazakhstan, the ITE between the Member States shall be implemented on the basis of contracts for the

provision of electricity transmission services, concluded in a standard form approved by the Government of the Republic of Kazakhstan. These ITE contracts may take into account specific features of electric power transmission.

### 6.3. On the territory of the Russian Federation.

The ITE between the Member States via the UES of Russia shall be carried out under the following contracts:

6.3.1. A commercial agency contract with the authorised organisation of the Republic of Belarus or the Republic of Kazakhstan in order to ensure access to services of natural monopolies and interrelated and simultaneous supply of equal volumes of electricity (power), declared for the ITE, at different supply points at the border(s) of the UES of Russia.

The cost of ITE between the Member States via the UES of Russia in month  $m$  shall be determined in such contracts using the formula:

$$Q_m^{ITE} = Q_m^{UNEG-ITE} + Q_m^{SO-ITE} + Q_m^{CO-ITE}, \text{ where:}$$

$Q_m^{UNEG-ITE}$  – the cost of services of the UNEG management organisation, payable in accordance with the Russian legislation;

$Q_m^{SO-ITE}$  – the cost of services of the system operator, payable in accordance with the Russian legislation;

$Q_m^{CO-ITE}$  – the cost of services related to the activities in the wholesale market of electricity (power) conducted in the implementation of the ITE via the UES of Russia, in month  $m$ .

$$Q_m^{CO-ITE} = S_m^1 + S_m^2 + Q_m^{CSCO-ITE} + Q_m^{CCSC-ITE} + Q_m^{AGENT-ITE}, \text{ where:}$$

$Q_m^{CSCO-ITE}$  – the cost of services of a commercial operator in charge of arranging wholesale trade in electricity, power and other goods and services admitted to trading on the wholesale market in month  $m$ ;

$Q_m^{CCSC\_ITE}$  – the cost of comprehensive services for the calculation of assets and liabilities determined the Treaty of accession to the trading system of the wholesale market in month  $m$ ;

$Q_m^{AGENT\_ITE}$  – the costs of a commercial agent determined bilaterally and specified in contracts concluded by the commercial agent.

6.3.2. Contracts (technical agreements) on the parallel operation of electric power systems between organisations of the Member States exercising the functions of operational dispatch management in the electric power sphere and transmission (movement) of electricity via the national electric grid;

6.3.3. Contracts of purchase and sale of electricity in order to compensate for the deviations of actual flows on ITE cross-sections from the planned values arising in the course of movement of electricity across the borders of the Member States, between economic entities authorised by the Member States.

## 7. Procedure for the exchange of commercial accounting data on hourly actual amounts of interstate power flows between economic entities of the Member States

7.1. This Procedure sets out the main areas of bilateral cooperation in obtaining hourly commercial accounting data; the procedure for determining the operational<sup>6</sup> hourly flow of electricity transfers via interstate transmission lines (hereinafter "IPTL") between the Republic of Kazakhstan and the Russian Federation base on the use of hourly commercial accounting data

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<sup>6</sup> The hourly operational transfer shall refer to the hourly commercial accounting data (half-hour or hourly) obtained for all metering points included in the transfer from automated systems of commercial metering of electricity (hereinafter "ASCME") using the technical capabilities of commercial accounting facilities.

and agreed methods of updated calculations of these data up to the values at supply points; and the procedure for the exchange and reconciliation of commercial accounting data adjusted to the values at supply points.

The terms and procedure for the compilation and exchange of hourly commercial accounting data of IPTL shall be determined under the bilateral Agreements on the exchange of hourly values of the power flows at IPTL metering points.

#### 7.2. Operational Exchange of Information.

The respective economic entities of the Member States shall on a daily basis (or otherwise, as may be agreed by the Member States) compile the values of hourly electricity transfers in IPTL, exchange the data, conduct respective calculations and assess compliance of the data.

Agreed data transmission formats shall be used for the operational exchange of information containing values of hourly electricity power flows transmitted via IPTL.

#### 7.3. Calculation of Hourly Values at a Point of Supply.

Hourly values at a point of supply shall be calculated under the methods of calculation of actual amounts of transmitted and received electricity agreed in the bilateral Agreements.

### 8. Procedure for determining the actual net power flow via interstate transmission lines of the Member States

This procedure has been designed from authorised organisations of the Member States for determining the actual volumes of electricity moved via interstate cross-sections per calendar month.

The actual net electricity transfer moved via interstate cross-sections of the Member States shall be calculated as the algebraic sum of the received

(WP1\_gran) and/or transmitted (WO1\_gran) amount of electricity for each calendar month in each point of supply (WSaldo\_gran).

The values of electricity delivered to the customs border (supply point) per calendar month for all operated IPTL in Reception, Transmission and balance modes shall be calculated by the formulas:

$$WR1\_bord = \sum W(\text{fact}R1)i,$$

$$WT2\_bord = \sum W(\text{fact}T1)i,$$

$$WSaldo\_bord, = WR1\_bord + WT1\_bord, \text{ where:}$$

$W(\text{fact}R1)i$  – the actual amount of electricity received at each supply point for IPTL number  $i$  per calendar month. The value shall be inserted into the formula for calculating the net transfer taking into account its sign (transfer direction);

$W(\text{fact}T1)i$  – the actual amount of electricity transmitted at each supply point for IPTL number  $i$  per calendar month. The value shall be inserted into the formula for calculating the net transfer taking into account its sign (transfer direction);

$R$  – the number of IPTL on the interstate cross-section operated in the calendar month.

#### 9. Procedure for calculating the volume and value of deviations of actual power flow on interstate cross-sections from the planned values in the implementation of the ITE within the Union

Actual supplies on interstate cross-sections shall include the following components: ITE volumes, the volumes under commercial contracts concluded by economic entities of the Member States, the amounts of emergency aid and the volumes due to the deviation of actual values of the net power flows from the planned values.

Hourly deviations of the actual net power flows from the planned values, depending on the initiative, shall be calculated by the UNEG management organisation, the system operator of UES of Russia, the organisation performing the functions of the system operator of IES of Belarus and the system operator of UES of Kazakhstan based on the following principles:

- in the implementation of ITE via the UES of Russia, the hourly values of ITE shall be equal to the respective planned values recorded in the daily dispatch schedule;

- actual hourly volumes of electricity supply under commercial contracts in each hour of the accounting period shall be taken equal to the respective planned values recorded in the daily dispatch schedule taking into account the duly agreed adjustments;

- the volumes of hourly deviations to be settled within relations with the electric power systems of third countries (external balancing) shall be recorded in the deviations within the Union. The procedure for determining the external balancing amounts shall be coordinated between system operators (with the participation of the UNEG management organisation) of related electric power systems of the Member States;

- the volume of emergency aid shall be determined by the terms of contracts on the purchase/sale of electricity in the provision of emergency aid, concluded between the subjects of domestic national markets.

The volumes of hourly deviations shall be subject to financial settlement between economic entities authorised by the Member States in accordance with the contracts to be concluded to ensure the ITE for each Member State under section 6 of this Methodology.

Based on the requirement to comply with the terms of contracts (technical agreements) on the parallel operation of electric power systems, including on frequency regulation in electric power systems of the Member States and maintenance of the agreed net power flow on interstate cross-sections, the cost of deviations shall compensate to the subjects of domestic national electricity (power) markets all justified costs incurred by them as a result of participation in system balancing on the national market of electricity (power).

The cost of deviations shall be calculated taking into account the special procedure accounting the volumes of electricity (power) purchased/sold to ensure the parallel operation of electric power systems, in volumes not exceeding the values specified in the contracts (technical agreements) on the parallel operation of electric power systems or other contracts governing relationships between the Member States in the electric power sphere.

The quantity and price parameters of electricity and power purchased and sold in order to compensate for the deviations, which are used in the calculation, shall be supported by accounting documents of organisations of the commercial infrastructure of the Russian Federation.

When calculating the costs of supplies under contracts, double accounting of the volumes of electricity (power) shall not be allowed.

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**PROTOCOL**  
**on the Rules of Access to Services of Natural Monopoly Entities in**  
**the Sphere of Gas Transportations Using Gas Transportation**  
**Systems, including Fundamental Pricing and Tariff Policy**

1. This Protocol has been developed in accordance with Articles 79, 80 and 83 of the Treaty on the Eurasian Economic Union (hereinafter - "the Treaty") and establishes the framework for cooperation in the gas sphere, the principles and terms of providing access to services of natural monopoly entities in the sphere of gas transportation using gas transportation systems, including the fundamental provisions of pricing and tariff policies, for meeting the demands of the Member States.

2. The terms used in this Protocol shall have the following meanings:

"domestic demands for gas" means the volume of gas required for consumption on the territory of each Member State;

"gas" means a combustible mixture of gaseous hydrocarbons and other gases mined and/or produced on the territory of the Member States, consisting mainly of methane, transported in a compressed gaseous state using gas transportation systems;

"gas producing Member States" means the Member States on the territory of which the output of gas exceeds its consumption;

"gas consuming Member States" means the Member States on the territory of which the consumption of gas exceeds its output;

"gas transportation systems" means facilities designed for gas transportation, including main gas pipelines and related facilities connected by a single production process, except for gas distribution networks;

"access to services of natural monopoly entities in the sphere of gas transportation" means provision of the right to use gas transportation systems controlled by natural monopoly entities of the Member States for the transportation of gas;

"equal-netback pricing" means wholesale prices of gas formed to meet the domestic demands based, among other things, on the following principles:

for gas producing Member States, the wholesale market price shall be calculated by extraction from the selling price of gas in the external market of the value of duties, charges, taxes and other fees collected in these states and of the cost of gas transportation outside gas producing Member States, with account of the difference in the cost of gas transportation in the external and internal markets of the gas supplier;

for gas consuming Member States, the market wholesale price formed by a gas producer of a gas producing state by deducting duties, charges, taxes and other fees and of the cost of gas transportation outside gas producing Member States from the selling price of gas in the external market;

"gas transportation services" means services for the transportation of gas using gas transportation systems;

"authorised authorities" means state authorities authorised by the Member States to control the implementation of this Protocol.

3. The Member States shall gradually form a common gas market of the Union, as well as provide access to services of natural monopoly entities in

the sphere of gas transportation using gas transportation systems of the Member States on the basis of the following main principles:

1) non-application in mutual trade of import and export customs duties (other equivalent duties, taxes and fees);

2) priority supply of domestic demands for gas of the Member States;

3) prices and tariffs for gas transportation services for supply of the domestic demands of the Member States shall be set in accordance with the legislation of the Member States;

4) unification of gas-related norms and standards of the Member States;

5) ensuring environmental safety;

6) information exchange based on the information including data on domestic gas consumption.

4. Access to services of natural monopoly entities in the sphere of gas transportation shall be granted under the terms of this Protocol only in respect to gas originating from the territories of the Member States. The provisions of this Protocol shall not apply to relations of access to services of natural monopoly entities in the sphere of transportation of gas originating from the territories of third states and relations in the sphere of gas transportation to and from the territory of the Union.

5. Access to services of natural monopoly entities in the sphere of gas transportation using gas transportation systems of the Member States provided for by this Protocol shall be ensured subject to the implementation by the Member States of a set of measures, including the following activities:

establishment of an information exchange system based on the information including data on domestic gas consumption;

establishment mechanisms for the preparation of indicative (projected) balances in accordance with this Protocol;

unification of gas-related norms and standards of the Member States;

maintaining market prices to ensure commercial profitability of gas sales on the territories of the Member States.

Upon completion of the set of measures specified in this paragraph, the Member States shall execute a respective protocol.

6. The Member States shall seek to achieve equal-netback pricing on the territories of all Member States.

7. Upon completion by all the Member States of the set of measures specified in paragraph 5 of this Protocol, the Member States shall, within the existing technical capabilities and available capacities of gas transportation systems, with account of the agreed indicative (projected) gas balance of the Union and on the basis of civil law contracts of economic entities, ensure access of economic entities of other Member States to gas transportation systems located on the territories of the Member States for the transportation of gas to meet the domestic demands of the Member States, under the following rules:

economic entities of the Member States shall be granted access to the gas transportation system of another Member State on equal terms (including with regard to tariffs) with gas producers that are not owners of the gas transportation system of the Member State on the territory of which the transportation is carried out;

gas transportation volumes, prices and tariffs, as well as commercial and other terms of gas transportation using gas transportation systems, shall

be determined by civil law contracts between economic entities of the Member States in accordance with the legislation of the Member States.

The Member States shall facilitate proper implementation of existing contracts for the transportation of gas using main pipelines concluded between economic entities operating on their territories.

8. In accordance with the methodology for calculating indicative (projected) balances of gas, oil and petroleum products and with the participation of the Commission, authorised authorities of the Member States shall develop and agree the indicative (projected) gas balance of the Union (for the production, consumption and supply to meet the domestic demands , including mutual supplies), to be compiled for a period of 5 years and updated annually before October 1.

The Member States shall provide access to services of natural monopoly entities in the sphere of gas transportation for internal markets of the Member States with consideration for the agreed gas balance.

9. The Member States shall seek to develop long-term mutually beneficial cooperation in the following areas:

- 1) gas transportation across the territories of the Member States;
- 2) construction, reconstruction and operation of gas pipelines, underground gas storage facilities and other gas-related infrastructure;
- 3) provision of services required to meet domestic gas demands of the Member States.

10. The Member States shall ensure unification of regulatory and technical documents governing the operation of gas transportation systems located on the territories of the Member States.

11. This Protocol shall not affect the rights and obligations of the Member States under other international treaties to which they are participants.

The relations of the Member States in the sphere of gas transportation which are not regulated by the Treaty shall be governed by the legislation of the Member States.

12. The provisions of Section XVIII of the Treaty shall apply to natural monopoly entities engaged in gas transportation with account of the specific features provided for by this Protocol.

13. Pending the entry into force of an international treaty on the establishment of a common gas market of the Union provided for by paragraph 3 of Article 83 of the Treaty, bilateral treaties concluded between the Member States in the field of gas supply shall apply, unless otherwise agreed by the respective Member States.

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ANNEX 23  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Organisation, Management, Functioning**  
**and Development of the Common Markets of Oil and Petroleum**  
**Products**

1. This Protocol has been developed in accordance with Articles 79, 80 and 84 of the Treaty on the Eurasian Economic Union (hereinafter - "the Treaty") and determines the framework for cooperation in the oil sphere, the principles of establishing of the common market of oil and petroleum products of the Union, as well as the principles of access to services of natural monopoly entities in the sphere of transportation of oil and petroleum products.

This Protocol has been developed taking into consideration the provisions of the Concept of the establishment of a common energy market of the Eurasian Economic Community of December 12, 2008, for the purposes of ensuring effective use of the potential of fuel and energy complexes of the Member States, as well as for providing oil and petroleum products to their national economies.

2. The terms used in this Protocol shall have the following meanings:

"access to services of natural monopoly entities in the sphere of oil and petroleum products transportation" means provision of the right to use oil and petroleum products transportation systems controlled by natural monopoly entities of the Member States for the transportation of oil and petroleum products;

"oil and petroleum products" means the goods specified in accordance with the Single Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union and the Common Customs Tariff of the Eurasian Economic Union;

"common market of oil and petroleum products of the Member States" means a set of commercial and economic relations of economic entities of the Member States in the sphere of production, transportation, supply, processing and marketing of oil and petroleum products on the territories of the Member States required to meet the demands for them of the Member States;

"indicative (projected) balances of oil and petroleum products of the Union" means a system of estimated values determined under the methodology of determining indicative (projected) balances of gas, oil and petroleum products;

"transportation of oil and petroleum products" means commission of actions aimed at movement of oil and petroleum products by any means, including with the use of pipelines from the point of their reception from the sender to the point of delivery to the recipient, including discharge, filling, transfer between vehicle types, storage, and mixing.

3. When establishing the common markets of oil and petroleum products of the Union, the Member States shall be guided by the following basic principles:

1) non-application in mutual trade of quantitative restrictions and export customs duties (other equivalent duties, taxes and fees). The payment procedure for export customs duties on oil and petroleum products exported outside the customs territory of the Union shall be governed by treaties, including bilateral treaties, between the Member States;



2) ensuring priority supply of demands of the Member States in oil and petroleum products;

3) unification of norms and standards of the Member States regarding oil and petroleum products;

4) ensuring environmental safety;

5) information support of common markets of oil and petroleum products of the Union.

4. The Member States shall carry out the following set of measures to establish the common markets of oil and petroleum products of the Union:

1) creation of an information exchange system based on customs information, including information on the supply, export and import of oil and petroleum products by all modes of transport;

2) establishment of control mechanisms to prevent violation of the terms of this Protocol;

3) unification of norms or standards of the Member States regarding oil and petroleum products.

5. The measures referred to in paragraph 4 of this Protocol shall be implemented through the signing by the Member States or their authorised authorities of methodologies or rules within the framework of respective international treaties.

6. The Member States, in compliance with the international treaties between the Member States, within the existing technical capabilities, shall ensure the following conditions:

1) guaranteed feasibility of long-term transportations of produced oil and petroleum products manufactured from it using the existing transport system on the territories of the Member States, including systems of main pipelines and main petroleum product pipelines;

2) access to oil and petroleum products transportation systems located on the territory of each Member State for economic entities registered on the territories of the Member States under the same conditions as those provided to economic entities of the Member States on the territories of which the transportation of oil and petroleum products is carried out.

7. Tariffs for services for the transportation of oil and petroleum products using systems for the transportation of oil and petroleum products shall be set in accordance with the legislation of each Member State.

Tariffs for services for transportation of oil and petroleum products shall be set for economic entities of the Member States at a level not exceeding the tariffs set for economic entities of the Member State on the territory of which the transportation of oil and petroleum products is carried out.

The Member States shall not be obliged to set tariffs for services for the transportation of oil and petroleum products for economic entities of the Member States below the tariffs set for economic entities of the Member State on the territory of which the transportation of oil and petroleum products is carried out.

8. In accordance with the methodology for calculating indicative (projected) balances of gas, oil and petroleum products and with the participation of the Commission, authorised authorities of the Member States shall develop and agree:

indicative (projected) balances of oil and petroleum products of the Union for the following calendar year, annually before October 1;

long-term indicative (projected) balances of oil and petroleum products of the Union, which may be adjusted, if necessary, based on the actual

changes in oil production, manufacture and consumption of petroleum products of the Member States.

The volumes and directions of transportation of oil produced on the territory of a Member State across the territory of another Member State shall be annually determined in the protocols between the authorised authorities of the Member States.

9. Internal markets of oil and petroleum products of the Member States shall be regulated by the national authorities of the Member States. The Member States shall take measures to liberalise their markets for oil and petroleum products in accordance with the legislation of each Member State.

10. This Protocol shall not affect the rights and obligations of the Member States under other international treaties to which they are participants.

11. The provisions of section XVIII of the Treaty shall apply to natural monopoly entities engaged in transportations of oil and petroleum products with account of the specific features provided for by this Protocol.

12. Pending the entry into force of the international treaty on the establishment of common markets of oil and petroleum products of the Union provided for by paragraph 3 of Article 84 of the Treaty, bilateral treaties between the Member States regarding supplies of oil and petroleum products, determination and payment of export customs duties (other equivalent duties, taxes and fees) shall apply, unless otherwise agreed by the respective Member States.

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ANNEX 24  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Coordinated (Agreed) Transport Policy**

I. General Provisions

1. This Protocol has been developed in accordance with Articles 86 and 87 of the Treaty on the Eurasian Economic Union for the purposes of implementing coordinated (agreed) transport policy.

2. The terms used in this Protocol shall have the following meanings:

“civil aviation” means aviation used to meet the demands of the population and economy;

“common transport area” means a set of transport systems of the Member States characterised by unimpeded traffic of passengers, transfer of cargo and vehicles, their technical and technological compatibility, based on the harmonised legislation of the Member States in the sphere of transport;

“legislation of the Member States” means the national legislation of each Member State;

“common market of transport services” means a form of economic relations implying equal and parity conditions for the provision of transport services the specific features of functioning of the market of which, by type of transport, are determined this Protocol as well as international treaties within the Union.

3. This Protocol shall be implemented with account of the obligations assumed by each Member State at accession to the World Trade Organisation, as well as within other international treaties.

## II. Road Transport

4. International carriage of goods by road performed by carriers registered on the territory of a Member State shall be carried out on a permit-free basis:

- 1) between the Member State of registration of such carriers and another Member State;
- 2) in transit through the territory of other Member States;
- 3) between other Member States.

5. By July 1, 2015, the Member States shall have adopted a programme of gradual liberalisation of carriage of goods by road between locations on the territory of another Member State performed by carriers registered on the territory of a Member State for the period from 2016 to 2025, indicating the extent and conditions of such liberalisation.

The Member States may have different levels and rates of liberalisation of carriage of goods by road referred to in the first indent of this paragraph.

6. The gradual liberalisation programme referred to in paragraph 5 of this Protocol shall be approved by the Supreme Council.

7. Specific features of coordinated (agreed) transport policy regarding regulation of road freight transport services within the Union shall be determined by international treaties.

8. The Member States shall take agreed measures to eliminate all obstacles (barriers) affecting the development of international road service and formation of road transport services within the Union.

9. Transport (road) control shall be exercised in the procedure according to Annex 1 to this Protocol.

### III. Air Transport

10. Air transport in the Union shall be developed within the coordinated (agreed) transport policy by the gradual establishment of a common market of air transport services.

The Member States shall coordinate efforts for a common approach to the application of standards and recommended practices of the International Civil Aviation Organisation (ICAO).

11. Establishment of the common market of air transport services shall be based on the following principles:

1) ensuring compliance with international treaties and acts constituting the law of the Union, regulations and principles of the international law in the field of civil aviation;

2) harmonisation of the legislation of the Member States in accordance with the regulations and principles of international law in the field of civil aviation;

3) ensuring fair and honest competition;

4) facilitating fleet renewal, modernisation and development of the ground infrastructure of airports pursuant to the requirements and recommended practices of the International Civil Aviation Organisation (ICAO);

- 5) ensuring flight safety and aviation security;
  - 6) ensuring non-discriminatory access of aviation companies of the Member States to the aviation infrastructure;
  - 7) expansion of air services between the Member States.
12. The Member States recognise that each Member State shall have complete and exclusive sovereignty over the airspace above its territory.
13. Aircraft operations in the Member States within the Union shall be carried out under international treaties of the Member States and/or permits issued in accordance with the legislation of the Member States.
14. The provisions of this section shall apply only to civil aviation.

#### IV. Water Transport

15. Water transport in the Union shall be developed as part of the coordinated (agreed) transport policy.
16. Ships flying the flag of a Member State shall have the right to goods transportation, passengers and their luggage, carry out towing between the flag State and another Member State on the adjacent inland waterways, transit passage on inland waterways of another Member State, except for transportation and towing between ports and transportation to (from) ports of another Member State and third countries, according to the international shipping treaty of the Member States concluded by the Member States in execution of this Protocol.
17. Vessels navigating on inland waterways of a Member State shall be registered in the registry of vessels of the Member State and shall be owned by a resident of the Member State which has registered the vessel in its registry of vessels.

## V. Rail Transport

18. While contributing to further development of mutually beneficial economic relations and taking into account the need to ensure access to rail transport services of the Member States and agreed approaches to state regulation of tariffs for these services, if such regulation is provided for by the legislation of the Member States, shall specify the following objectives:

1) gradual establishment of a common market of transport services in the sphere of rail transport;

2) ensuring access of consumers of the Member States to rail transport services in transportations on the territory of each Member State on the terms no less favourable than the terms established for consumers of that Member States;

3) maintaining a balance between the economic interests of consumers of rail services and the economic interests of rail transport organisations of the Member States;

4) enabling access of rail transport organisations of one Member State to the domestic market of rail transport services of another Member State;

5) enabling access of carriers to infrastructure services of the Member States in accordance with Annexes 1 and 2 to the Procedure for Regulating Access to Rail Transport Services, including Tariff Policy Framework (Annex 2 to this Protocol).

19. Access to rail transport services, including tariff policy framework, shall be regulated in the procedure provided for by Annex 2 to this Protocol as well as by relevant international treaties.

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Annex 1  
to the Protocol on Coordinated  
(Agreed) Transport Policy

**Procedure  
for Transport (Road) Control at External Border of the Eurasian  
Economic Union**

1. This Procedure has been developed in accordance with paragraph 9 of the Protocol on Coordinated (Agreed) Transport Policy (Annex 24 to the Treaty on the Eurasian Economic Union) and determines the procedure for implementing transport (road) control at external border of the Union.

2. The terms used in this Procedure shall have the following meanings:

“vehicle weight and dimensions” means the mass, axle loads and dimensions (width, height and length) of a vehicle, with or without cargo;

“external border of the Union” means the outside limits of the customs territory of the Union, dividing the territories of the Member States and territories of the states which are not a member of the Union ;

“checkpoint” means a fixed or mobile station (post) as well as a border entry point, equipped in accordance with the legislation of the Member State, where transport (road) control is conducted;

“transport (road) control authorities” means competent authorities authorised by the Member State for conducting transport (road) control on the territory of a Member State;

“carrier” means a juridical or natural person using a vehicle based on the right of ownership or on other legal grounds;

“vehicle” means:

for the cargo transportation , a truck, a trailer truck, a car (truck) tractor or a car (truck) tractor with a semi-trailer, chassis;

for passenger transportations, a motor vehicle intended for the carriage of passengers and luggage, having more than 9 seats, including the driver's seat, with a trailer for luggage transportation;

“transport (road) control” means control over international carriage by road.

Other terms that are not expressly specified in this Procedure shall have the meanings determined under international treaties, including international treaties within the Union.

3. This Procedure determines a common approach to transport (road) control to be implemented by transport (road) traffic control authorities at external border of the Union with regard to vehicles entering (leaving, passing in transit) the territory of the Member States.

4. Vehicles on route to the territory of a Member State through the territory of another Member State shall be subject to transport (road) control at checkpoints located at external border of the Union in accordance with the legislation of the Member State the territory of which is passed in transit by such vehicles and in accordance with paragraphs 7 and 8 of this Procedure.

5. Vehicles, documents required for the purposes of transport (road) control shall be checked and check results shall be executed in accordance with the legislation of the Member State passed in transit by the vehicles at the external border of the Union and pursuant to this Procedure.

6. Transport (road) control authorities shall mutually recognise all documents issued as a result of transport (road) control.

7. In addition to the transport (road) control activities provided for by the legislation of the Member State the state border of which is crossed for entry into the customs territory of the Union, the transport (road) control authority of that Member State shall carry out the following at checkpoints:

1) verification of compliance of the vehicle weight and dimensions with the standards similar to those determined by the legislation of other Member States the territories of which are passed in transit, as well as to the data specified in special permits for the transportation of oversized and/or heavyweight cargo or for the passage of oversized and/or heavyweight vehicles through the territories of other Member States;

2) verification of carrier's permits to pass through the territories of other Member States and their conformity to the type of shipment and of compliance of vehicle specifications with the requirements provided for by such permits;

3) verification of carrier's special permits for the transportation of oversized and/or heavyweight cargo or for the passage of oversized and/or heavyweight vehicles, as well as special permits for the carriage of dangerous goods on the territories of other Member States to be passed;

4) verification of carrier's permits (special permits) for transportation to (from) third countries on the territory of other Member States to be passed through;

5) issuance to carriers of accounting vouchers in a form agreed by transport (road) control authorities, if in accordance with the legislation of other Member States the transportation is allowed without permits to pass through the territories of other Member States, as well as for transportation carried out under multilateral permits.

8. For vehicles leaving through external border of the Union, transport (road) control authorities shall perform the following checks at checkpoints, in addition to the actions referred to in paragraph 7 of this Procedure:

1) check the carrier for the availability of receipts for payment of fees for the passage of the vehicles on the roads on territories of the Member States which have been passed, if the payment of such fees is obligatory in accordance with the legislation of the Member States;

2) check the carrier (driver) for the availability of receipts confirming the payment of fines for violation of the procedure established for international carriage by road on the territory of a Member State or court decisions on imposition of respective administrative penalties on the carrier (driver) if the permit to pass through the territory of a Member State or the accounting voucher contains a mark of the transport (road) control authority to impose such a fine on the carrier (driver);

3) check admissibility of vehicles of carriers of the Member States to international carriage by road;

4) check the carrier for the availability of the required documents in case of receipt of a notice referred to in paragraph 9 of this Procedure from a transport (road) control authority of another Member State.

9. If in the course of the control activities provided for by paragraph 7 of this Procedure any inconsistencies of controlled vehicle parameters or lack of or non-compliance of documents provided for by the legislation of the Member States are found, the transport (road) control authority of one Member State shall issue to the driver a notice in the form agreed by transport (road) control authorities of the Member States, containing information on:

the inconsistencies identified;

the requirement for obtaining the missing documents before arriving on the territory of another Member State;

the nearest checkpoint of transport (road) control authorities of another Member State on the route of the vehicle, where the carrier shall be required to confirm elimination of the inconsistencies of the controlled vehicle parameters and/or the documents specified in the notice.

10. Information on the issuance of the notice shall be forwarded to the transport (road) control authority of another Member State and shall be entered in the database of the transport (road) control authority that identified the inconsistencies.

11. If a transport (road) control authority of a Member State has issued to the carrier a notice under paragraph 9 of this Procedure, the transport (road) control authority of another Member State shall be entitled, at its checkpoint, to verify the execution of this notice and, upon the availability of proper grounds, apply to the carrier (driver) measures in accordance with the legislation of that other Member State.

12. A vehicle may only be released from the territory of the Union upon presentation by the carrier of the documents provided for by paragraphs 7 and 8 of this Procedure.

13. Upon establishing an inconsistency of controlled vehicle parameters, lack or non-compliance of documents provided with the legislation of the Member States, the transport (road) control authority of the first Member State shall inform the transport (road) control authority of the other Member State thereof at the departure of a vehicle across an external border of the Union on route to the territory of that other Member State.

14. The Member States shall take measures, on the basis of reciprocity, to harmonise their legislation, methods and technologies of transport (road) control at external border of the Union with regard to:

- 1) the requirements for weight parameters of vehicles on public roads included in international transport corridors;
- 2) establishing a system to control the full payment of fees for the passage of vehicles on public roads of another Member State;
- 3) developing a mechanism for the settlement of disputes arising with carriers of third countries;
- 4) developing a mechanism to return (detain) vehicles in case of violation of the requirements for international carriage by road on the territory of the Union.

15. Permits (special permits) shall be deemed invalid in the following cases:

- 1) if such permits are executed or used in violation of the legislation of the Member State the competent authorities of which have issued them;
- 2) if the weight and/or dimensional vehicle parameters specified in a special permit do not correspond to the results of weighing and measurements of the vehicle;
- 3) if vehicle characteristics do not correspond to the characteristics of the vehicle provided for in the permit for transit on the territories of the Member States.

16. If an inconsistency of vehicle parameters (characteristics) is identified in the course of control activities with regard to parameters (characteristics) specified in the permit, the transport (road) control authority of one Member State shall be entitled to request from a transport (road)

control authority of another Member State confirmation of the validity of the permit.

17. For the purposes of this Procedure, transport (road) control authorities shall:

1) conclude separate protocols, communicate to transport (road) control authorities of another Member State the provisions of regulatory legal acts of their states governing transport (road) control requirements, inform each other of any changes in these acts and exchange sample documents required for the implementation of transport (road) control in accordance with this Procedure;

2) mutually and regularly exchange information obtained as a result of transport (road) control activities. The form and procedure for the exchange of such information, as well as its composition, shall be determined by transport (road) control authorities;

3) organise the maintenance of a database of vehicles in transit through the territory of one Member State to the territory of another Member State and exchange the information contained in the database.

18. The exchange of information obtained as a result of transport (road) control activities shall be carried out electronically.

19. Transport (road) control authorities may provide other information on international carriage vehicles moving goods obtained as a result of transport (road) control activities.

20. For the purposes of compilation and registration of the results of transport (road) control activities and vehicles, transport (road) control authorities shall use information resources containing information about the results of additional transport (road) control activities under paragraphs 7-9

of this Procedure, as well as ensure mutual use of these information resources.

21. Within the determined procedure, the Member States shall inform the competent authorities of states, which are not a member of the Union on any changes in the procedure for the implementation of transport (road) control at external border of the Union.

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Annex 2  
to the Protocol on Coordinated  
(Agreed) Transport Policy

**Procedure  
for Regulating Access to Rail Transport Services, including Tariff  
Policy Framework**

1. This Procedure has been developed in accordance with the Protocol on Coordinated (Agreed) transport Policy (Annex 24 to the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”)), determines the procedure for regulating access to rail transport services, including tariff policy framework, and applies to relations between rail transport organisations, consumers, and authorised authorities of the Member States in the sphere of rail transport services.

2. The terms used in this Procedure shall have the following meanings:

“access to rail transport services” means the provision by rail transport organisations of a Member State of services to customers of another Member State on the terms no less favourable than those applied for similar services rendered to customers of the first Member State;

“access to infrastructure services” means the possibility for carriers to gain access to the infrastructure of transport services in accordance with the rules specified in Annexes 1 and 2 to this Procedure;

“infrastructure” means the rail transport infrastructure, including main and station tracks, power supply facilities, signalling and communication facilities, as well as devices, equipment, buildings, structures and other facilities technologically required for its operation;

“rail transport organisation” means a natural or juridical person of a Member State providing rail transport services to customers;

“transportation process” means a set of interrelated organisational and technological operations carried out in the preparation, implementation and completion of transportations of passengers, cargo , luggage, cargo-luggage and mail by rail transport;

“carrier” means a rail transport organisation carrying out activities in the transportation of cargo , passengers, luggage, cargo-luggage and mail under a proper license that owns or uses on other legal grounds rolling stock, including traction vehicles;

“consumer” means a natural or juridical person of a Member State intending to use or using rail transport services;

“tariff for rail transport services” means the monetary value of the cost of rail transport services;

“rail transport services” means services (works) rendered (performed) by rail transport organisations, namely:

freight transportation and additional services (works) related to the organisation and carrying out freight transportation (including empty rolling stock);

transportation of passengers, luggage, cargo-luggage, mail and additional services (works) related to such transportation;

infrastructure services;

“infrastructure services” means services related to the use of infrastructure for transportations and other services listed in Annex 2 to this Procedure.

3. Rail transport organisations shall provide access to rail transport services to consumers, regardless of their affiliation to a Member State, their

organisational and legal form, taking into account this Procedure and the legislation of the Member States.

4. The Member States shall ensure access of carriers of the Member States to infrastructure services in compliance with the principles and requirements specified in Annexes 1 and 2 to this Procedure.

The provisions of Annexes 1 and 2 to this Procedure shall not apply to relations between carriers of the Member States in the provision of services on the use of locomotives and locomotive crews in certain areas of the infrastructure of the Member States provided on the basis of contracts (agreements) concluded between such carriers in accordance with the legislation of the Member States.

5. The procedure and conditions for the provision of other rail transport services within establishing a common market for transport services shall be determined, if necessary, under international treaties within the Union.

6. Tariffs for rail transport services and/or their threshold levels (price limits) shall be set (changed) in accordance with the legislation of the Member States and international treaties, while enabling a differentiation of tariffs in accordance with the legislation of the Member States, with observance of the following principles:

1) compensation of economically justified costs directly related to rail transport services rendered;

2) ensuring development of rail transport in accordance with the legislation of the Member States;

3) ensuring transparency of tariffs for rail transport services, as well as the possibility to further review such tariffs and/or their threshold levels (price limits) at abrupt changes in economic conditions, with prior notification of the Member States;

4) ensuring publicity of decision-making when setting tariffs for rail transport services;

5) application of a harmonised approach to determining the freight nomenclature and tariff setting rules for rail transport services provided within natural monopolies;

6) determination of currencies for the tariffs for rail transport services in each Member State in accordance with the legislation of the Member State.

7. Tariffs for rail transport services and/or their threshold levels (price limits) shall be set (changed) in accordance with the legislation of the Member State, subject to this Procedure.

8. In the freight transportation by rail through the territories of the Member States, unified tariffs shall be applied as per types of transport (export, import and internal tariffs).

9. In order to improve the competitiveness of rail transport of the Member States, create favourable conditions for the freight transportation by rail, attract new cargo flows previously not transported by rail, ensuring the possibility of using previously unused or underutilised railway freight transportation routes, to encourage increased freight traffic on the railways of the Member States, to encourage increased introduction of new equipment and technologies, rail transport organisations shall be entitled, based on the economic feasibility, to change the level of tariffs for railway freight transportation services within their threshold levels (price limits) set or agreed by the authorised authorities of the Member States in accordance with the legislation of the Member States.

10. Rail transport organisations shall exercise their right to change the level of tariffs for railway freight transportations within the threshold levels (price limits) set in accordance with the methodology (techniques, procedure,

rules, instructions or other regulations) approved (determined) by the authorised authorities of the Member States in accordance with the legislation of the Member States, in compliance with the fundamental principle of inadmissibility of creating advantages for certain manufacturers of goods in the Member States.

11. Decisions on changes to the level of tariffs for railway freight transportation services shall be officially published in accordance with the legislation of the Member States and sent to the authorised authorities of the Member States and the Commission on a mandatory basis not later than 10 business days prior to their effective dates.

12. Should actions of a rail transport organisation regarding changes in tariffs for railway freight transportation services violate the rights and interests of consumers, consumers shall be entitled to file an application on the protection of their violated rights and interests to the national anti-monopoly authority of the Member State of stay or residence of such consumers.

If a rail transport organisation the actions of which are appealed against by a consumer is located at the place of stay or residence of the consumer, the national anti-monopoly authority of a Member State shall review the application of the consumer in accordance with the legislation of this Member State.

If a consumer files an application against actions of a rail transport organisation that is not located at the place of stay or residence of the consumer, the national anti-monopoly authority of the Member State shall, having identified and confirmed the requirements specified in the application of the consumer as reasonable, send, not later than within 10 business days, a request for an investigation to the Commission. Within 3 business days from

the date of submission of the request to the Commission, the national anti-monopoly authority of the Member State shall send a notification thereof to the consumer and the national anti-monopoly authority of the Member State of location of the rail transport organisation that has violated the terms of changing of the level of tariffs for railway freight transportations within the threshold levels (price limits) set.

On the basis of the aforementioned request, the Commission shall consider the application of the consumer and issue a decision in accordance with the rules determined under an international treaty within the Union.

13. When transporting freights by rail between two Member States through the territory of a third Member State and between the territories of a Member State using the railways of another Member State, as well as when transporting freights from the territory of one Member State through the territory of another Member State to third countries using sea ports of the Member States and in the opposite direction, each Member State shall apply the unified tariff of each Member State.

14. When transporting freights in transit from the territory of one Member State through the territory of another Member State to third countries and in the opposite direction (except for transporting freights through sea ports of the Member States), as well as when cargo transportation from third countries to other third countries in transit through the territory of the Member States, coordinated (agreed) tariff policy shall apply in accordance with the Concept for Establishing Coordinated Tariff Policy for the Rail Transport in the Member States of the Commonwealth of Independent States of October 18, 1996.

15. The Member States shall assign authorised authorities responsible for the implementation of this Procedure.

16. The Member States shall inform each other and the Commission of the assignment and official names of their authorised authorities no later than 30 days from the date of entry into force of the Treaty.

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Annex 1  
to the Procedure for Regulating Access  
to Rail Transport Services, including Tariff  
Policy Framework

**Rules for  
Access to Rail Transport Infrastructure within the Eurasian  
Economic Union**

I. General Provisions

1. These Rules govern the relations of carriers and infrastructure operators in the sphere of provision of access to rail transport infrastructure in various infrastructure sections within the Union.

2. Relations between carriers and infrastructure operators in the sphere of provision of access to infrastructure services within the territory of a Member State, except for the relations stipulated in paragraph 1 of these Rules, shall be governed in accordance with the legislation of the Member State.

II. Definitions

3. The terms used in these Rules shall have the following meanings:

“train movement schedule” means a legal and technical document of an infrastructure operator establishing the organisation of train movement of all categories in infrastructure sections, graphically displaying train routes on a scale grid for a conventional day, with the separation of standard (for the planning year), optional (for certain periods of time) and operational (for the current planning day) schedule types;



“long-term contract for the provision of infrastructure services” means a contract for the provision of infrastructure services concluded between an infrastructure operator and a carrier for a period of not less than 5 years;

“additional application” means an application for access to infrastructure services submitted by a carrier in order to carry out additional transportations within the effective period of a standard train movement schedule;

“access to infrastructure services” means the possibility for carriers to obtain infrastructure services for carrying out transportations;

“a national (network-wide) carrier” means a carrier engaged in cargo transportation , passengers, luggage, cargo-luggage or mail and ensuring the implementation of the train make-up plan in the entire infrastructure of a Member State, including with regard to special and military traffic. The status of a national (network-wide) carrier shall be specified in the legislation of each Member State;

“train path” means a graphical representation of a train route on a train movement schedule, indicating departure, destination and transfer points, time of departure and arrival, technical stops, average time en route, as well as other technical and technological parameters of trains;

“infrastructure operator” means a rail transport organisation with its own infrastructure and using the infrastructure lawfully and/or providing infrastructure services in accordance with the legislation of the Member State of location of the infrastructure;

“a train make-up plan” means a legal and technical document approved by the infrastructure operator on the basis of draft train make-up plans of carriers and determining the categories and purpose of trains formed at

railway stations taking into account the crossing capacity of infrastructure sections and the processing capacity of railway stations;

“crossing capacity of an infrastructure section” means the maximum number of trains and train-pairs that may pass an infrastructure section within an accounting period of time (a day), depending on the technical and technological capabilities of the infrastructure and rolling stock and train movement organisation methods taking into account the passing of trains of different categories;

“train movement timetable” means a document containing information on train movement on specific calendar dates based on the train movement schedule;

“safety certificate” means a document certifying compliance of the safety management system of a participant of the transportation process with the safety rules in rail transport, issued under the procedure determined by the legislation of the Member State;

“authorised authority” means an executive (public) authority of a Member State in charge of state regulation and/or management in the field of rail transports, as specified in accordance with the legislation of each Member State;

“infrastructure section” means part of the railway transport infrastructure adjacent to a junction of two adjoining infrastructures of the Member States within a locomotive circulation area specified by the infrastructure operator.

4. Other terms used in these Rules shall have the meanings specified in the Protocol on Coordinated (Agreed) Transport Policy, the Procedure for Regulating Access to Rail Transport Services, including Tariff Policy Framework, as well as the Rules for the Provision of Rail Infrastructure

Services within the Eurasian Economic Union (hereinafter “the Service Provision Rules”).

### III. General Principles of Access to Infrastructure Services

5. Access to infrastructure services shall be granted in various infrastructure sections and based on the following principles:

1) equality of requirements to carriers determined by the legislation of the Member State of location of the infrastructure, taking into account the technical and technological capabilities within the crossing capacity of infrastructure sections;

2) application to carriers of common pricing (tariff) policy in the sphere of infrastructure services in accordance with the legislation of the Member State of location of the infrastructure;

3) availability of information on the list of infrastructure services, the procedure for their provision based on the technical and technological capabilities of the infrastructure, as well as on tariffs, fees and charges for these services;

4) rational planning of repairs, maintenance and servicing of the infrastructure for the effective use of its capacity and to ensure continuity of the transportation process and integrity and safety of related processes;

5) protection of information constituting commercial or State secret, which becomes known in the process of planning and organisation of transportation activities and provision of infrastructure services;

6) priority (sequence) of provision of access to the infrastructure to carriers in case of a limited infrastructure crossing capacity in accordance with the standard train movement schedule;

7) ensuring by the carriers of the proper technical condition of the rolling stock used.

6. The principle of priority (sequence) of provision of access to the infrastructure to carriers shall be implemented using the following selection levels:

1) definition of the train category the priority (sequence) for which is determined in accordance with the legislation of the Member State of location of the infrastructure or under the acts of the infrastructure operator not contradicting the legislation of the Member State of location of the infrastructure;

2) in the case of identical categories of trains, depending on:

the availability of long-term contracts for the provision of infrastructure services with account of fulfilment of contractual obligations on transportation volumes;

the utilisation by the carrier of the carrying capacity of the infrastructure sections;

the presence of an effective contract for the provision of infrastructure services;

3) in the case of identical criteria specified in sub-paragraphs 1 and 2 of this paragraph, the implementation of competitive procedures in accordance with the legislation of the Member State of location of the infrastructure.

#### IV. Conditions of Access to Infrastructure Services

7. Access to infrastructure services shall be provided by the infrastructure operator to carriers having the following:

1) licenses to carry out transport activities issued by the authorised authority of the Member State in accordance with the legislation of the Member State of location of the infrastructure;

2) safety certificates issued by the authorised authority of the Member State in accordance with the legislation of the Member State of location of the infrastructure;

3) skilled employees involved in the organisation, management and carrying out the transportation process with documents confirming their qualifications and training in accordance with the legislation of the Member State of location of the infrastructure.

8. Access to infrastructure services shall be provided on the basis of:

1) technical and technological capacities of the infrastructure for the organisation of train movement and shunting within an infrastructure section;

2) a freight train make-up plan and a train movement schedule;

3) availability of infrastructure capacities and proposals of carriers on the use of infrastructure sections and distribution by the infrastructure operator of the capacities of infrastructure sections based on the principles of access to infrastructure services, as specified Section III of these Rules;

4) absence in accordance with the legislation of the Member State of location of the infrastructure of any prohibitions and restrictions preventing the rail transportation;

5) availability with the carrier of authorisations issued in agreement with other authorities and organisations in the cases provided for by the legislation of the Member State of location of the infrastructure.

9. The right of access to infrastructure services on certain train paths in the train schedule may be granted to carriers for a period not exceeding the

period of validity of the train movement timetable, except for the rights arising from long-term contracts.

#### V. Providing Access to Infrastructure Services

10. Access to infrastructure services shall be provided based on the requirements of the legislation of the Member State of location of the infrastructure and shall include the following stages:

1) development and publication by the infrastructure operator of a technical specification of infrastructure sections;

2) submission by the carrier of an application for access to the rail transport infrastructure within the Eurasian Economic Union (hereinafter “the application”) according to the Annex;

3) consideration of the application by the infrastructure operator;

4) approval of the train movement schedule and timetable;

5) conclusion of a contract for the provision of infrastructure services in accordance with the legislation of the Member State of location of the infrastructure.

If the carrier is the operator of the infrastructure to be used, filing of the application and conclusion of the contract shall not be required.

11. Access to infrastructure services for additional transportations, not provided for by the standard train movement schedule, shall be granted on the basis of additional applications in the procedure determined by these Rules.

#### VI. Technical Specification of Infrastructure Sections

12. Annually, not later than 3 months before the start date of receipt of applications, the infrastructure operator shall approve and publish the

technical specification of infrastructure sections in the procedure determined by the acts of the infrastructure operator, in compliance with the legislation of the Member State of location of the infrastructure.

13. The technical specification of infrastructure sections shall include:

1) technical specifications of infrastructure sections and stations required to organise the train movement and shunting, indicating the lengths of infrastructure sections and the types of traction, weight standards and lengths of trains, as well as movement speeds of trains of different categories;

2) draft train paths for the train schedule for the international passenger traffic;

3) the predicted time of reception and transmission (exchange) of freight trains at each interstate junctions determined by decision of the Council for Rail Transport of the participating states of the Commonwealth of Independent States;

4) crossing capacities of infrastructure sections, except for the crossing capacities of infrastructure sections required by the national (network-wide) carrier to perform transportations in accordance with the requirements of the legislation of the Member State of location of the infrastructure.

14. The infrastructure operator may specify in the technical specification of infrastructure sections any other information and conditions for the planning of transportations and organisation of train traffic along infrastructure sections.

## VII. Submission and Examination of Application

15. A carrier shall submit the application to the infrastructure operator.

16. The start and end dates for the reception and consideration of applications, the formation of the initial draft standard train schedule and the

deadlines for the submission of information provided for by paragraphs 24 and 26 of these Rules shall be determined by the legislation of the Member State of location of the infrastructure and/or acts of the infrastructure operator that do not contradict the legislation of the Member State of location of the infrastructure.

17. The application shall be attached with:

- 1) draft planned train schedule paths;
- 2) information on the planned annual volumes of traffic (by quarters and months, as well as by type of cargoes);
- 3) information on the number of trains planned for transportation;
- 4) information on the types and characteristics of locomotives to be provided by the carrier for providing the transportations;
- 5) documents confirming compliance of the carrier with the requirements set forth in paragraph 7 of these Rules.

18. The application submitted by the carrier to the infrastructure operator on paper and all documents attached thereto:

shall be bound, numbered and stamped by the carrier and bear the signature of its head or authorised representative;

shall be submitted in the Russian language or in the language of the state of legal registration of the infrastructure operator and shall not contain corrections or additions and, if submitted in a different language, shall be accompanied by duly certified translation into the Russian language.

Documents attached to the application may be originals or copies. In the case of submission of copies of documents, the head of the carrier or its authorised representative signing the application shall confirm their accuracy and completeness in writing.



19. The application filed in electronic form shall be submitted in accordance with paragraph 17 of these Rules, taking into account the requirements for the electronic document flow, and shall be signed by an electronic signature.

20. The application shall be registered by the infrastructure operator with the issuance to the carrier of a document stating the serial registration number, date of receipt of the application and a list of documents submitted.

21. The infrastructure operator shall verify the applications received for compliance with the requirements established by paragraphs 17-19 of these Rules.

22. In the case of non-compliance of the application with the requirements established by these Rules, the infrastructure operator shall within 5 business days of receipt of the application notify the carrier in writing of the rejection of the application, indicating the reasons for the rejection.

23. In the period of consideration of the applications (but not later than 1 month before the deadline for consideration of the applications), the infrastructure operator shall be entitled, if necessary, to request from the carriers any additional information (data) required for the formation of the standard train schedule.

The additional information (data) requested by the infrastructure operator shall be submitted by the carrier within 5 business days of receipt of the request from the operator of the infrastructure subject to the requirements for filing and registration of the applications.

24. The initial draft standard train schedule shall be drawn up by the infrastructure operator taking into account accepted applications of carriers and the maximum utilisation of crossing capacities of infrastructure sections.

The infrastructure operator shall inform carrier of the outcome of consideration of its application within the period determined by the infrastructure operator.

25. In case of disagreement of the carriers with the original results of consideration of their applications, the infrastructure operator may hold coordinating approval procedures aimed at resolving all disagreements (conflicts) between the interested carriers through negotiations, in the course of which the infrastructure operator shall have the right to offer to carrier other train schedule paths, differing from those indicated in its application.

26. Having completed all the procedures provided for by this Section, the infrastructure operator shall inform the carrier on the approval (non-approval) of the application taking into account all adjustments (if any).

#### VIII. Formation, Development and Approval of the Standard Train Schedule and Timetable

27. The standard train schedule and timetable shall be developed and approved by the infrastructure operator for a period of one year in the procedure determined in the legislation of the Member State of location of the infrastructure, taking into account the applications received from carriers and the results of the coordinating approval procedure held.

28. The standard train schedule shall be formed by the infrastructure operator taking into account:

- 1) ensuring train traffic safety;
- 2) the most efficient use of the crossing capacity and carrying capacity of infrastructure sections and the processing capacity of railway stations;
- 3) the possibility of maintenance and repairs of infrastructure sections.

29. The standard train schedule shall be developed based on the principle of priority (sequence).

30. The standard train schedule shall become effective at 12 a.m. on the last Sunday in May of the calendar year and terminate at 12 a.m. on the last Saturday in May of the following calendar year.

31. The standard train schedule and timetable may be adjusted for freight trains in the procedure determined by the infrastructure operator.

#### IX. Concluding Contracts for the Provision of Infrastructure Services

32. Contracts for the provision of infrastructure services shall be concluded upon agreement of the application by the infrastructure operator, but not later than 10 calendar days before the date of entry into force of the standard train schedule.

33. Contracts for the provision of infrastructure services shall be concluded subject to the provisions stipulated by the Service Provision Rules.

Contracts for the provision of infrastructure services under additional applications shall be concluded no later than 1 month before the start of the calendar month of effecting transportations.

34. The infrastructure operator shall be entitled to refuse to conclude a contract with a carrier in case a carrier has a debt to the infrastructure operator for the provided of infrastructure services, as well as in other cases provided for by the legislation of the Member State of location of the infrastructure.

#### X. Additional applications

35. An additional application shall be drawn up in accordance with the requirements stipulated in paragraphs 17-19 of these Rules.

36. An additional application shall be registered by the infrastructure operator with the issuance to the carrier of a document stating the serial registration number, date of receipt of the additional application and a list of documents submitted.

37. An additional application shall be filed no later than 2 months prior to the start of the calendar month of effecting transportations.

38. Additional applications shall be reviewed for compliance with the requirements established by these Rules within 1 month from the date of receipt. Following consideration of an additional application, a contract or addenda to existing contracts may be concluded.

39. The infrastructure operator may consider allocation of additional train schedule paths under additional applications of carriers.

40. Applications received after the expiration of the deadline specified in paragraph 16 of these Rules shall not be regarded in the formation of the standard train schedule and shall be considered as additional applications.

41. Train schedule paths under additional applications shall be allocated in accordance with the procedure provided for by the legislation of the Member State of location of the infrastructure.

42. All risks of partial granting or rejection of additional applications shall be borne by the carriers.

## XI. Procedure for Presentation of Information

43. The infrastructure operator shall post on its official website on the Internet the technical specification of infrastructure sections, the list of regulatory legal acts and acts of the infrastructure operator governing the procedure of access to infrastructure, taking into account the requirements of the legislation of the Member State of location of infrastructure.

44. The infrastructure operators and all carriers shall comply with the legislation of the Member State of location of the infrastructure, including the requirements of national security, subject to the restrictions on the dissemination of information containing data classified as State secret (State secrets) or classified information.

## XII. Procedure for Settlement of Disputes

45. All disputes and disagreements between a carrier and the infrastructure operator arising out of or in connection with the application of these Rules shall be resolved through negotiations.

46. If, in the course of the negotiations, the carrier and the infrastructure operator fail to reach an agreement, all disputes and disagreements shall be resolved in accordance with the procedure determined by the legislation of the Member State of location of the infrastructure.

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Annex  
to the Access Rules to the Rail  
Transport Infrastructure within the  
Eurasian Economic Union

Form

**Application  
for Access to Rail Transport Infrastructure within the Eurasian Economic  
Union**

dated \_\_\_\_\_

No. \_\_\_\_\_

for the period of \_\_\_\_\_ to \_\_\_\_\_  
Infrastructure operator \_\_\_\_\_

\_\_\_\_\_  
(name, legal address, postal address)

Carrier \_\_\_\_\_  
(name, legal address, postal address)

The number and date of the contract for the provision of services of the rail transport infrastructure within the Eurasian Economic Union (if available)

I hereby confirm the completeness and accuracy of the following documents (information)\* attached to the application on \_\_\_\_\_ pages in \_\_ copies:

- 1) \_\_\_\_\_;
- 2) \_\_\_\_\_;
- ) \_\_\_\_\_.

\_\_\_\_\_  
Signature of the Carrier

\_\_\_\_\_  
Stamp here

\*Note: documents (information) are attached as provided for by paragraph 17 of the Access Rules to the Rail Transport Infrastructure within the Eurasian Economic Union.

\_\_\_\_\_

Annex 2  
to the Procedure for Regulating Access  
to Rail Transport Services, including Tariff  
Policy Framework

**Rules  
for the Provision of Rail Infrastructure Services within the Eurasian  
Economic Union**

I. General Provisions

1. These Rules determine the procedure and conditions for the provision of services within the boundaries of rail infrastructure sections of the Member States within the planning and organisation of transportation activities, a list of such services, unified principles of scheduling and allocation of infrastructure capacity, essential conditions of contracts for the provision of crossing infrastructure services, rights, obligations and liabilities of the infrastructure operator and carriers.

II. Definitions

2. The terms used in these Rules shall have the following meanings:

“unscheduled trains” means trains not included in the train schedule (emergency and fire-fighting trains, pilot plows, locomotives without cars, special self-propelled rolling stock) intended to eliminate obstacles to train traffic, perform emergency operations and the relevant relocation of vehicles (their sequencing to be determined by the legislation of the Member State of location of the infrastructure or acts of the infrastructure operator not contradicting the legislation of the Member State of location of the infrastructure);

“scheduling of the transportation process” means the process of traffic control and shunting in the operational environment;

“shunting movements” means changes in the train structure (attachment/uncoupling of the rolling stock), formation (breaking-up) of trains, relocation of trains between yards, movements and setting of locomotives into trains or removal of locomotives from trains, car spotting to or removal from sidings, and other operations;

“emergency situation” means a circumstance that threatens the safety of trains as a result of failure of infrastructure facilities or creates obstacles for the passage of trains;

“infrastructure operator” means a rail transport organisation with its own infrastructure and using the infrastructure lawfully and/or providing infrastructure services in accordance with the legislation of the Member State of location of the infrastructure;

“transportation planning” means development of a transportation plan at infrastructure facilities (sections and stations) for a fixed period of time (year, month, day) in accordance with the concluded contracts for the provision of services;

“daily train traffic plan” means a document drawn up by the infrastructure operator for the purposes of scheduling of the transportation process and organisation of the train traffic in the planned day;

“technical plan” means a document drawn up by the infrastructure operator on the basis of a consolidated transportation plan, technical plans of carriers and information obtained from the Council for Rail Transport of participating states of the Commonwealth of Independent States.

3. Other terms used in these Rules shall have the meanings specified in the Protocol on Coordinated (Agreed) Transport Policy, Procedure for



Regulating Access to Rail Transport Services, including Fundamental Tariff Policy, as well as in the Access Rules to the Rail Transport Infrastructure within the Eurasian Economic Union (hereinafter - “the Access Rules”).

### III. Services Provided by the Infrastructure Operator

4. A list of services of the rail transport infrastructure (hereinafter “the list of services”) shall include the basic services related to the use of the infrastructure for carrying out transportations in accordance with the Annex to these Rules.

5. A list of operations (work) that make up the infrastructure services shall be determined taking into account the technological features of the transportation process and requirements of the legislation of the Member State of location of the infrastructure.

6. Infrastructure services listed in the Annex to these Rules shall be provided in compliance with the requirements of the legislation of the Member State of location of the infrastructure, including as regards the national security.

7. Upon agreement with the carrier, the infrastructure operator shall be entitled to provide other services that are not listed in the Annex to these Rules in accordance with the legislation of the Member State of location of the infrastructure.

### IV. Procedure for the Provision of Infrastructure Services

8. The provision of infrastructure services involves interaction between the infrastructure operator and the carrier in the following processes of the organisation and carrying out of transportations:

- 1) technology planning and norming of transportations;

- 2) monthly and operational planning of transportations;
- 3) transportations under a contract for the provision of the rail transport infrastructure services (hereinafter “the contract”);
- 4) information exchange between the infrastructure operator and carrier.

9. Planning and norming of transportations and adjustments of the volume of the transportation and the train schedule shall be carried out in the procedure determined in accordance with these Rules, the Access Rules, the legislation of the Member State of location of the infrastructure, as well as the acts of the infrastructure operator that are not contrary to the legislation of the Member State of location of the infrastructure.

10. In operational planning, the infrastructure operator and carriers shall implement the approved daily train traffic plan (the train schedule and the approved technical plan, including a plan for the exchange of trains and cars at interstate junctions as identified by decision of the Council for Rail Transport of participating states of the Commonwealth of Independent States).

11. Transportations shall involve a set of organisationally and technologically interrelated operations of the infrastructure operator and carriers and shall be carried out in accordance with these Rules, the legislation of the Member State of location of the infrastructure, and acts of the infrastructure operator acts that do not contradict the legislation of the Member State of location of the infrastructure.

12. The infrastructure shall be used in accordance with these Rules and in compliance with the standards established by the legislation of the Member State of location of the infrastructure, including in accordance with the requirements for traffic safety, as well as acts of the infrastructure

operator that are not contrary to the legislation of the Member State of location of the infrastructure.

13. The infrastructure shall be maintained in accordance with the legislation of the Member State of location of the infrastructure.

14. The unified principles of scheduling of the transportation process and capacity allocation shall be as follows:

1) train traffic control in infrastructure sections served by a single operator;

2) compliance with all process-related norms and standards contained in the train schedule, as well as processes and technical standards of operation;

3) ensuring train movement safety and occupational health and safety;

4) allocation of traffic priorities by the operator.

15. Scheduling of the transportation process shall be carried out by the infrastructure operator or its authorised representative with a view to ensure the safe passage of trains in the infrastructure.

Scheduling of the transportation process shall be carried out in accordance with the train schedule and the approved daily train traffic plan and in the procedure determined by the operating rules, instructions on train movement and shunting operations at the stations, signalling and communications approved by the legislation of the Member State of location of the infrastructure, and/or acts of the infrastructure operator that are not contrary to the legislation of the Member State of location of the infrastructure.

16. The processes of reception, dispatch and transit of trains, shunting movements of any vehicles (rolling stock) or self-propelled machinery used in an infrastructure section shall be regulated by the infrastructure operator.

Dispositions (instructions) of the infrastructure operator regarding these processes, including those to ensure compliance with train safety requirements, train schedule standards and operating processes of linear units of the infrastructure, shall be binding on all participants in the transportation process.

17. For the purposes of effecting the transportation process, the infrastructure operator and carriers shall use information systems of the infrastructure operator for the exchange of information (data) to the extent provided for by the legislation of the Member State of location of the infrastructure.

18. Additional information with respect to the basic information shall be provided by the infrastructure operator to a carrier on the basis of individual contracts.

19. The infrastructure operator may refuse to provide infrastructure services to a carrier under a concluded contract in the event of:

1) termination or restriction of transportations, including restrictions on the import and/or export of goods, luggage and cargo-luggage in accordance with the legislation of the Member State of location of the infrastructure;

2) inability to provide infrastructure services following emergency situations;

3) carrying out transportations by unscheduled trains;

4) a threat to national security or emergency situations, force majeure, hostilities, blockades, epidemics or other circumstances beyond the control of the infrastructure operator and carriers preventing the fulfilment of obligations under the contract;

5) establishment of different procedure for the provision of infrastructure services by an authorised authority following a governmental decision of the Member State of location of the infrastructure;

6) in other cases provided for by the legislation of the Member State of location of the infrastructure.

20. In case of refusal of infrastructure services to a carrier in the cases stipulated in paragraph 19 of these Rules, the infrastructure operator shall notify the carrier of the impossibility of fulfilment of its obligations in the procedure provided for by the contract.

21. The infrastructure operator shall take the necessary steps to organise the passage of trains moving with a deviation from the train schedule or not stipulated in this schedule.

22. The actual provision of infrastructure services by the infrastructure operator and their actual volume separately for each service according to the list of services shall be confirmed by the documents, drawn up as per the forms approved in accordance with the legislation of the Member State of location of the infrastructure, and/or acts of the infrastructure operator that are not contrary to the legislation of the Member State of location of the infrastructure.

#### V. Contracts for the Provision of Infrastructure Services and their Essential Terms and Conditions

23. Infrastructure services shall be provided under a contract concluded in writing between the infrastructure operator and a carrier.

24. Such a contract shall not contain any provisions contrary to the principles and requirements determined by the Rules of Access and these

Rules, or contrary to the legislation of the Member State of location of the infrastructure.

25. If, during the term of a contract, it is found that invalid information has been provided by the carrier (except for the forecast figures) specified in paragraph 17 of the Rules of Access and provided for by the contract, the infrastructure operator shall be entitled to terminate the contract in accordance with the legislation of the Member State of location of the infrastructure.

26. It shall be prohibited to assign the right of claim of the carrier under the contract, except as provided for in paragraph 27 of these Rules.

27. In the case of impossibility to use the rights arising from the contract, the carrier may, with the consent of the infrastructure operator, transfer this right to another carrier if the latter has available a contract concluded under the terms and conditions provided for by the contract.

28. The contract shall contain the following essential terms and conditions:

- 1) the subject of the contract (the volume of services, the share of the infrastructure capacity (number of schedule paths), infrastructure sections);
- 2) the time and conditions of infrastructure services provision;
- 3) the cost of services (tariffs, prices, fee rates) or its determination procedure;
- 4) the procedure and terms of payment for the services (the settlement procedure, methods of payment, the currency of payment);
- 5) responsibility of the parties under the contract for damages, non-fulfilment or improper fulfilment of their obligations under the contract (penalties, fines, reimbursement of damages);

6) force majeure (extraordinary event or circumstance beyond the control of the parties);

7) validity, grounds and procedure for termination (cancellation) of the contract, including terms and conditions of termination (cancellation) of the contract.

29. A one-time contract may be concluded between the infrastructure operator and the carrier in case of availability of an effective contract (or an addendum to the contract) upon submission of an additional application for additional transportations.

## VI. Rights and Obligations of the Infrastructure Operator and the Carrier

30. The carrier shall be entitled to:

1) send to the infrastructure operator proposals for the organisation of transportations;

2) obtain information to the volume of required for the organisation of transportations in accordance with these Rules and the Access Rules with mandatory compliance with the requirements of the legislation of the Member State of location of the infrastructure, including the requirements of national security, subject to the restrictions on the dissemination of information that contain information constituting State secret (State secrets) or classified information;

3) obtain access to infrastructure services and infrastructure services for transportation activities, including for trains on route, in accordance with the terms of the contract;

4) exercise other rights determined by the legislation of the Member State of location of the infrastructure and/or the concluded contracts.

31. The carrier shall:

1) provide to the infrastructure operator information and documents required for the provision of infrastructure services;

2) ensure compliance with the requirements for railway safety determined by the legislation of the Member State of location of the infrastructure or by the acts of the infrastructure operator not contradicting the legislation of the Member State of location of the infrastructure;

3) inform the infrastructure operator of any incidents and circumstances that lead (may lead) to violations of the safety requirements in the field of rail transport determined by the legislation of the Member State of location of the infrastructure and take measures for elimination (prevention) of such violations;

4) ensure compliance with requirements for the traffic and operation safety of rail transport determined by the legislation of the Member State of location of the infrastructure and by acts of the infrastructure operator not contradicting the legislation of the Member State of location of the infrastructure;

5) ensure the protection of information constituting commercial (official) secret of the infrastructure operator that becomes known to the carrier;

6) pay for infrastructure services at the rates set in accordance with the legislation of the Member State of location of the infrastructure, as well as make other payments due to the infrastructure operator in the volume and on the terms and conditions provided for by the contract;

7) reimburse the costs not covered by individual contracts incurred by the infrastructure operator in connection with the relocation (moving) of cars (trains) and/or the holding of the rolling stock of the carrier at stations;



8) notify the infrastructure operator in writing of its refusal from the services to be provided under the contract within the terms determined by the legislation of the Member State of location of the infrastructure;

9) ensure agreement and adherence to the conditionals of railway transportation of cargo on special conditions and oversized cargo in accordance with the legislation of the Member State of location of the infrastructure;

10) ensure transportations within the agreed scope and compliance of other parameters (conditions) of railway transportations with the carrying capacity of rail transport infrastructure sections and/or processing capacity of train stations located along the route;

11) indemnify the infrastructure operator and/or third persons against any damage;

12) fulfil other obligations determined by the contract and the legislation of the Member State of location of the infrastructure.

32. The infrastructure operator shall be entitled to:

1) take measures to ensure traffic safety, including:

set temporary and permanent speed limits for trains in infrastructure sections;

stop a train at a station or stretch when the means of automatic and visual inspection detect any technical faults or if commercial drawbacks are identified in the rolling stock of the train, jeopardising the traffic safety;

use resources (rolling stock, staff) of the carrier in situations preventing the movement of trains in order to restore operation of the infrastructure;

issue dispositions (orders, prescriptive, instructions, warnings, etc.) to the carrier required to ensure compliance with train traffic safety

requirements, train schedule standards , train make-up plan and procedure, and operating processes at infrastructure stations (linear units);

2) at the stage of contract conclusion , request from the carrier a safety certificate for rail transport and a license for all types of activities subject to licensing in transportations;

3) at the stage of implementation of the contract, request from the carrier all documents confirming compliance with the safety requirements for rail transport;

4) make unilateral amendments and additions to the contract, adjusting the share in the capacity (traffic paths) allocated to a carrier in the case of incomplete use of the allocated share of the capacity by the carrier in an infrastructure section as compared to the share established in the train schedule;

5) adopt decisions on relocation (movement) and holding of the rolling stock of carriers at a station with available holding capacities or in its local infrastructure in the case of use of the infrastructure by the carrier with a breach of the contract;

6) refuse to the carrier access to the infrastructure for reasons beyond the control of the infrastructure operator (when caused by third persons, including neighbouring (adjacent) railway administrations and/or owners of local infrastructures) without recognition thereof as a breach of the contract;

7) take unilateral decisions to temporary suspend the provision of services related to transportations in certain rail service directions or to provide the services partially in the event of emergency situations, such as natural and man-made disasters, as well as upon introduction of a state of emergency or under other circumstances impeding the traffic;

8) restrict access to the infrastructure in case of emergency situations with the cancellation of allocated train schedule paths for the time required to restore the infrastructure;

9) exercise other rights determined by the legislation of the Member State of location of the infrastructure and/or by the concluding contracts.

33. The infrastructure operator shall:

1) receive and consider proposals from carriers regarding the organisation of transportations, as well as information and documents required for the provision of infrastructure services;

2) timely provide to carriers the information to in volume of required for the organisation of transportations in accordance with these Rules and the Access Rules with mandatory compliance with the requirements of the legislation of the Member State of location of the infrastructure, including the requirements of national security, subject to the restrictions on the dissemination of information that contain information constituting State secret (State secrets) or classified information;

3) allocate infrastructure crossing capacities within the technical and technological infrastructure capacity in accordance with the Rules of Access;

4) inform the carrier of any changes in the train movement schedule that lead to changes in the agreed the time and conditions of the provision of services, within the time and procedure provided for by the contract;

5) notify the carrier, under the conditions specified in the contract, of any accidents, damage to the infrastructure and other circumstances that may hinder the performance by the carrier of its activities with the use of the infrastructure;

6) ensure the protection of information constituting commercial (official) secrets of carriers that becomes known to the infrastructure operator in the provision of infrastructure services;

7) maintain the required technical equipment in good condition and take measures to prevent and eliminate interruptions in the movement of trains caused by natural or man-made emergencies;

8) fulfil other obligations determined by the contract and the legislation of the Member State of location of the infrastructure.

## VII. Procedure for Settlement of Disputes

34. All disputes and disagreements between a carrier and the infrastructure operator arising out of or in connection with the application of these Rules or in the course of provision of services shall be resolved through negotiations.

35. If, in the course of the negotiations, the carrier and the infrastructure operator fail to reach an agreement, all disputes and disagreements shall be resolved in the procedure determined by the legislation of the Member State of location of the infrastructure.

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Annex  
to the Rules for the Provision of Rail  
Infrastructure Services within the Eurasian  
Economic Union

**List of Rail Infrastructure Services**

Item No.	The Republic of Belarus	The Republic of Kazakhstan*	Russian Federation**
1.	Provision of the infrastructure and carrying out activities required for the movement (passage) of trains, including power supply of the traction equipment of the carrier	Provision of the infrastructure and carrying out activities required for the movement (passage) of trains	Provision of the infrastructure and carrying out activities required for the movement (passage) of trains, including power supply of the traction equipment of the carrier
2.	Provision of the infrastructure and carrying out activities required to ensure shunting movements of trains, including power supply of the traction equipment of the carrier	Provision of the infrastructure and carrying out activities required to ensure shunting movements of trains	Provision of the infrastructure and carrying out activities required to ensure shunting movements of trains, including power supply of the traction equipment of the carrier
3.	Services for the technical and commercial control aimed at ensuring the safety of train movement and transported cargo , luggage and cargo-luggage	—	Services for technical and commercial control aimed at ensuring the safety of train movement

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\*Including for the infrastructure sections owned by the Republic of Kazakhstan on the territory of the Russian Federation;

\*\*Including for the infrastructure sections owned by the Russian Federation on the territory of the Republic of Kazakhstan.

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**PROTOCOL**  
**on the Procedure for Regulating Procurement**

I. General Provisions

1. This Protocol has been developed in accordance with Section XXII of the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”) and determines the procedure for procurement regulation.

2. The terms used in Section XXII of the Treaty and this Procedure shall have the following meanings:

"web portal" means a single official website of a Member State on the Internet providing a single point of access to information on procurement;

"customer" means a state authority, a local authority, a budget organisation (including state (municipal) institutions), as well as other persons in cases provided for by the procurement legislation of a Member State, conducting procurement in accordance with this legislation. The procurement legislation of a Member State may provide for the establishment (functioning) of a procurement organiser to act in accordance with this legislation. At that, it shall not be permitted to transfer to the procurement organiser the functions of the customer on the conclusion of procurement agreements (contracts);

"procurement" means public (municipal) procurement, referring to the purchase of goods, work, services and other procurement by the customer using budgetary and other funds in the cases provided for by the procurement

legislation of the Member State, as well as the relations related to the implementation of procurement agreements (contracts);

"information on procurement" means a notice of holding procurement, procurement documentation (including the draft procurement agreement (contract)), changes to such notices and documentation, clarifications of the procurement documentation, protocols drawn up in the procurement process, information on procurement results, details of procurement agreements (contracts) and addenda to such agreements, information on the results of implementation of procurement agreements (contracts), information on the receipt of claims by the authorised regulatory and/or controlling government authorities of the Member State in the sphere of procurement, their content and the action taken on the results of examination of such claims and regulations issued by such authorities. All information on procurement shall be subject to mandatory posting on the web portal;

"national treatment" means treatment providing for that, for the purposes of procurement, each Member State shall provide to goods, works and services originating from the territories of the Member States, to potential suppliers of the Member States and suppliers of the Member States offering the goods, performing works and providing services, a treatment no less favourable than that accorded to goods, works and services originating from the territory of their state, as well as to potential suppliers and suppliers of their state, offering the goods, performing works and providing services. The country of origin of goods shall be determined in accordance with the rules of determining the origin of goods effective on the customs territory of the Union;

"operator of an electronic trading platform (e-platform)" means a juridical person or a natural person carrying out business activities that is in

possession of an electronic trading platform (e-platform), in accordance with the legislation of the Member State, with the soft hardware required for its functioning, and/or ensures its functioning;

"supplier" means a person that is a supplier, executor or contractor under a procurement agreement (contract);

"potential supplier" means any juridical person or any natural person (including an individual entrepreneur);

"electronic trading platform (e-platform)" means an Internet site selected in accordance with the procurement legislation of a Member State for conducting procurement operations in electronic format. In this case, in accordance with the procurement legislation of a Member State may be determined that an electronic trading platform (e-platform) is represented by a web portal, with indication of a limited number of electronic trading platforms (e-platforms);

"electronic format of procurement" means the procedure for organising and conducting procurement using the Internet, a web portal and/or an electronic trading platform (e-platform), as well as soft hardware.

3. In the application of this Protocol, unless otherwise implied in the provisions of the legislation of a Member State, it shall not be required to bring the legislation of the Member State in compliance with this Protocol.

## II. Requirements in the Sphere of Procurement

4. Procurement in the Member States shall be conducted using the following:

an open tender, which, among other things, may provide for two-stage procedures and pre qualification of bidders (hereinafter "the tender");

request for pricing (request for quotations);



request for proposals (if provided for by the procurement legislation of the Member State);

open electronic auction (hereinafter “the auction”);

exchange trading (if provided for by the procurement legislation of the Member State);

procurement from a single source or a single supplier (executor, contractor).

The Member States shall ensure that tenders and auctions are held only in the electronic format and tend to convert to the electronic format in the implementation of other methods of procurement.

5. Tender-based procurement shall be conducted taking into account the requirements in paragraphs 1-4 of Annex 1 to this Protocol.

6. Procurement based on request for pricing (quotations) process shall be conducted subject to the requirements provided for by paragraph 5 of Annex 1 to this Protocol.

7. Procurement based on requests for proposals shall be conducted taking into account the requirements provided for by paragraph 6 of Annex 1 to this Protocol in cases provided for by Annex 2 to this Protocol, as well as in cases provided for in paragraphs 10, 42, 44, 47, 59 and 63 of Annex 3 to this Protocol if it is determined by the procurement legislation of the Member State.

8. Auction-based procurement shall be conducted taking into account the requirements provided for in paragraphs 7 and 8 of Annex 1 to this Protocol, in accordance with Annex 4 to this Protocol.

A Member State shall be entitled to determine in its procurement legislation a wider range of goods, works and services to be procured through the auction procedure.

9. The commodity exchange may be used for procuring exchange commodities (including goods provided for by Annex 4 of this Protocol).

A Member State shall have the right to specify in its legislation the commodity exchanges allowed for procurement purposes.

10. Procurement from a single source or a single supplier (executor, contractor) shall be carried out taking into account the requirements specified in paragraph 10 of Annex 1 to this Protocol, in the cases provided for by Annex 3 to this Protocol.

A Member State may reduce in its procurement legislation the list of goods, works and services provided for by Annex 3 to this Protocol.

11. A Member State may unilaterally determine in its procurement legislation any specific features of the procurement procedure related to the need to maintain confidentiality of information on potential suppliers before the end of the procurement process, as well as, in exceptional cases, for a period not exceeding 2 years, specific features of procurement of certain goods, works and services.

Decisions and actions relating to determining such specific features shall be taken in the procedure stipulated in paragraphs 32 and 33 of this Protocol.

12. Procurement shall be performed by the customer independently or with the participation of the procurement organiser (if the procurement legislation of the Member State provides for the functioning of a procurement organiser).

13. Procurement legislation of a Member State shall provide for the formation and maintenance of a registry of mala fide suppliers, including information on:

potential suppliers avoiding the conclusion of procurement agreements (contracts);

suppliers non-performing or improperly fulfilling their obligations under procurement agreements (contracts);

suppliers with which the customers have unilaterally terminated the procurement agreements (contracts), when in the course of their implementation it was found out that the suppliers did not meet the documented requirements for potential suppliers and suppliers or provided false information about their compliance with such requirements, allowing them to become the successful bidders in the procurement procedure resulting in the conclusion of such agreement.

Procurement legislation of a Member State may provide for inclusion in its registry of mala fide suppliers of the Member State any information on the founders, members of collegial executive authorities and persons performing the functions of the sole executive authority of the person included in such registry.

Mala fide suppliers shall be included in the registry for 2 years upon confirmation of the information (determining the facts) provided for by indents two to four of this paragraph, based on a court decision and/or decision of an authorised regulatory and/or controlling authority of the Member State in the sphere of procurement.

A person included into the registry of mala fide suppliers may appeal against inclusion in the registry in a judicial procedure.

The procurement legislation of a Member State may provide for exceptions regarding inclusion in the register of mala fide suppliers of the potential suppliers and suppliers specified in paragraphs 1 and 6 of Annex 3 to the this Protocol.

14. The procurement legislation of a Member State may provide for the right or obligation of the customer to perform admission to participation in procurement on the basis of information contained in the registry of mala fide suppliers of this Member State and/or in registries of mala fide suppliers of other Member States.

15. The Member States shall limit the participation in procurement:

1) by determining, in accordance with their procurement legislation, any additional requirements to potential suppliers and suppliers in the procurement of certain types of goods, works and services;

2) in other cases determined by this Protocol.

16. Procurement legislation of a Member State shall impose a ban on:

1) inclusion in the procurement conditions of any unquantifiable and/or unmanageable requirements to potential suppliers and suppliers;

2) admission to participation in the procurement of potential suppliers that do not meet the requirements of the procurement documentation;

3) refusal of admission of potential suppliers to participation in the procurement on the grounds not stipulated in a procurement notice and/or procurement documentation.

17. It shall not be allowed to levy from potential suppliers and suppliers any fee for the participation in procurement, except in cases provided for by the procurement legislation of the Member State.

18. Procurement legislation of a Member State may determine requirements to potential suppliers and suppliers regarding the provision of tender security and security for the implementation of the procurement agreement (contract).

Procurement legislation of the Member State shall determine the amount and form of the tender security and security for the implementation

of the procurement agreement (contract). The amount of tender security for participation in the procurement shall not exceed 5 percent of the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement), and the security for the implementation of the procurement agreement (contract) shall not exceed 30 percent of the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement), except when the procurement agreement (contract) stipulates an advance payment. In the latter case, the amount of the security for the implementation of the procurement agreement (contract) shall be equal to at least 50 percent of the amount of the advance payment.

The supplier shall be entitled to refuse a procurement agreement (contract) containing a requirement for the provision of an advance payment to the supplier.

Procurement legislation of a Member State shall determine at least 2 ways (types) of tender security and security for the implementation of the procurement agreement (contract).

The tender security and security for the implementation of the procurement agreement (contract) may be represented, in particular, by the following:

a guarantee monetary contribution made to the bank account of the customer or, if it is determined by the procurement legislation of the Member State, to the bank account of the procurement organiser or operator of an electronic trading platform (e-platform);

a bank guarantee.

Requirements for bank guarantees for the procurement purposes shall be determined by the legislation of the Member State.

Procurement legislation of a Member State shall determine a requirement for the timely repayment of the tender security and security for the implementation of the procurement agreement (contract) to potential suppliers and suppliers in the cases provided for by this legislation.

19. The procurement documentation and other documents in the procurement procedure shall not include any requirements or instructions as to any trademarks, service marks, trade names, patents, utility models, industrial designs, appellations of origin of goods, names of manufacturers or suppliers, except in cases when no other method of precise specification of the object of procurement is available (in such cases the customer shall include in the procurement documentation the words “or their equivalent (analogue)”). This provision shall not apply to the cases of incompatibility of goods procured with any goods used by the customer when it is required to ensure the compatibility of such goods (including resupply, upgrades and retrofitting of the main (fixed) equipment).

The customer shall be entitled to determine standard features, requirements, symbols and terminology relating to the technical and qualitative characteristics of the object of procurement as defined in accordance with the technical regulations, standards and other requirements provided for by international treaties and acts constituting the law of the Union and/or the legislation of the Member State.

20. Members of the committee (including tender, auction and bidding committees) may not be represented by natural persons personally interested in the results of the procurement (including natural persons having submitted applications for participation in the tender, auction, request for pricing (requests for quotation) or requests for proposals), employees of potential suppliers having applied for participation in the tender, auction, request for

pricing (request for quotations) or request for proposals, or natural persons who may be influenced by potential suppliers (including natural persons who are participants (shareholders) of the potential suppliers, employees of their management authorities and creditors of the potential suppliers), as well as officials of authorised regulatory and/or controlling authorities of the Member State in the sphere of procurement directly controlling the procurement process.

21. A procurement agreement (contract) shall contain the following mandatory conditions:

1) liability of the parties for non-fulfilment or improper fulfilment of their obligations under the procurement agreement (contract);

2) the payment procedure, as well as the procedure for acceptance of the results of procurement by the customer for assessing their compliance (including with regard to the quantity (volume), completeness, and quality) with the requirements determined by the procurement agreement (contract).

22. Procurement legislation of a Member State shall provide for a ban on:

1) determining any terms and conditions of the procurement agreement (contract) entailing any limitation of the number of potential suppliers and suppliers in cases not covered by this legislation;

2) unilateral waiver of any contractual obligations by the customers and suppliers in case of proper fulfilment by the other party of its obligations under the procurement agreement (contract) and in cases not covered by this legislation;

3) changes in the terms of contractual obligations, including changes in the price of the procurement agreement (contract), except as provided for in this legislation. It shall not be allowed to reduce the quantity of goods, the

volume of works and services without a proportional reduction in the price of the procurement agreement (contract).

23. It shall be permitted to conclude procurement agreements (contracts) with several suppliers in cases provided for by the legislation of a Member State.

24. Procurement legislation of a Member State may require conclusion of a procurement agreement (contract) providing for procurement of goods or works, subsequent maintenance, operation within service lifetime, repairs and disposal of goods supplied or an object created as a result of work performance (a life cycle agreement (contract)).

25. Procurement legislation of a Member State may provide for a particular procurement process the requirement to include in the draft procurement agreement (contract), forming an integral part of the respective procurement documentation, any additional terms of its implementation (including those not related to the object of procurement).

26. Procurement legislation of a Member State may provide for mandatory presentation by the potential supplier and/or supplier to the customer of information on all co-contractors and subcontractors under the procurement agreement (contract).

27. Procurement legislation of a Member State may provide for banking support of procurement agreement (contract).

28. The Member States shall seek to have fully converted to the conclusion of procurement agreements (contracts) in electronic format by 2016.

29. The Member States shall ensure information openness and transparency of procurement, including by:

- 1) the creation of a web portal by each Member State;



2) publications (posting) on the web portal of procurement-related information and the registry of mala fide suppliers (including in the Russian language);

3) publication (posting) on the web portal of regulatory legal acts of the Member State in the sphere of procurement (including in the Russian language);

4) identification of a limited number of electronic trading platforms (e-platforms) and/or a web portal as a single point of access to information on procurement in electronic format and electronic services related to such procurement, if provided for by the procurement legislation of the Member State;

5) organising free of charge and unhindered access to procurement-related information, the registry of mala fide suppliers and regulatory legal acts of the Member State in the sphere of procurement published (posted) on its website, as well as ensuring the widest possible search possibilities for such information, registry and acts.

### III. National Treatment and Specific Features of its Provision

30. Each Member State shall ensure in respect of goods, works and services originating from the territories of other Member States, as well as for potential suppliers and suppliers of other Member States offering such goods, works and services, the national treatment in the sphere of procurement.

31. In exceptional cases and as determined in its procurement legislation, a Member State may unilaterally introduce exemptions from such national treatment for a period not exceeding 2 years.

32. The authorised regulatory and/or controlling authority of the Member State in the sphere of procurement shall, in advance, but not later than 15 calendar days prior to the date of adoption of the act on the introduction of exemptions under paragraph 31 of this Protocol, notify the Commission and each Member State in writing about adoption of such act, providing a rationale for its adoption.

A Member State having received such a notice may apply to the notifying authority with a proposal to hold respective consultations.

A Member State having sent the aforementioned notice may not refuse to hold such consultations.

33. The Commission shall be entitled to decide on the need to cancel the act establishing any exemptions adopted by the Member State under paragraph 31 of this Protocol within 1 year from the date of its adoption.

If the Commission decides to cancel the above act, the Member State having adopted the act shall ensure the introduction of respective changes into the act (its invalidation) within 2 months.

The Commission shall consider notices on adoption of acts in accordance with paragraph 31 of this Protocol and applications of the Member States regarding their cancellation and shall make decisions as to the cancellation of such acts in the procedure determined by the Commission.

If, within 2 months from the date of entry into force of the Commission's decision on the cancellation of an act adopted in accordance with paragraph 31 of this Protocol, the Member State in respect of which the above decision was delivered fails to enforce it, every other Member State shall be entitled to unilaterally waive national treatment to the Member State. The notice thereof shall be immediately forwarded to the Commission and to each of the Member States.

34. If a Member State fails to fulfil its obligations under Section XXII of the Treaty and this Protocol, other Member States may be entitled to appeal to the Commission. Upon review of the application, the Commission shall take one of the following decisions:

on the absence of a violation;

on recognition of a violation and the need for its elimination by the Member State.

If, within 2 months from the date of the decision on the elimination of such a violation, the Member State in respect of which the above decision was delivered fails to enforce it, every other Member State shall be entitled to unilaterally waive national treatment to that Member State.

The notice thereof shall be immediately forwarded to the Commission and to each of the Member States.

#### IV. Ensuring the Rights and Legitimate Interests of Persons Participating in Procurement

35. Each Member State shall take measures to prevent, detect and stop violations of its procurement legislation.

36. The amount of the rights and legitimate interests of persons in the sphere of procurement to be ensured shall be determined by Section XXII of the Treaty, this Protocol and the procurement legislation of the Member State.

37. In order to ensure the legitimate rights and interests of persons in the sphere of procurement, as well as to exercise control over compliance with the procurement legislation of the Member State, each of the Member States, in accordance with its legislation, shall ensure the availability of authorised regulatory and/or controlling authorities in the sphere of

procurement. In this case, these functions may be performed by a single authority having the following powers:

- 1) control in the sphere of procurement (including through inspections);
- 2) examination of claims and applications against decisions and actions (omission) of customers, procurement organisers, operators of electronic trading platforms (e-platforms), operators of web portals, commodity exchanges, commissions and other persons in procurement, violating the procurement legislation of the Member State. In this case, the decisions and actions (omission) of customers, procurement organisers, operators of electronic trading platforms (e-platforms), operators of web portals, commodity exchanges, commissions and other persons in procurement adopted (committed) before the deadline for the submission of applications for participation in the procurement may be appealed against not only by any potential supplier, but also by any other person in accordance with the procurement legislation of the Member State;
- 3) prevention and detection of violations of the procurement legislation of the Member State, as well as taking measures to remedy the said violations (including by issuing a binding order to remedy such violations and bringing perpetrators to liability for such violations);
- 4) establishing and maintaining the registry of mala fide suppliers.

#### V. Ensuring Measures to Improve the Efficiency of Procurement and Aimed at the Fulfilment of Social Functions

38. Procurement legislation of a Member State shall establish a requirement for procurement planning.

39. Procurement legislation of a Member State may provide for the following rules increasing the efficiency of procurement:

- 1) standardisation of procurement by determining requirements for goods, works and services procured (including for the limit price of goods, works and services) and/or standard costs of ensuring customer functions;
- 2) public control and public discussion of procurement;
- 3) application of anti-dumping measures;
- 4) involvement of experts and expert organisations.

40. In the cases and procedure provided for by the procurement legislation of a Member State, benefits in procurement may be determined for institutions and enterprises of the penal enforcement system, disabled people's organisations, small and medium-sized businesses, as well as socially-oriented non-profit organisations.

Information about such benefits shall be specified by the customer in the notice of procurement and procurement documentation.

41. For the purposes of discussing the most pressing issues of law enforcement, information sharing, improving and harmonising the legislation, and joint development of guidance materials in the sphere of procurement, the Commission shall, jointly with the relevant regulatory and/or controlling authorities of the Member States in the sphere of procurement, hold meetings at the level of managers and experts at least 3 times a year.

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Annex 1  
to the Protocol on the  
Procedure for Regulating  
Procurement

**Requirements to the Organisation and Conduct of  
Tenders, Request for Pricing ( Request for Quotations), Request for  
Proposals, Auctions and Procurement from a Single Source or a  
Single Supplier (Executor, Contractor)**

1. A tender shall be held in electronic format, which provides for, among other things, submission of bids in the form of an electronic document.

The successful bidder shall be the potential supplier offering the best terms for the implementation of the procurement agreement (contract).

It shall not be allowed to determine evaluation criteria and the procedure for the evaluation and comparison of bids entailing any biased and/or unmanageable selection of the supplier, contrary to the procurement legislation of the Member State.

2. A tender shall be held subject to the following requirements:

- 1) approval of the tender documentation;
- 2) approval of the composition of the tender committee;

3) publication (posting) on the web portal of the tender notice and tender documentation within the periods provided for by the procurement legislation of the Member State, but not less than 15 calendar days before the deadline for the submission of tender bids. In case of changes in the tender notice and/or tender documentation, the deadline for the submission of bids shall be extended so as to ensure that the period between the date of publication (posting) of the changes on the web portal and the end date for

bid submission is not less than 10 calendar days. It shall not be allowed to change the subject of the procurement agreement (contract);

4) clarifications for provisions of the tender documentation and publication (posting) of such clarifications on the web portal not later than 3 calendar days before the deadline for the submission of bids. Clarifications for the provisions of the tender documentation shall be provided if requested not later than 5 calendar days before the deadline for the submission of tender bids;

5) submission of bids in the form of electronic documents into the electronic trading platform (e-platform) and/or the web portal;

6) opening and examination of bids by the tender committee for determining bids that meet the requirements of the tender documentation for the admission of potential suppliers to participate in the tender;

7) publication (posting) on the web portal of reports on the opening and examination of tender bids and admission of potential suppliers to participate in the tender and notification of each potential supplier on the results of the opening, examination and admission not later than on the day following the day of adoption of respective decisions by the tender committee;

8) evaluation and comparison of tender bids submitted by potential suppliers admitted to participation in the tender, as well as selection of the successful bidder and publication (posting) on the web portal of a respective report, informing each potential supplier on the results of such evaluation, comparison and determination of the successful bidder not later than on the day following the day of adoption of respective decisions by the tender committee;

9) conclusion of a procurement agreement (contract) under the terms specified in the tender bid of the potential supplier selected as the successful

bidder and in the tender documentation not earlier than 10 calendar or business days and not later than 30 calendar days from the date of adoption of the decision on the selection of the successful bidder or invalidation of the tender in cases specified by the procurement legislation of the Member State. Procurement legislation of a Member State shall also establish the procedure and priority of conclusion of a procurement agreement (contract) between the customer and a potential supplier based on the need to conclude the procurement agreement (contract) with a potential supplier offering the best terms for the implementation of the procurement agreement (contract), as well as customer procedures in the event of invalidation of the tender;

10) publication (posting) of information on the result of the tender on the electronic trading platform (e-platform) and/or the web portal and informing each potential supplier of the outcome of the tender not later than on the day following the day of adoption of respective decisions by the tender committee.

3. In the course of a tender providing for pre qualification of bidders, the requirements referred to in paragraphs 1 and 2 of this Annex shall apply, taking into account the following specific features:

1) the successful bidder shall be selected from among the potential suppliers having passed the pre qualification;

2) the additional requirements shall apply to potential suppliers and suppliers for the purposes of pre qualification and may not be used as a criterion for the evaluation and comparison of tender bids.

4. In the cases and in the procedure determined by the procurement legislation of the Member State, a tender may be held under two-stage procedures.



The first stage of the tender shall include preparation by an expert (expert committee) of the technical specification for goods, works and services procured on the basis of technical proposals of potential suppliers developed in accordance with the customer's specifications.

The second stage of the two-stage tender procedures shall involve the tender activities provided for conducting a tender subject to the requirements specified in paragraphs 1 and 2 of this Annex.

5. In order to apply the method of request for pricing (request for quotations), the procurement legislation of the Member State shall set a limit initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement), including for the procurement of goods, works and services listed in Annexes 2 and 4 to the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

The successful bidder under request for pricing (request for quotations) shall be the potential supplier offering the lowest price of the procurement agreement (contract).

Any Member State shall seek to convert from the request for pricing (request for quotations) to the predominant auction process.

In case of procurement under the request for pricing (request for quotations) a respective notice shall be published (posted) on the web portal within the terms determined by the procurement legislation of the Member State, but not less than 4 business days before the deadline for the submission of applications for participation in request for pricing (request for quotations) process.

Reports of the committee compiled in the course of request for pricing (request for quotations) process shall be published (posted) on the electronic

trading platform (e-platform) and/or web portal; notifications of decisions taken by the quotation committee shall be sent to each potential supplier not later than on the day following the date of their adoption.

6. Procurement under the request for proposals process may only be conducted in respect of goods, works and services provided for by Annex 2 to the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

The successful bidder of the request for proposals process shall be the potential supplier offering the best terms and conditions for the implementation of the procurement agreement (contract) in accordance with the procurement legislation of the Member State.

In case of procurement under the request for proposals process, a respective notice shall be published (posted) on the web portal within the terms determined by the procurement legislation of the Member State, but not less than 5 business days before the deadline for the submission of the request for proposals bids.

Reports of the committee compiled in the course of the request for proposals process shall be published (posted) on the web portal; notifications of decisions taken by the committee shall be sent to each potential supplier not later than on the day following the date of their adoption.

7. In order to participate in auctions, potential suppliers shall be subject to mandatory accreditation on the web portal and/or electronic trading platform (e-platform) for a period of at least 3 years, if provided for by the procurement legislation of the Member State.

The successful bidder at an auction shall be the potential supplier offering the lowest price of the procurement agreement (contract) and complying with requirements of the auction documentation.

8. An auction shall be held subject to the following requirements:

1) approval of the auction documentation;

2) approval of the auction committee;

3) publication (posting) on the electronic trading platform (e-platform) and/or the web portal of the respective auction notice and tender documentation within the terms provided for by the procurement legislation of the Member State, but not less than 15 calendar days before the deadline for the submission of auction bids. In case of changes in the auction notice and/or auction documentation, the deadline for the submission of auction bids shall be extended so as to ensure that the period between the date of publication (posting) of the changes on the electronic trading platform (e-platform) and/or the web portal and the end date for bid submission is not less than 7 calendar days. It shall not be allowed to change the scope of the procurement agreement (contract). If the procurement legislation of a Member State provides for the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement) at which the auction may be held within a shorter period, the procurement legislation of the Member State may determine shorter periods for the submission of auction bids than provided for by this sub-paragraph, but not less than 7 calendar days before the deadline for the submission of auction bids, and in case of changes in the auction documentation, not less than 3 calendar days before the deadline for the submission of auction bids from the date of publication (posting) of such changes on the electronic trading platform (e-platform) and/or the web portal;

4) clarifications for provisions of the auction documentation and publication (posting) of such clarifications on the electronic trading platform (e-platform) and/or on the web portal not later than 3 calendar days before

the deadline for the submission of auction bids. Clarifications for the provisions of the auction documentation shall be provided if requested not later than 5 calendar days before the deadline for the submission of auction bids;

5) submission of auction bids in the form of electronic documents into the electronic trading platform (e-platform) and/or the web portal;

6) opening and examining of bids by the auction committee in order to determine compliance of the bids with the requirements of the auction documentation with regard to admission of the respective potential suppliers to the procedure set forth in sub-paragraph 8 of this paragraph;

7) publication (posting) on the electronic trading platform (e-platform) and/or on the web portal of reports on the opening and examination of auction bids and admission of potential suppliers to participate in the procedure specified in sub-paragraph 8 of this paragraph and notification of each potential supplier on the results of the opening, examination and admission not later than on the day following the day of adoption of respective decisions by the auction committee;

8) holding of a procedure to reduce the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement) by means of an auction for price reduction. In this case, the procurement legislation of a Member State may provide for that in case of price reduction for the procurement agreement (contract) of up to 0.5 percent of the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement) and lower, the auction shall proceed by increasing the price of the procurement agreement (contract) to be paid, in this case, to the customer by the supplier;

9) publication (posting) of the report on the results of the procedure referred to in sub-paragraph 8 of this paragraph on the electronic trading platform (e-platform) and/or the web portal and notification of each potential supplier of the results of this procedure on the day of its completion;

10) examination by the auction committee of the auction bids submitted by potential suppliers participating in the procedure referred to in sub-paragraph 8 of this paragraph in order to identify the potential suppliers that meet the requirements provided for by the auction documentation and determine the successful bidder, as well as publication (posting) of the respective report on the electronic trading platform (e-platform) and/or the web portal and notification of each potential supplier of the results of this examination and identification of the successful bidder of the auction not later than on the day following the date of adoption of the respective decisions by the auction committee;

11) conclusion of the procurement agreement (contract) under the terms conditions specified in the auction bid of the potential supplier selected as the successful bidder and in the auction documentation at the price of the procurement agreement (contract) offered by this potential supplier according to the report on the results of the procedure specified in sub-paragraph 8 of this paragraph, not earlier than 10 calendar or business days or not later than 30 calendar days from the date of the decision on the successful bidder of the auction or invalidation of the auction in cases specified by the procurement legislation of the Member State. The procurement legislation of a Member State shall also determine the procedure and priority of conclusion of a procurement agreement (contract) between the customer and a potential supplier based on the need to conclude the procurement agreement (contract) with a potential supplier offering the lowest price for the execution of the

procurement agreement (contract), as well as customer procedures in the event of invalidation of the auction;

12) publication (posting) of information on the result of the auction on the electronic trading platform (e-platform) and/or the web portal and informing each potential supplier of the outcome of the auction not later than on the day following the day of adoption of respective decisions by the auction committee.

9. If provided for by the procurement legislation of a Member State, procurement may be conducted without application of the rules governing the selection of a supplier and conclusion of the procurement agreement (contract). Such procurement shall be conducted under the civil law of the Member State in the cases provided for by Annex 3 to the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

10. Procurement from a single source or a single supplier (contractor, executor) shall be carried out upon completion of the respective calculation and justification of the price of the procurement agreement (contract).

Requirements for the publication of information on procurement from a single source or a single supplier (contractor, executor) shall be specified in the procurement legislation of the Member State.

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Annex 2  
to the Protocol on the  
Procedure for Regulating  
Procurement

**List of  
Cases Requiring Procurement under the Request for Proposals  
Process**

1. Procurement of goods, works or services that are the subject of a procurement agreement (contract) terminated by the customer subject to the requirements of paragraph 22 of the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union). In such case, if prior to the termination of the procurement agreement (contract), the supplier has partially fulfilled its obligations provided for by the procurement agreement (contract), at the conclusion of a new procurement agreement (contract) on the basis of this paragraph, the quantity of goods supplied, the volume of works performed or services provided shall be reduced taking into account the quantity of goods supplied, the volume of works performed or services provided under the terminated procurement agreement (contract), and the price of the procurement agreement (contract) shall be reduced in proportion to the quantity of goods supplied, the volume of works performed or services provided.

2. Procurement of medicines required for administration to a patient on medical indications (idiosyncrasy, for life-saving reasons) by decision of a medical commission to be recorded in the medical records of the patient and the journal of the medical commission. In this case the amount of medicines procured shall not exceed the amount of medicines required by the patient

within the period of treatment. Moreover, in case of procurement under this paragraph, the scope of the respective procurement agreement (contract) may not include medicines required for administration to two or more patients.

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Annex 3  
to the Protocol on the  
Procedure for Regulating  
Procurement

**List of  
Cases Requiring Procurement from a Single Source or a Single  
Supplier (Executor, Contractor)**

1. Procurement of services related to the sphere of business of natural monopolies, except for services for the sales of liquefied natural gas and connection (junction) to engineering and technical services under price (tariff) regulation in accordance with the legislation of the Member State, power supply services or purchase and sale of electricity (power) with a guaranteed electricity (power) supplier.

2. Procurement of services for the storage and import (export) of narcotic drugs and psychotropic substances.

3. Acquisition of goods, works and services at prices (tariffs) set by the legislation of the Member State.

4. Supply of cultural property (including museum objects and collections, as well as rare and valuable books, manuscripts, archival documents, including copies of historical, artistic or other cultural significance) intended to supplement public museums, library, archives, cinematographic and photography funds and other similar funds.

5. Performing of work related to mobilisation training.

6. Acquisition of goods, works and services from a particular person specified in legislative acts of the Member State, as well as acquisition of goods, works and services that may be supplied, performed or rendered exclusively by executive authorities in accordance with their powers or by

their subordinate state institutions, state (unitary) enterprises and juridical persons in which 100 percent of the voting shares (ownership interests) belong to the state, the appropriate powers of which are determined by legislative acts of the Member State and acts of the head of the Member State.

7. Acquisition of certain goods, works and services as a result of occurrence of force majeure, including emergencies (emergency containment and/or emergency response), accidents, need of urgent medical intervention, when other, more time-consuming types of procurement are inappropriate.

8. Acquisition of goods, works and services from institutions and enterprises of the penal enforcement system, medical and industrial (labour) dispensaries and medical and industrial (labour) workshops, as well as from organisations established by public associations of persons with disabilities, in which the number of disabled persons in the staff listing is not less than 50 percent.

9. Acquisition by an institution executing punishment of raw materials, supplies and components for the production of goods, works and services for the purposes of employment of convicts on the basis of agreements concluded with juridical persons, subject to the acquisition by the said institution of such raw materials, supplies and components at the expense of funds provided for by these agreements.

10. Procurement based on the results of invalidated procurement procedures (in cases provided for by the procurement legislation of the Member State).

11. Communication services for the purposes of national defence and national security, as well as law enforcement.

12. Determination of the maximum amount of transactions (or quarterly or annual limit volume) that may be set by the legislation of a Member State and that allows procurement from a single source or a single supplier (executor, contractor); in this case the said amount shall not be determined individually (the Member States shall seek to minimise this threshold in order to maximise access to procurement for potential suppliers).

13. Placing an order for the supply of weapons and military equipment from a single supplier in accordance with the legislation of a Member State, as well as acquisition of works and services for the repairs (modernisation) of weapons, military and special equipment.

14. Specific procurement from a potential supplier specified in a decree or disposition of the Head of the Member State, a disposition of the highest executive authority of the Member State or by decision or instruction of the head of the Member State. Decisions and actions regarding the adoption of such acts shall be implemented in the procedure stipulated in paragraphs 32 and 33 of the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

15. Acquisition of works of art and literature of certain authors (except for the acquisition of film projects for distribution), performances of specific performers, phonograms of specific producers in cases when a single person holds the exclusive rights to such works, performances or phonograms.

16. Subscription to certain periodic printed and electronic publications, as well as procurement of printed and electronic publications of certain authors, rendering of services to provide access to electronic publications for the activities of state and municipal educational institutions, state and municipal libraries, public research organisations, publishers of printed and

electronic publications if the specified publishers hold exclusive rights to the use of such publications.

17. Placing an order for a visit to a zoo, theatre, cinema, concert, circus, museum, exhibition and sporting event, as well as conclusion of a procurement agreement (contract) for the provision of services for the sale of tickets and season tickets to visit theatres, cultural, educational and entertainment activities, excursion tickets and sightseeing tours.

18. Acquisition of materials of exhibitions, seminars, conferences, meetings, forums, workshops, trainings and payment for participation in these activities, as well as conclusion of a procurement agreement (contract) for the services to participate in an event held as required by multiple customers with a supplier (contractor, executor) selected by the customer that is the organiser of the event, in the procedure determined by the legislation of the Member State.

19. Procurement of teaching services and the services of a guide from natural persons.

20. Placing an order by a theatre or entertainment organisation, museum, club, cinematographic organisation or any other cultural organisation, educational institution in the sphere of culture, or a broadcasting organisations with a specific natural person or specific natural persons, such as screenplay writers, actors, performers, choreographers, hosts of television or radio programmes, designers, conductors, playwrights, animal trainers, composers, accompanists, libretto authors, film operators, video and sound operators, writers, poets, directors, tutors, sculptors, choreographers, chorus masters, painters and other artists to create or perform works of literature or art, as well as from a specific natural person, including an individual entrepreneur, or a juridical person for the manufacture and

supply of scenery, stage furniture, stage costumes (including hats and footwear) and materials required to create scenery and costumes, as well as theatrical props, make-up, wigs and puppets required for the creation and/or performance of works by organisations referred to in this paragraph.

21. Procurement of services for the designer control over the development of design documentation for capital construction, designer supervision of construction, reconstruction and overhaul of capital construction by respective designers.

22. Placing an order to carry out technical and architectural supervision over the preservation of cultural heritage (monuments of history and culture) of the peoples of the Member States.

23. Procurement of services related to business trips of employees, trips of students and post-graduate students to participate in creative contests (contests, competitions, festivals, games), exhibitions, open-air, conferences, forums, workshops, internships, educational practical workshops, including their delivery to the venue of these events and back, rent of accommodations, transportation services, meals, as well as goods, works and services related to hospitality expenditures.

24. Placing an order for the provision of services related to support of the visits of heads of foreign states, heads of foreign governments, international organisations, parliamentary delegations, government delegations, and foreign delegations (hotel services, transportations, maintenance of computer equipment, meals).

25. Acquisition of goods, works and services required to ensure the safety and security of a head of a Member State and other protected persons and objects intended for the stay of protected persons (household services, hotel services, transportations, maintenance of computer equipment, sanitary

and epidemiological well-being, safe meals) as well as services for the creation of a video archive and information support of activities of the head of the Member State.

26. Procurement of tangible assets sold from state and mobilisation material reserves.

27. When the customer, having procured goods from a particular supplier, requires an additional quantity of the respective goods, if the quantity of additionally procured goods does not exceed 10 percent of the quantity of goods procured under the procurement agreement (contract) (unit price of additional goods to be supplied shall be determined by dividing the original price of the contract by the quantity of such goods provided for by the contract).

28. Procurement of management services for an apartment building at the option of the owners of premises in the apartment building or of the local authority in accordance with the housing legislation of the management organisation, if premises in the apartment building are privately owned or represent state or municipal property.

29. Conclusion of a procurement agreement (contract) to acquire a non-residential building, structure or premises specified in act in accordance with the legislation of the Member State, as well as lease of a non-residential building, structure or premises, procurement of services for technical maintenance, security and management of the leased premises, procurement of services for technical maintenance, security and management of one or more non-residential premises handed over for the free use to a state or municipal customer, if these services are provided to another person or persons using the non-residential premises located in a building including the premises handed over for the free use and/or operational management.

30. Required procurement to cover daily and/or weekly requirements for the period before the results of procurement and entry into force of the procurement agreement (contract), if such procurement is conducted within the first month of the year as per the list determined by the legislation of the Member State. In this case, the volume of procurement may not exceed the quantity of goods, the volume of works and services required to meet the demands of the customer during the term of the procurement, but not more than 2 months.

31. Acquisition of goods, works and services for the implementation of operational investigative activities, investigative actions by duly authorised authorities in order to ensure the safety of persons subject to state protection, in accordance with the legislation of the Member State, as well as services of officials and experts with the required scientific and technical or other specialised knowledge.

32. Acquisition of the rights of management of natural resources.

33. Acquisition of training, retraining and advanced training services for employees abroad.

34. Acquisition of services of rating agencies and financial services.

35. Acquisition of services of specialised libraries for blind and visually impaired individuals.

36. Acquisition of securities and shares in the authorised capital (authorised fund) of juridical persons.

37. Acquisition of goods, works and services required for holding elections and referendums in a Member State according to the list provided by the legislation of the Member State.

38. Acquisition of goods, works and services under international treaties of the Member States according to the list approved by the supreme

executive authority of the Member State, as well as within the implementation of investment projects financed by international organisations acceded to by the Member State.

39. Conclusion of an agreement (contract) for the procurement of geodetic, cartographic, topographic and hydrographic support for delimitation, demarcation and checking the state border, as well as maritime delimitation, in order to fulfil international obligations of the Member State.

40. Acquisition of goods, works and services related to the use of monetary grants provided to the supreme executive authorities of the Member State free of charge by states, governments, international and national organisations, foreign non-governmental organisations and foundations operating on a charitable and international basis, as well as of monetary funds allocated to co-finance these grants in cases where respective agreements provide for other procedures for the acquisition of goods, works and services.

41. Acquisition of services under a state educational order for natural persons (if the natural person has independently selected the educational organisation).

42. Acquisition of services for the medical treatment of nationals of the Member States abroad, as well as services for their transportation and support.

43. Acquisition of goods and services that are objects of intellectual property from a person holding the exclusive rights in respect of the goods and services procured.

44. Acquisition of goods, works and services by foreign establishments of the Member States and separate subdivisions of customers acting on their behalf for the purposes of their activities on the territory of a foreign state, as well as for peacekeeping operations.



45. Acquisition of services for the provision of information by international news organisations.

46. Acquisition of goods, works and services required for the implementation of monetary activities, as well as activities to manage the national fund of the Member State and pension assets.

47. Acquisition of consulting and legal services to protect and represent the interests of the state or customers in international arbitration, international commercial arbitration and international courts.

48. Acquisition of trust management services for property from a person determined under the legislation of the Member State.

49. Acquisition of statistical data processing services.

50. Acquisition of property (assets) sold at auctions by bailiffs in accordance with the legislation of the Member State on enforcement proceedings conducted in accordance with the legislation of the Member State on bankruptcy, land and state property privatisation.

51. Acquisition of services rendered by lawyers to persons entitled to receive such services free of charge in accordance with the legislation of the Member State.

52. Acquisition of goods into the state material reserve in order to exert a regulatory impact on the market in the events determined by the legislation of the Member State.

53. Acquisition of services for the storage of material values of the state material reserve.

54. Acquisition of services for the preparation of astronauts and organisation of space missions of astronauts in cases determined by the legislation of the Member State, as well as services for the design, assembly and testing of spacecraft.

55. Acquisition of services for the repairs of aviation equipment at specialised maintenance enterprises.

56. Acquisition of services for the manufacture of state and departmental awards and departmental supporting documents thereto, badges of deputies of the legislative authority of the Member State and supporting documents thereto, state verification marks, passports (including official and diplomatic passports), identity cards of nationals of the Member State, residence permits for foreigners in the Member State, identity cards for stateless persons, certificates of registration of civil status, as well as purchase from suppliers selected by the supreme executive authority of the Member State of printed materials requiring a special degree of protection, according to the list approved by the supreme executive authority of the Member State.

57. Procurement of precious metals and precious stones to supplement the state funds of precious metals and precious stones.

58. Acquisition of services for compulsory medical examinations of employees engaged in heavy works or works under harmful (particularly harmful) and/or dangerous working conditions, as well as works associated with increased risk and the use of machinery and equipment.

59. Acquisition of sports gear and equipment, sports outfits required for the participation in and/or preparation of national sports teams of the Member State, as well as for the national sport teams of the Member State to attend the Olympic, Paralympic, Deaflympic Games and other international sports events on the basis of the calendar plan approved by the authority of state administration governing this sphere.

60. Acquisition of goods, works and services using the funds allocated from the reserve of the heads of the Member State or head of the government

of the Member State for immediate expenses in situations that threaten the political, economic and social stability of the Member State or its administrative-territorial entity.

61. Acquisition of goods, works and services required for the operation of special forces of law enforcement and special state authorities related to detection and neutralisation of explosives and explosive devices, conducting anti-terrorist operations, as well as special operations for the release of hostages, detention and neutralisation of armed criminals, extremist terrorists and members of organised criminal groups, perpetrators of serious and particularly serious crimes.

62. Acquisition of special social services stipulated by the guaranteed scope of social services provided to persons (families consisting of persons) with permanent disabilities caused by physical and/or mental disabilities and/or persons of no fixed abode, as well as persons (families consisting of persons) unable to look after themselves due to old age, as well as services for assessing and determining the requirement for such special social services.

63. Acquisition of products of folk arts and crafts in cases specified by the legislation of the Member State.

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Annex 4  
to the Protocol on the  
Procedure for Regulating  
Procurement

**List of  
Goods, Works and Services Procured using the Auction Process**

1. Agricultural products, hunting products, agricultural and hunting services, except for live animals, products and services related to hunting, fishing and game propagation, as well as hunting products.\*
2. Products of forestry and logging, forestry and logging services.
3. Fishing products, products of fish hatcheries and fish farms, fishing-related services. \*
4. Coal, lignite and peat.
5. Crude oil and natural gas, their mining services, except for surveying.
6. Metal ores.
7. Stone, clay, sand and other types of mineral raw materials.
8. Food products and beverages.\*
9. Textiles and textile products.
10. Clothing, furs and fur products, with the exception of children's clothing.
11. Leather and leather goods, saddlery and footwear.
12. Wood, wood products, cork, straw and plaiting products, except furniture.
13. Pulp, paper, paperboard and products manufactured thereof.

14. Printing and publishing products, except for promotional materials, drawings, draftings, printed photos, souvenir and gift sets (pads and notebooks), voting ballots for elections and referendums.

15. Coke oven products.

16. Organic and inorganic synthesis products.

17. Rubber and plastic products.

18. Other non-metallic mineral products, except for household glass, products for interiors, as well as non-construction non-flameproof ceramic products.

19. Metal industry products.

20. Metal products, except for machinery, equipment, nuclear reactors and parts of nuclear reactors, accelerators of charged particles.

21. Machinery and equipment not included in other categories, except for weapons, ammunition and parts thereof, explosives and explosives used for national economic purposes.

22. Office appliances and computer equipment.

23. Electric motors and electrical equipment (including electrical devices) not included in any other categories.

24. Equipment and instruments for radio, television and communications.

25. Medical equipment and instruments, measuring instruments, photographic and video equipment (except for the medical equipment and medical devices specified in the procurement legislation of the Member State).

26. Motor vehicles, trailers and semi-trailers, car bodies, parts and accessories for motor vehicles, garage equipment.

27. Vehicles other than commercial and passenger vessels, warships, aircraft and space vehicles, aircraft equipment and parts.

28. Finished products, except for jewellery and related goods, musical instruments, games and toys, equipment for training in labour processes, teaching aids and equipment for schools, products of arts and crafts, works of art and collectibles, exposed film, human hair, animal hair, synthetic hair and articles thereof.

29. Waste and scrap metal in a form suitable for use as new raw materials.

30. Trade, maintenance and repairs of motor vehicles and motorcycles services .

31. Wholesale and commission trade services, except for motor vehicles and motorcycles services.

32. Overland transportation services, except for rail transportation, subway transportation and pipeline transmission services.

33. Water transportation services.

34 Auxiliary and additional transportation services, services in the field of tourism and sightseeing, except for the services of travel agencies and other services to assist tourists.

35. Communication services, except for courier services, except for the services of the national mail, telecommunications services.

36. Financial intermediation services, except for insurance and pension services, services for the arrangement of bonds.

37. Auxiliary services to financial intermediation, except for valuation services.

38. Maintenance and repair services for office equipment, computers and related peripheral devices.

39. Cleaning services in buildings.

40. Packaging services.

41. Waste disposal services, sanitary processing and similar services.

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\*Except for procurement by children's educational organisations, health care organisations, social service establishments and children's recreation organisations, and catering services for these establishments and organisations.

**PROTOCOL**  
**on the Protection and Enforcement**  
**of Intellectual Property Rights**

I. General Provisions

1. This Protocol has been developed in accordance with Section XXIII of the Treaty on the Eurasian Economic Union and governs relations in the sphere of protection and enforcement of intellectual property rights.

2. For the purposes of this Protocol the intellectual property shall refer to works of science, literature and art, programmes for electronic computers (computer programmes), phonograms, performances, trademarks and service marks, geographical indications, appellations of origin of goods, inventions, utility models, industrial designs, selection achievements, integrated circuit topologies, production secrets (know-how), as well as other intellectual property entitled to legal protection in accordance with international treaties, international treaties and acts constituting the law of the Union and the legislation of the Member States.

II. Copyright and Related Rights

3. Copyright shall apply to works of science, literature and art. The author of a work shall hold, in particular, the following rights:

- 1) the exclusive right to the work;
- 2) the right of authorship;



- 3) the right to the name;
- 4) the right to inviolability of the work;
- 5) the right to disclosure of the work;
- 6) other rights determined by the legislation of the Member States.

4. The Member States shall ensure compliance with the periods of protection of the exclusive rights to works of an author, the exclusive rights to works of joint authorship, and the exclusive rights to works published after the author's death, which shall not be less than the deadlines set by the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886 (as amended in 1971) and the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994. The legislation of the Member States may determine longer periods for the protection of these rights.

Programmes for electronic computers (computer programmes), including the source code and object code, shall be protected similarly to literary works under the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886 (as amended in 1971).

Composite works (encyclopaedias, compilations and other works) representing creative products by selection or arrangement of content shall be protected without prejudice to the rights of authors of each work forming part of the composite work. The author of a composite work shall hold the copyright for the compilation thereof (selection and arrangement of the material). Composite works shall be protected by copyright, regardless of whether the items they are based on or composed of are subject to the copyright protection.

Derivative works (translations, adaptations, arrangements of music and other alterations of a literary or artistic works) shall be protected similarly to

the original works without prejudice to the rights of the authors of the original works. The author of a derivative work shall hold the copyright to the effected translation and other adaptation of the other (original) work.

5. The Member States shall grant the holders of rights in respect to cinematographic works the right to authorise or prohibit the commercial rental to the public of the originals or copies of their copyrighted works on the territory of other Member States.

6. Property and personal non-property rights to the results of performing activities (performances), phonograms and other rights determined by the legislation of the Member States shall be related to the copyright (related rights).

Performers shall refer to natural persons having created a performance as a result of their creative work, including artistic performers (actors, singers, musicians, dancers or other persons performing a role, reading, reciting, singing, playing a musical instrument or otherwise involved in the execution of works of literature, art or folk art, including variety, circus or puppet shows), as well as directors of plays (persons having directed a theatre performance, a circus show, a puppet show, a variety show or another type of dramatic or entertaining performance) and conductors.

The Member States shall, on a reciprocal basis, grant to performers of the Member States the following rights:

the exclusive right to the performance;

the right to the name, implying the right to put own name or nickname on copies of phonograms and in other cases of use of the performance, the right to specify the name of a group of performers, except when the use of the performance prevents specification of the name of the performer or a group of performers;

other rights determined by the legislation of the Member States.

7. Performers shall exercise their rights respecting the rights of the authors of pieces performed. The rights of a performer shall be recognised and shall be valid independently of the presence and effect of the copyright to the pieces performed.

8. The producer (manufacturer) of a phonogram shall be a person having taken the initiative and responsibility for the first recording of the sounds of a performance or other sounds, or representations of the sounds. In the absence of proof to the contrary, the producer (manufacturer) of a phonogram shall be the person the name or designation of which is indicated in the usual manner on a copy of the phonogram and/or on its packaging.

The Member States shall grant to the producers (manufacturers) of phonograms of the Member States the following rights:

the exclusive right to the phonogram;

other rights determined by the legislation of the Member States.

9. The Member States shall ensure compliance with the period of protection of the exclusive rights for performances and phonograms, which shall not be less than the deadlines set by the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994 and the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations of October 26, 1961. The legislation of the Member States may determine longer periods for the protection of these rights.

10. An organisation for collective management of rights shall be an organisation acting on the basis of the powers obtained from authors, performers, producers (manufacturers) of phonograms and other holders of copyright and related rights, unless otherwise provided for by the legislation

of the Member States, as well as the powers obtained from other organisations for collective management of rights, in the management of the relevant rights on a collective basis, in order to ensure that authors and other rightholders obtain remunerations for the use of objects of copyright and related rights.

All relations arising in connection with the activities of organisations for collective management of rights in order to enable the fair use of copyright and related rights shall be governed by an international treaty within the Union.

### III. Trademarks and Service Marks

11. A trademark and service mark (hereinafter - “a trademark”) shall refer to a designation protected in accordance with the legislation of the Member State and international treaties acceded to by the Member States and serving for individualisation of goods and/or services of participants in civil circulation of goods and/or services from goods and/or services of other participants in civil commerce.

in accordance with the legislation of the Member States, a trademark may be registered as a verbal, visual, three-dimensional and other designations or combinations thereof. A trademark may be registered in any colour or a combination of colours.

12. The right holder of a trademark shall have the exclusive right to use the trademark in accordance with the legislation of the Member State, shall be entitled to dispose of this exclusive right, and shall have the right to prevent other persons from using the trademark or a designation similar to the point of confusion in relation to homogeneous goods and/or services.

13. The period of validity of the initial registration of a trademark shall be 10 years. This period may be extended an unlimited number of times upon request of the right holder, each time for a period of at least 10 years.

Legal protection of a trademark may be terminated early on the territory of a Member State in respect of all goods and/or services or part thereof, for the individualisation of which the trademark is registered on the territory of the Member State, as a result of non-use of the trademark continuously for any period of 3 years after its registration in the manner provided for by the legislation of the Member State, except in cases of non-use of the trademark for reasons beyond the control of the right holder.

Legal protection of a trademark may be challenged and invalidated in the procedure and on the grounds provided for by the legislation of the Member State of registration of the trademark.

#### IV. Trademarks of the Eurasian Economic Union and Service Marks of the Eurasian Economic Union

14. The Member States shall register the trademark of the Eurasian Economic Union and the service mark of the Eurasian Economic Union (hereinafter - “the trademark of the Union”). The trademark of the Union shall enjoy legal protection simultaneously on the territories of all Member States.

Only a designation presented in graphical form may be registered as the trademark of the Union.

The rightholder of the trademark of the Union shall have the exclusive right to use the trademark of the Union in accordance with the legislation of the Member States, and shall be entitled to dispose of this exclusive right, as well as shall be entitled to prevent other persons from using the trademark of

the Union or a designation similar to it to the point of confusion in relation to homogeneous goods and/or services.

15. The relations arising in connection with the registration, legal protection and use of the trademark of the Union on the territories of the Member States shall be governed by an international treaty within the Union.

#### V. Principle of Exhaustion of the Exclusive Right for a Trademark and the Trademark of the Union

16. The principle of exhaustion of the exclusive right to a trademark and the trademark of the Union shall be applied on the territories of the Member States, in accordance with which the use of a trademark or the trademark of the Union in relation to goods lawfully put into civil circulation on the territory of any Member State directly by the right holder of the trademark and/or the trademark of the Union or other persons with its consent shall not be regarded as a violation of the exclusive rights to the trademark or the trademark of the Union.

#### VI. Geographical Indications

17. A geographical indication shall refer to a designation identifying goods as originating from the territory of a Member State, region or locality in that territory, if the quality, reputation or other characteristics of the goods are largely due to its geographical origin.

18. Geographical indication may be granted legal protection on the territory of a Member State, if such legal protection is provided for by the legislation of that Member State or international treaties to which it is a participant.

## VII. Appellation of Origin of Goods

19. A legally protected appellation of origin of goods shall refer to a designation representing or containing contemporary or historical, formal or informal, full or abbreviated name of a country, urban or rural settlement, locality or other geographical object as well as a designation representing a derivative thereof that has become known as a result of its use in relation to goods the special properties of which are exclusively or mainly determined by any natural conditions and/or human factors specific to such a geographical area.

These provisions shall apply to a designation allowing the identification of goods as originating from a particular geographical object does not contain the name of this object, but has become known as a result of the use of the designation in respect of goods the special properties of which meet the requirements specified in the first indent of this paragraph.

20. Designations representing or containing the name of a geographical object, but have come into general use as designations of goods of a certain kind, not related to the place of their manufacture, shall not be regarded as appellations of origin of goods.

Legal protection of an appellation of origin of goods may be challenged and invalidated in the procedure and on the grounds provided for by the legislation of the Member States.

21. With regard to appellations of origin of goods, the Member States shall provide for legal remedies allowing the interested parties to prevent:

1) the use of any means in the designation or presentation of goods indicating or suggesting that the goods originate from a geographical area other than their true place of origin to the extent misleading for the consumers as to the place of origin and special properties of the goods;

2) any use thereof constituting an act of unfair competition within the meaning of Article 10-bis of the Paris Convention for the Protection of Industrial Property of March 20, 1883.

#### VIII. Appellation of Origin of Goods of the Eurasian Economic Union

22. The Member States shall register the appellation of origin of goods of the Eurasian Economic Union (hereinafter - “the appellation of origin of the goods of the Union”). The appellation of origin of goods of the Union shall enjoy legal protection simultaneously on the territories of all Member States.

23. All relations arising in connection with the registration, legal protection and use of the appellation of origin of goods of the Union on the territories of the Member States shall be governed by an international treaty within the Union.

#### IX. Patent Rights

24. The right to an invention, utility model or industrial design shall be protected in accordance with the legislation of the Member States and confirmed by a patent certifying the priority, authorship and exclusive right to the invention, utility model or industrial design.

25. The author of an invention, utility model or industrial design shall have the following rights:

- 1) the exclusive right to the invention, utility model, industrial design;
- 2) the right of authorship;

26. In the cases provided by the legislation of the Member States, the author of an invention, utility model or industrial design shall own such other



rights, including the right to obtain a patent, the right to remuneration for the use of the official invention, utility model or industrial design.

27. The period of validity of the exclusive right to an invention, utility model, industrial design shall be:

- 1) at least 20 years for inventions;
- 2) at least 5 years for utility models;
- 3) at least 5 years for industrial designs.

28. A patent for an invention, utility model or industrial design shall grant the patent holder the exclusive right to use the invention, utility model or industrial design in any manner not contrary to the legislation of the Member States, as well as the right to prohibit the use thereof by any other persons.

29. The Member States may provide for a restriction of the rights conferred by a patent, provided that such exceptions do not unreasonably prejudice the normal use of inventions, utility models and industrial designs and do not unreasonably prejudice the legitimate interests of the patent holder, taking into account the legitimate interests of third persons.

## X. Selection Achievements

30. The rights to plant varieties and animal breeds (selection achievements) shall be protected in the cases and in the procedure determined by the legislation of the Member States.

31. The author of a selection achievement shall have the following rights:

- 1) the exclusive right to the selection achievement;
- 2) the right of authorship;

32. In cases provided for by the legislation of the Member States, the author of a selection achievement shall enjoy other rights, including the right to obtain a patent, the right to the name of the selection achievement, the right to remuneration for the use of the official selection achievement.

33. The period validity of the exclusive right to a selection achievement shall be at least 25 years for plant varieties and animal breeds.

## XI. Topologies of Integrated Circuits

34. Integrated circuit topology shall refer to a spatial geometric arrangement of a set of elements of an integrated circuit and connections between them recorded on a tangible medium.

35. Intellectual property rights for integrated circuit topologies shall be protected in accordance with the legislation of the Member States.

36. The author of an integrated circuit topology shall be granted the following rights:

- 1) the exclusive right to the integrated circuit topology;
- 2) the right of authorship;

37. In the cases provided for by the legislation of the Member States, the author of an integrated circuit topology shall enjoy other rights, including the right to remuneration for the use of the official topology.

38. The period of validity of the exclusive right to an integrated circuit topology shall be 10 years.

## XII. Production Secrets (Know-How)

39. Production secrets (know-how) shall refer to information of any kind (industrial, technical, economic, organisational data, etc.), including information on the results of intellectual activities in the scientific and

technical sphere, as well as information on the method of conducting professional activities having an actual or potential commercial value due to being unknown to third persons and legally inaccessible to third persons, with regard to which the holder of such information has defined the treatment of trade secret.

40. Legal protection of production secrets (know-how) shall be exercised in accordance with the legislation of the Member States.

### XIII. Law Enforcement Measures for Protection of Intellectual Property Rights

41. Actions of the Member States to protect the rights of intellectual property within the Union shall be coordinated under an international treaty within the Union.

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ANNEX 27  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL  
on Industrial Cooperation**

1. The terms used in this Protocol shall have the following meanings:

"priority economic activities" means activities determined by all Member States as priorities for the implementation in the main directions of industrial cooperation;

"industrial cooperation" means strong and mutually beneficial cooperation between economic entities of the Member States in the field of industry;

"industrial policy within the Union" means activities of the Member States in the main directions of industrial cooperation conducted by the Member States both independently and in consultation and coordination of the Commission;

"industry" means a set of economic activities relating to the mining and manufacturing industries, except for food processing, in accordance with the national classifications of economic activities. Other industry types shall be governed by the relevant Sections of the Treaty on the Eurasian Economic Union;

"industrial cluster" means a group of interrelated industrial and related organisations complementing each other and thereby enhancing their competitive advantages;

"technology platform" means an object of the innovation infrastructure enabling efficient communication and the creation of advanced commercial

technologies, high-tech, innovative and competitive products based on the participation of all stakeholders (business, science, state and public organisations).

2. The Commission shall have the following powers when providing consultations and coordinating the activities of the Member States in the main directions of industrial cooperation within the Union:

1) assistance in:

exchange of information, holding of consultations, formation of joint platforms for discussion of issues related to the development of the main directions of industrial cooperation, including the promising areas of innovative activities;

development of proposals aimed at deepening cooperation between the Member States in the implementation of industrial policy within the Union;

exchange of experiences on issues related to the implementation of reforms and structural changes in the industry, encouraging innovation and industrial development;

development and implementation of joint programmes and projects;

development of exchange programmes for industrial complexes of the Member States;

involvement into industrial cooperation of small and medium-sized enterprises of the Member States;

information exchange;

development and implementation by the Member States of joint measures to counter the global economic crisis in the industry;

provision of recommendations on the formation of the Eurasian technology platforms.

2) implementation of:

submission to the Member States of recommendations on further development of industrial cooperation in the interests of each participant thereof;

monitoring and analysis of implementation of the Main Directions of Industrial Cooperation within the Union;

review of the international experience in industrial development in order to identify industrial development methods relevant for the Member States;

3) by decision of the Intergovernmental Council:

preparation of draft provisions on the development, financing and implementation of joint programmes and projects;

identification of administrative and other barriers to the development of industrial cooperation within the Union and development of proposals for their subsequent elimination;

preparation of proposals for the formation of cooperative manufacturing chains for joint manufacture of products;

monitoring of the market of industrial products within the Union, as well as of export markets of third countries;

analysis of the industrial development of the Member States;

joint development with the Member States of other (additional) documents, such as rules, orders and implementation mechanisms for the industrial policy within the Union in the main directions of industrial cooperation, as well as framework agreements on cooperation.

The above list of functions is not exhaustive and may be extended by decision of the Intergovernmental Council.

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ANNEX 28

to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on the Common Rules for granting of Industrial Subsidies**

I. General Provisions

1. This Protocol has been developed in accordance with Article 93 of the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”) and shall determine the common rules governing the granting of subsidies for industrial goods, including in the provision or receipt of services that are directly related to the manufacture, sale (including storage and exportation from the territory of a Member State and transportation) and/or consumption of industrial goods.

2. The terms used in this Protocol shall have the following meanings:

"administrative-territorial entities" means constituent entities of the Russian Federation (including local self-governing authorities) and regions of the Republic of Belarus and the Republic of Kazakhstan (including the cities of Minsk, Astana and Almaty);

"like products" means – a goods that are entirely identical to the goods manufactured, exported from the territory of a Member State or transported under a specific subsidy or, in the absence of –such goods, any other goods with characteristics similar to goods manufactured, exported from the territory of a Member State or transported under a specific subsidy;

"compensatory measure" means a measure to neutralise the negative impact of a specific subsidy of a subsidising Member State on an economic sector of the Member State applying for the introduction of this measure;

"competent authority" means a state government authority of a Member State in charge of conducting investigations;

"material injury to a sector of the national economy" means deterioration, confirmed by evidence, of the situation in a national economic sector as a result of importation of industrial goods from the territory of the Member State that has provided a subsidy in the manufacture, transportation or storage of such goods, and expressed in the reduction in the volume of manufacture and sales of like products on the territory of a Member State, reduced profitability of the manufacture of such goods, a negative impact on inventories, employment, wages and the level of investment in such sector;

"national manufacturers of like products" means manufacturers of like products in the Member State conducting the investigation;

"sector of the national economy" means all manufacturers of like products in a Member State or those of them having a share in the total volume of manufacture of like products in the Member State of at least 25 percent;

"recipient of a subsidy" means a manufacturer of industrial goods that is the beneficiary of the subsidy;

"manufacturers of subsidised goods" means manufacturers of subsidised goods of the Member State that has provided a specific subsidy;

"industrial goods" means goods classified as group 25-97 goods in CN of FEA EAEU, as well as fish and fish products, except goods classified under CN of FEA EAEU as sub-items 2905 43 000 0 and 2905 44, items



3301, 3501 – 3505, sub-items 3809 10 and 3824 60, items 4101 – 4103, 4301, 5001 00 000 0 – 5003 00 000 0, 5101 – 5103, 5201 00 – 5203 00 000 0, 5301 and 5302 (sub-item 2905 43 000 0, mannitol; sub-item 2905 44, sorbite; item 3301, essential oils; items 3501 – 3505, albuminoid substances, modified starches, glues; sub-item 3809 10, surface treatments, sub-item 3824 60, sorbitol, other products, items 4101 – 4103, raw hides and skins; item 4301, undressed furs; items 5001 00 000 0 – 5003 00 000 0, raw silk and silk waste; items 5101 – 5103, wool and animal hair; sub-items 5201 00 – 5203 00 000 0, raw cotton, cotton waste, brushed cotton fibre; item 5301, raw flax; item 5302, raw hemp). The above goods description is not necessarily exhaustive.

Any changes to the list of CN of FEA EAEU codes shall be made by the Council of the Commission;

"subsidised goods" means industrial goods manufactured, transported, stored or exported from the territory of the subsidising Member State using a specific subsidy;

"subsidising Member State" means the Member State the subsidising authority of which provides a subsidy;

"subsidising authority" means one or more state authorities or local self-governing authorities of the Member States making decisions on the provision of subsidies;

"subsidy" means:

a) financial contribution provided by a subsidising authority of a Member State (or an authorised institution of a Member State), used for generating (ensuring) benefits and carried out through:

a direct transfer of funds (for example, in the form of impaired and other loans), acquisition of a share in the authorised capital or its increase, or an obligation to transfer such funds (e.g., loan guarantees);

full or partial waiver of the collection of payments that would have been otherwise included in the revenue of the Member State (e.g., tax exemptions, debt relief). In this case, the exemption of exported industrial goods from duties and taxes levied on like products when intended for domestic consumption or any reduction of duties and taxes or refund of such duties and taxes in an amount not exceeding the amount actually accrued shall not be considered as a subsidy;

provision of goods or services (except for industrial goods or services intended for the maintenance and development of the common infrastructure);

purchase of industrial goods;

b) any other form of income or price support (directly or indirectly) reducing the importation of industrial goods from the territory of any Member State or increasing the exportation of industrial goods into the territory of any Member State with resulting advantages;

"threat of material injury to a sector of the national economy" means inevitability, confirmed by evidence, of material injury to a sector of the national economy;

"damage to a sector of the national economy" means material injury to a sector of the national economy, a threat of material injury to a sector of the national economy or a significant slowdown in the creation of a sector of the national economy.

## II. Specific Subsidies

3. In order to determine whether a subsidy is specific for an industrial enterprise or an industrial sector or for a group of industrial enterprises or industrial sectors (hereinafter “certain enterprises”) within the territory of operation of a subsidising authority, the following principles shall apply:

1) if the subsidising authority or a legal act regulating the functioning of the subsidising authority limits access to a subsidy only to certain enterprises, such subsidy shall be deemed specific if the group of industrial enterprises or group of industrial sectors does not include all industrial enterprises or industrial sectors on the territory of the subsidising Member State;

2) if the subsidising authority or a legal act regulating the functioning of the subsidising authority establishes objective criteria or conditions (criteria which are neutral, do not create advantages for some enterprises as compared to other enterprises, are economic in nature and horizontal by the method of application, for example, in terms of the number of employees or the sizes of enterprises) determining the right to obtain a subsidy and its amount, such subsidy shall not be deemed specific, provided that the right to obtain the subsidy is automatic and that the above criteria and conditions are strictly adhered to. The criteria and conditions shall be specified in laws, regulations, legal acts or other official documents and shall be verifiable;

3) if there is reason to believe that a subsidy that seems non-specific based on the application of the principles set forth in sub-paragraphs 1 and 2 of this paragraph may in fact be specific, the following factors may be taken into account (subject to taking into consideration the degree of diversification

of economic activities within the territory of operation of the subsidising authority, as well as the effective period of such subsidy):

the use of the subsidy by a limited number of certain enterprises;

the predominant use of the subsidy by certain enterprises;

the provision of disproportionately large amounts of subsidies to some enterprises;

the method of discretisation applied by the subsidising authority when deciding on providing the subsidy (in this respect, in particular, information on the frequency of rejections or approvals of applications for subsidies and reasons for respective decisions shall be taken into account).

4. A subsidy, the use of which is limited to certain enterprises located within a designated geographical region forming a part of the territory of operation of the subsidising authority, shall be deemed specific. Introduction or modification by a state authority of a Member State of tax rates in force within the entire territory of its operation shall not be regarded as a specific subsidy.

5. Any subsidy falling under the provisions of Section III of this Protocol shall be deemed specific.

The specific nature of a subsidy shall be confirmed based on the evidence of the specificity of the subsidy in accordance with this section.

6. A Member State shall be entitled to apply to the Commission in order to agree on its provision of a specific subsidy.

The Member States shall not apply compensatory measures to subsidies that are provided for the period, on the terms and in the amounts approved by the Commission.

The Member States shall, on a mandatory basis, communicate to the Commission the regulatory legal acts providing for the provision of specific subsidies within the period determined under an international treaty within the Union and stipulated in paragraph 7 of this Protocol.

If a Member State has grounds to believe that provision of a specific subsidy by another Member State may damage a sector of the national economy, such Member State shall be entitled to initiate respective proceedings by the Commission.

If the results of the proceedings confirm the presence of damage to the sector of the national economy, the Commission shall decide that the Member State that provides such specific subsidy is obliged to eliminate the conditions leading to the damage, unless the Member States involved in the proceedings have agreed otherwise within the time limit determined under an international treaty within the Union and stipulated in paragraph 7 of this Protocol.

The Commission shall determine a reasonable time for the execution of such decision.

If a Member State in respect of which the above decision is adopted, fails to execute the decision of the Commission within the determined time limit, other Member States may apply to the Court of the Union.

The provisions of this paragraph shall be applied subject to the transitional provisions stipulated in paragraph 1 of Article 105 of the Treaty.

7. The Member States shall determine under an international treaty within the Union:

the procedure for the voluntary agreement with the Commission of specific subsidies and adoption by the Commission of relevant decisions;

the procedure for the Commission to hold the proceedings (including with regard to violations of the conditions, procedure for the provision and use of specific subsidies determined by this Protocol);

the criteria for the Commission to adopt decisions on admissibility or inadmissibility of specific subsidies (including taking into account the development of existing and new cooperative ties between manufactures of the Member States);

the procedure and terms for the Commission to request information on subsidies provided.

The date of entry into force of the international treaty is stipulated in paragraph 1 of Article 105 of the Treaty.

8. If a Member State has determined a requirement for the recipient of a subsidy (manufacturer) to perform certain technological operations in the manufacture of certain goods in order to obtain a specific subsidy, the implementation of such operations by a manufacturer of another Member State in other Member States shall be regarded as the proper discharge of such requirement in accordance with the procedure determined by the Supreme Council.

### III. Prohibited Subsidies

9. The following types of subsidies shall be prohibited:

an export subsidy, that is, a subsidy contingent, as the sole or one of several conditions for its provision, with the results of the exportation of industrial goods from the territory of the Member State providing this subsidy to the territory of another Member State;

a replacement subsidy, that is, a subsidy contingent, as the sole or one of several conditions for its provision, with the use of industrial goods originating from the territory of the Member State providing this subsidy;

A subsidy shall be deemed contingent with an activity, in particular, if there is evidence of the fact that the provision of this subsidy that is not legally bound to the results of the exportation of industrial goods from the territory of the subsidising Member State or the use of industrial goods originating from the territory of such Member State is, in fact, associated with the actual or expected export (exportation) or export income (exportation income), or with the requirement for the use of industrial goods originating from the territory of the subsidising Member State.

The mere fact that a subsidy is provided to an economic entity effecting exportation may not serve as a grounds for its consideration as an export subsidy.

10. If provision of a specific subsidy by a Member State results in damage to a sector of the national economy of another Member State, such subsidy shall be prohibited.

Any damage to a sector of the national economy must be proved in accordance with section V of this Protocol.

11. The Member States shall not retain or introduce measures applied on the basis of a regulatory legal act or a legal act of a subsidising authority the observance of which is required in order to obtain specific subsidies and which comply with one of the following conditions:

1) shall contain requirements of:

procurement or use by an economic entity of industrial goods originating from the territory of the Member State introducing the measure or

from any local source specified by the subsidising authority (regardless of whether specific goods, their volume or value or the proportion of the volume or value of their local manufacture are specified);

restrictions on the procurement or use by an economic entity of industrial goods imported from the territory of any Member State in an amount related to the volumes or value of industrial goods exported by this economic entity and originating from the territory of the Member State introducing the measure;

2) shall restrict:

importation by an economic entity from the territory of any Member State of industrial goods used in local manufacture or related to such manufacture (including depending on the volume or value of goods originating from the territory of the Member State introducing the measure and exported by an economic entity to the territory of another Member State);

importation by an economic entity from the territory of any Member State of industrial goods used in local manufacture or related to such manufacture by restricting access of the economic entity to the currency of any Member State in the amount of such currency earnings due to the enterprise;

exportation by a economic entity of industrial goods into the territory of any Member State or sales by an economic entity of industrial goods on the territory of any Member State (depending on the specification of goods, their volume or value or proportion of the volume or value of their local manufacture by this economic entity).

12. Specific subsidies shall be prohibited if their provision leads to a serious infringement of the interests of any Member State. A serious



infringement of the interests of a Member State shall occur when a specific subsidy provided by another Member State results in:

1) displacement of like products from the market of the subsidising Member State or restraining of the increase in the importation of like products originating from the territory of any of the Member States into the market of the subsidising Member State;

2) displacement of like products originating from the territory of any Member State from the market of a third Member State or restraint of the increase in the import of such like products to the territory of a third Member State;

3) significant underpricing of industrial goods manufactured, transported or exported from the territory of the subsidising Member State using a specific subsidy as compared to the price of like products originating from the territory of another Member State on the same market of any of the Member States or a significant regulation of price increases, price reductions or lost sales in the same market.

13. A serious infringement of the interests referred to in paragraph 12 of this Protocol shall be determined in accordance with this Section and proved in accordance with section V of this Protocol.

14. The measures specified in paragraph 11 of this Protocol, as well as prohibited subsidies, including the following, shall not be provided or retained on the territories of the Member States (in this case, the export of goods shall refer to the exportation of goods from the territory of the subsidising Member State to the territory of another Member State):

1) programmes exempting an exporter from the mandatory sale to the Member State of part of foreign exchange revenues or permitting the use of

multiple exchange rates through partial depreciation of the national currency resulting in benefits for the exporter due to the exchange rate differences;

2) internal transport and freight tariffs for export shipments imposed or collected by the Member State on more favourable terms as compared to those applied to transportations in the domestic market;

3) provision of goods and services used in the manufacture of exported goods on more favourable terms as compared to those applied in the manufacture of like products sold in the domestic market;

4) full or partial exemption, deferral or reduction of taxes or any other fees paid or payable by economic entities and contingent with the results of export or the use of goods originating from the territory of the Member State providing these benefits. A deferral, in this case, shall not represent a prohibited subsidy if penalties subject to payment are levied for the non-payment of taxes. Charging the value-added tax at a zero rate from exported goods shall not indicate a prohibited subsidy;

5) special deductions contingent with the results of export and reducing the tax base of goods to a greater extent as compared to like products sold in the domestic market;

6) exemption, reduction, deferral of taxes or special deductions applicable to calculate the tax base of goods and services used in the manufacture of exported goods to a greater extent as compared to the exemption, reduction, deferral of taxes or special deductions applicable to calculate the tax base for goods and services used in the manufacture of like products sold in the domestic market;

7) collection of customs duties for raw materials and other materials used in the manufacture of exported products at lower rates as compared to

the same raw materials and other materials used in the manufacture of like products for domestic consumption, or refund of customs duties for raw materials and materials used in the manufacture of exported products to a greater extent as compared to the same raw materials and other materials used in the manufacture of like products sold in the domestic market;

8) reduction or refund of import duties collected on imported raw materials and other materials used in the manufacture of products if the content of domestic raw materials or other materials in the manufactured products is mandatory (regardless of whether specific goods, their volume or value or proportion of the volume or value in their local manufacture are specified);

9) charging premiums insufficient to cover long-term operating costs and losses under export credit guarantee or insurance programmes, insurance or guarantee programmes against increase in the value of exported goods or currency risks;

10) granting export credits at rates below the rates the recipients of these credits would actually have to pay for the use of comparable credits (subject to the same period and currency of the credit, etc.) under the market conditions or repayment of all or part of the costs incurred by exporters or financial institutions in connection with obtaining the credits. Export credit practices complying with the provisions on interest rates of the Arrangement on Officially Supported Export Credits of the Organisation for Economic Cooperation and Development shall not be regarded as prohibited subsidies;

11) reduction in tariffs for electricity or energy sources sold to an enterprise, provided that such subsidies are contingent with the results of export or the use of domestic goods instead of imported goods.

15. The Commission, as guided by this Protocol, shall not approve any prohibited subsidies as permissible.

The provisions of this paragraph shall be applied subject to the transitional provisions stipulated in paragraph 1 of Article 105 of the Treaty.

16. If a Member State has a reason to believe that the subsidising authority of another Member State provides a prohibited subsidy and/or introduces measures required to obtain specific subsidies in accordance with this Protocol, the first Member State shall be entitled to apply to that other Member State requesting consultations on the cancellation of prohibited subsidies or measures.

17. If, within 2 months from the date of receipt over the official diplomatic channels of the notice of consultations specified in paragraph 16 of this Protocol, the Member States fail to reach a mutual agreement, the existing disagreements shall be resolved in accordance with Article 93 of the Treaty.

If, based on the results of dispute resolution, it is decided that one of the Member States provides a prohibited subsidy specified in paragraphs 9 and 12 of this Protocol and/or applies the measures referred to in paragraph 11 of this Protocol, this Member State shall cancel such prohibited subsidies or measures immediately, regardless of whether such prohibited subsidies or measures result in a damage to the national economy of other Member States, and shall introduce a compensatory measure in relation to such prohibited subsidies in accordance with paragraphs 89-94 of this Protocol.

18. Within a specified transition period, subsidising authorities shall be entitled to provide subsidies through application of measures in accordance with the Annex to this Protocol.

#### IV. Permissible Subsidies

19. Subsidies that are not prohibited and do not represent specific subsidies according to the this Protocol shall be recognised as permissible subsidies, the provision of which does not distort the mutual trade between the Member States.

The Member States may provide such subsidies without limitation and the provisions of this Protocol regarding the use of countervailing and response measures or prohibiting the provision of subsidies shall not apply in respect of such subsidies.

20. The Member States shall be entitled to provide subsidies provided for by this Section without the consent of the Commission.

The provisions of this paragraph shall be applied subject to the transitional provisions stipulated in paragraph 1 of Article 105 of the Treaty.

21. The subsidies specified in section VII of this Protocol that are specific under section II of this Protocol, but are recognised by the Member States as subsidies that do distort the mutual trade, shall not give grounds for the adoption of compensatory measures under Section VIII of this Protocol.

#### V. Investigation Procedure

22. Investigations aimed to analyse the conformity of subsidies provided on the territory of a Member State to the provisions of this Protocol, as well as to determine the existence of damage to a sector of the national economy as a result of importation of subsidised goods from the territory of the Member State that has provided the specific subsidy or displacement of

like products from the market of the subsidising Member State, shall be conducted by the competent authority following a written application filed in accordance with this Protocol by the national manufacturers of like products registered on the territory of that Member State or by the competent authority on its own initiative (hereinafter “the application”).

23. The application shall be filed by the national manufacturer of like products or by an association of such manufacturers, including manufacturers comprising a sector of the national economy, as well as representatives of these persons duly authorised under the legislation of the Member State of registration of these representatives (hereinafter “the applicants”).

24. The application shall include:

- 1) information on the applicant;
- 2) description of the goods (indicating the country of origin and the CN of FEA EAEU code);
- 3) information on the existence, nature and extent of the specific subsidy;
- 4) information on the manufacturers of subsidised goods;
- 5) information on the national manufacturers of like products;
- 6) information on changes in the volume of importation of subsidised goods into the territory of the Member State with the competent authority of which the application is filed 3 calendar years before the date of filing the application;
- 7) information on changes in the volume of exportation of like products from the territory of the Member State with the competent authority of which the application is filed to the territory of other Member States;

8) evidence of damage to a sector of the national economy as a result of the importation of subsidised goods or displacement of like products from the market of the subsidising Member State. Evidence of damage to a sector of the national economy as a result of the importation of subsidised goods or displacement of like products from the market of the subsidising Member State shall be based on objective factors describing the economic situation in the sector of the national economy and may be expressed in quantitative terms (including the volume of manufacture and volume of sales of the goods, the share of the goods in the market of the Member State, the cost of production of the goods, the price of the goods, the data on the production capacity utilisation, productivity, profit margins, profitability of the manufacture and sales of the goods, and the level of investment in the sector of the national economy);

9) information on changes in the volume of importation of like products (in quantitative and value terms) into the customs territory of the Union for the 3 calendar years preceding the date of the application;

10) information on changes in the volume of exportation of like products (in quantitative and value terms) from the customs territory of the Union for the 3 calendar years preceding the date of the application;

11) analysis of other factors that might affect the sector of the national economy in the period under consideration.

25. For purposes of comparability, the cost parameters shall be specified in the application using monetary units determined by the Commission for the maintenance of foreign trade statistics.

26. The application, together with its non-confidential version (if the application contains confidential information), shall be filed with the

competent authority and shall be subject to registration on the day of its receipt by this authority.

27. The application may be rejected on the following grounds:

non-compliance of the applicant with the requirements determined in paragraph 23 of this Protocol;

non-presentation of the information specified in paragraph 24 of this Protocol;

submission of inaccurate information by the applicant.

An application may not be rejected on any other grounds.

28. Prior to the adoption of a decision on initiation of an investigation, the competent authority shall send a written notification of the receipt of the application to the authorised authority of the Member State on the territory of which the specific subsidy under consideration is provided.

29. In order to decide on the initiation of an investigation, the competent authority shall, within 30 calendar days from the date of registration of the application, examine the adequacy and reliability of the evidence and information contained in this application in accordance with paragraph 24 of this Protocol. Should the competent authority require any additional information from the applicant, this period may be extended, but must not exceed 40 calendar days from the date of registration of the application.

30. The application may be revoked by the applicant before the commencement of the investigation or during its conduct.

If the application is withdrawn before the commencement of the investigation, such application shall be deemed not filed.



If the application is withdrawn during the investigation, the investigation shall be terminated or continued based on the decision of a competent authority.

31. Following acceptance of the application for consideration and prior to the decision to commence an investigation, the competent authority shall offer the authorised authority of the Member State that has provided the specific subsidy to hold consultations in order to clarify the availability, amount and use, as well as the consequences of the provision of the specific subsidy in order to achieve a mutually acceptable solution. Such consultations may be held in the course of the investigation.

32. Holding consultations in order to clarify the availability, amount and consequences of the provision of the specific subsidy shall not preclude the competent authority from deciding to commence an investigation and to prepare, based on the results of such investigation, a report on compliance of the specific subsidy provided on the territory of another Member State with the provisions of this Protocol and/or on damage caused to a sector of the national economy as a result of the importation of subsidised goods from the territory of the Member State that has provided the specific subsidy, as well as on the transfer to the Member State on the territory of which the specific subsidy is provided of a notice of application of compensatory measure.

33. The competent authority shall decide to commence or refuse an investigation before the expiry of the period referred to in paragraph 29 of this Protocol.

Having decided to refuse to conduct an investigation, the competent authority shall within no more than 10 calendar days from the date of such

decision notify the applicant in writing of the grounds for the refusal to conduct the investigation.

Having decided to commence an investigation, the competent authority shall notify in writing the authorised authority of the Member State which has provided the specific subsidy, as well as other interested persons known to it, of the decision, made and, within not more than 5 working days from the date of making the decision, shall publish a notice of commencement of the investigation. The date of publication of the notice of commencement of the investigation shall be deemed the commencement date of the investigation.

34. The competent authority may decide to commence an investigation (including on its own initiative) if it has evidence of violations of this Protocol and/or the existence of damage to a sector of the national economy as a result of the importation of subsidised goods into the territory of this Member State or displacement of a like products by subsidised goods from the market of the Member State that has provided the specific subsidy or any other Member State.

No investigation may be commenced in case of insufficient evidence.

35. Following a decision to commence an investigation, the competent authority shall send a list of questions to all national manufacturers of like products known to it and manufacturers of subsidised goods under investigation to be answered by them for the purposes of the investigation.

The list of questions shall be deemed received on the date of its transfer directly to the representative of a national manufacturer of like products or a manufacturer of subsidised goods or within 7 calendar days from the date of dispatch of the list by mail.

National manufacturers of like products and manufacturers of subsidised goods under investigation to whom the list of questions was sent shall submit their answers to the competent authority within 30 calendar days from the date of their receipt of such list. Upon a reasoned request executed made in writing by the national manufacturers of like products and manufacturers of subsidised goods under investigation, this period may be extended by the competent authority, but not more than by 10 calendar days.

36. In order to verify the information submitted during the investigation or to obtain any additional information associated with the investigation, the competent authority may conduct the investigation on the territory of the Member State which has provided the specific subsidy, subject to the consent of the respective manufacturer of subsidised goods under investigation, as well as subject to prior notification to the representatives of the government of the respective Member State and in the absence of objections of this Member State as to the conduct of the investigation on its territory.

In order to verify the information submitted during the investigation or to obtain any additional information associated with the investigation, the competent authority shall have the right to send its representatives to the location of national manufacturers of like products, hold consultations and negotiations with interested persons, examine samples of the subsidised goods under investigation, and take all other actions required for the investigation that do not contradict the legislation of the Member State conducting the investigation.

37. In the course of the investigation, the competent authority may send requests for information relating to the ongoing investigation to authorised

authorities of the Member State providing or having provided the subsidy under consideration, as well as to other interested persons.

38. Interested persons may submit any information required for the investigation (including confidential information), indicating its source, no later than on the date specified in the notice of the commencement of the investigation. The competent authority shall have the right to request additional information from interested persons.

39. Evidence and information related to the investigation shall be submitted to the competent authority in the state language of the Member State conducting the investigation and the original documents in a foreign language shall be accompanied by a translation duly certified in accordance with the established procedure.

40. In the course of the investigation, the competent authority, taking into account the need to protect confidential information in accordance with this Protocol, shall provide to the interested persons, upon their written requests, an opportunity to examine the information submitted in writing by any interested person as the evidence relating to the investigation. The competent authority shall enable participants of the investigation to examine all other information relevant to the investigation and used in the course of the investigation, except for confidential information, in accordance with this Protocol.

41. State government (administration) authorities of the Member States authorised in the field of customs procedures and maintenance of state statistics, other state government (administration) authorities of the Member States and territorial (local) state government (administration) authorities shall assist in the investigation and provide, upon request from the competent

authority, all information required to conduct the investigation (including confidential information).

42. The duration of an investigation shall not exceed 6 months from its commencement date.

An investigation shall be deemed completed on the date of dispatch by the competent authority of the results of the investigation for consideration to the government of its state.

43. Following an investigation, the competent authority shall prepare a report on the conformity of the subsidy provided on the territory of another Member State to the provisions of this Protocol.

44. If the results of an investigation confirm a violation of this Protocol and/or damage caused to a sector of the national economy, the Member State the competent authority of which has conducted the investigation shall deliver to the Member State on the territory of which the specific subsidy under consideration is provided a statement on the introduction of a compensatory measure.

45. When determining the sector of the national economy, the territory of the Member State the competent authority of which is conducting the investigation may be regarded as a territory having two or more competitive markets, and national manufacturers of like products within one of these markets may be regarded as a separate sector of the national economy if such manufacturers sell in this market at least 80 percent of the like products manufactured by them and the demand for the like products in this market is not satisfied to a considerable extent by the manufacturers of these products located on the rest of the territory of the Member State conducting the investigation. In such cases, the existence of damage to a sector of the

national economy may be determined even if the main part of the sector of the national economy has not suffered any damage, provided that the sales of subsidised goods are concentrated in one of the competing markets and the importation of subsidised goods causes damage to at least 80 percent of national manufacturers of like products within one of such markets.

46. The amount of a specific subsidy shall be determined based on the amount of benefits generated by the recipient of the subsidy. When calculating the amount of benefits, the competent authority shall consider the following:

1) participation of the subsidising authority in the capital of the organisation shall not be regarded as provision of a specific subsidy if such participation may not be regarded as non-complying with the common investment practices (including the provision of risk capital) effective on the territory of the respective Member State;

2) a loan provided by the subsidising authority shall not be regarded as a specific subsidy, if there is no difference between the amount the borrowing organization pays for the state loan and the amount that it would have paid for a comparable commercial loan that such organisation may obtain in the credit market of the respective Member State. Otherwise, the difference between these amounts shall be regarded as benefits;

3) a loan guarantee provided by the subsidising authority shall not be regarded as provision of a specific subsidy, if there is no difference between the amount the organization receiving the guarantee pays for the loan guaranteed by the subsidising authority and the amount it would have paid for a comparable commercial loan without the state guarantee. Otherwise, the

difference between these amounts, adjusted for the differences in fees, shall be regarded as benefits;

4) any supply of goods, provision of services or purchase of goods performed by the subsidising authority shall not be regarded as provision of a specific subsidy if such goods or services are supplied for a less than adequate remuneration or the goods are not purchased a for more than adequate remuneration. The adequacy of remuneration shall be determined on the basis of prevailing market conditions of purchase and sale of such goods and services in the market of the respective Member State (including their price, quality, availability, liquidity, transportation and other conditions of purchase or sale of goods).

47. The amount of the subsidy shall be calculated per unit of goods (ton, cubic meter, piece, etc.) imported into the territory of the Member State the competent authority of which is conducting the investigation, or sold in the market of the Member State on the territory of which the specific subsidy is provided or in the market of another Member State.

48. When calculating the amount of the subsidy, inflation indicators in the respective Member State shall be taken into account if the inflation rate is high enough to distort the obtained results.

49. The amount of the subsidy per unit of goods shall be determined on the basis of the expenditures of the Member State having provided the specific subsidy for these purposes.

50. When calculating the amount of the subsidy per unit of such goods, the cost of the goods shall be calculated as the total value of sales of the recipient of the subsidy in the 12 months preceding the provision of the subsidy, for which the required data are available.

51. When calculating the amount of the subsidy, the amounts of any registration fees or other expenses incurred to obtain the subsidy shall be deducted from the total amount of the subsidy.

52. If the subsidy is not provided in respect of a certain amount of industrial goods produced, exported or transported, the amount of the subsidy per unit of goods shall be calculated by dividing the total amount of the subsidy by the amount of the volume of manufacture, sales or exports of such goods in the period of the provision of the subsidy taking into account, if necessary, the share of imported subsidised goods in the total volume of manufacture, sales or exports of the goods.

53. If the subsidy is provided in connection with the development or acquisition of fixed assets, the amount of the subsidy shall be calculated by distributing the subsidy along the average depreciation period of such fixed assets in the given sector of the economy of the Member State having provided the specific subsidy. The amount of the subsidy per unit of goods shall also be calculated taking into account the subsidies provided for the purchase of fixed assets prior to the period covered by the investigation, the depreciation period for which has not yet expired.

54. When calculating the amount of the subsidy, if the value of the subsidy is different at different times or for different purposes for the same goods, the weighted average indicators shall be applied for the amounts of the subsidy based on the volume of manufacture, sales and exports of goods.

55. If the subsidy is provided in the form of tax exemptions, the cost of the goods shall be determined by calculating the total amount of their sales in the last 12 months of the application of the tax exemptions.



56. Subsidies provided during the calendar year by different subsidising authorities and/or for the implementation of different programmes shall be summarised.

57. The fact of displacement of like products from the market of the subsidising Member State or from the market of another Member State or restraining the increase in the importation of like products into the territory of the subsidising Member State, or restraining the increase in the exportation of the goods into the territory of another Member State shall be determined if it is confirmed that there has been an adverse change in the share of like products in the market of the subsidising Member State or in the market of another Member State with respect to subsidised goods. This fact shall be determined for a period sufficient to prove the evident trends in the development of the market of the respective goods, which under normal conditions shall not be less than 1 year.

58. Adverse changes in the share of like products in the market of the subsidising Member State or in the market of another Member State shall include one of the following situations:

- 1) an increase in the market share of subsidised goods;
- 2) the market share of the subsidised goods remains unchanged in circumstances when, in the absence of the specific subsidy, it would have reduced;
- 3) the market share of subsidised goods reduces, but at a slower rate than it would have been reducing in the absence of the specific subsidy.

59. Underpricing shall be established by comparing the prices of the subsidised goods in the relevant market with the prices of the goods manufactured, transported or exported to the territory of any Member State

without the use of the specific subsidy. The comparison shall be made at the same level of trade and in comparable time periods. In the comparison, all factors affecting the comparability of prices shall be taken into consideration. If the above comparison cannot be performed, underpricing may be established based on the average export prices.

60. If, in accordance with Article 93 of the Treaty, two Member States lead a dispute on the existence of a serious infringement of interests, under paragraphs 12, 57-59, 61 and 62 of this Protocol, in the market of a third Member State, such Member State shall provide to the disputing Member States all statistical information at its disposal related to the subject matter of the dispute and changes of the shares of goods originating from the territories of the disputing Member States in the market of such third Member State, as well as statistical information on the prices of relevant goods. In this case, this Member State shall be entitled not to conduct any special analysis of the market and prices and not to provide any information regarded as a trade secret or State secret.

61. The fact of a serious infringement of interests may not be established upon existence of the following circumstances in the corresponding period:

1) existence of bans or restrictions on the exportation of goods from the territory of the Member State determining the fact of a serious infringement of interests or bans or restrictions on the importation of goods from the territory of that Member State into the market of another Member State;

2) adoption by an authorised authority of a Member State importing like products and practising monopoly in trade or state trading in these products of a decision to reorient the importation from the Member State

determining the fact of a serious infringement of interests to the importation from another Member State for non-commercial reasons;

3) natural disasters, strikes, transport disruptions or other force majeure circumstances producing a serious negative impact on the manufacture, quality, quantity or price of the goods intended for exportation from the Member State determining the fact of a serious infringement of interests;

4) existence of agreements restricting the exportation from the Member State determining the fact of a serious infringement of interests;

5) a voluntary reduction of the possibility of exportation of industrial goods from the Member State determining the fact of a serious infringement of interests (including when economic entities of this Member State have autonomously reoriented the export of these like products to new markets);

6) non-compliance with standards and/or other administrative requirements in the Member State onto the territory of which the goods are imported.

62. In the absence of circumstances referred to in paragraph 61 of this Protocol, the existence of a serious infringement of interests shall be determined on the basis of the information provided to the Court of the Union or independently obtained by the Court of the Union.

63. Any damage to a sector of the national economy as a result of the importation of subsidised goods shall be determined on the basis of analysis of the volume of importation of subsidised goods and the impact of such importation on the prices of like products in the market of the Member State the competent authority of which is conducting the investigation and on national manufacturers of like products.

64. In the analysis of the volume of importation of subsidised goods, the competent authority shall determine whether there has been an increase in the importation of subsidised goods (in absolute terms or relative to the manufacture or consumption of like products in the Member State the competent authority of which is conducting the investigation).

65. When analysing the impact of the importation of subsidised goods on the prices of like products in the market of the Member State the competent authority of which is conducting the investigation, the competent authority shall determine:

1) whether the prices of subsidised goods were lower than the prices of like products in the market of that Member State;

2) whether the importation of subsidised goods resulted in a reduction of prices of like products in the market of that Member State;

3) whether the importation of subsidised goods prevented the increase in prices of like products in the market of that Member States, which would have occurred in the absence of such importation.

66. The analysis of the impact of the subsidised importation of goods on the sector of the national economy shall represent an assessment of economic factors relevant to the state of the sector of the national economy, including:

1) previous or possible future reduction in the manufacture or sales of like products, its share in the market of the Member State the competent authority of which is conducting the investigation, profits, productivity, income from attracted investment or production capacity utilisation;

2) factors that affect the prices of like products in the market of the Member State the competent authority of which is conducting the investigation;

3) previous or possible future negative impact on cash flows, the stock of like products, employment, wages, manufacture growth rates and the ability to attract investment.

67. The impact of the importation of subsidised goods on the sector of the national economy shall be evaluated with regard to the manufacture of like products in the Member State the competent authority of which is conducting the investigation, if the available data allow allocating the manufacture of like products on the basis of such criteria as the production process, sales of the products by their manufacturers and profits. If the available data do not allow identifying the manufacture of like products, the impact of the importation of subsidised goods on the sector of the national economy shall be evaluated with regard to the manufacture of the narrowest group or range of goods comprising the like products and for which the required data are available.

68. The existence of any damage to the sector of the national economy as a result of the importation of subsidised goods shall be determined based on an analysis of all relevant evidence and information available at the disposal of the competent authority. The competent authority shall analyse, among other things, the dynamics and impact of import supplies of like products into the customs territory of the Union and supplies from other Member States. Neither one nor several factors determined in the course of the analysis of the volume of the importation of subsidised goods and of the impact of such importation on the sector of the national economy shall be

critical for determining the damage to the sector of the national economy as a result of the importation of subsidised goods. In addition to the importation of subsidised goods, the competent authority shall analyse other known factors causing damage to the sector of the national economy during the same period. The aforementioned damage shall not be regarded by the competent authority as the damage to the sector of the national economy as a result of the importation of subsidised goods.

69. When determining the existence of a threat of material injury to a sector of the national economy as a result of importation of subsidised goods, the competent authority shall take into account all available factors, including the following:

1) the nature and amount of a subsidy or subsidies and their possible impact on trade;

2) the growth rate of importation of subsidised goods indicating a real opportunity of further increase in such importation;

3) whether the manufacturers of subsidised goods in the subsidising Member State have sufficient opportunities to increase the import of subsidised goods or whether an increase in such opportunities is apparently inevitable;

4) the level of prices of subsidised goods, if this price level may lead to a reduction or regulation of the price of like products in the market of the Member State the competent authority of which is conducting the investigation and to further growth in demand for subsidised goods;

5) stocks of subsidised goods available to the manufacturer.

70. Neither one nor several factors specified in paragraph 69 of this Protocol shall be critical for determining a threat of a material injury to the

sector of the national economy caused by the importation of subsidised goods.

71. The decision on the existence of a threat of material injury to a sector of the national economy shall be adopted if, during the investigation based on the analysis of the factors referred to in paragraph 69 of this Protocol, the competent authority determines the inevitability of the continuation of the importation of subsidised goods and material injury caused by such importation to the sector of the national economy in the absence of a compensatory measure.

72. Interested persons in the investigation shall include:

1) the national manufacturer of like products, the national association of manufacturers most of the participants of which are manufacturers of like products;

2) the manufacturer of the subsidised goods under investigation, the association of manufacturers of such subsidised goods the majority of the participants of which are the manufacturers of such goods;

3) the subsidising Member State and/or the authorised authority of the subsidising Member State;

4) public consumer associations (if the subsidised goods under investigation are consumed mainly by natural persons);

5) consumers of the subsidised goods under investigation (using the products in the manufacturing process) and associations of such consumers.

73. The interested persons referred to in paragraph 72 of this Protocol shall operate during the investigation either independently or through their representatives duly authorised under the legislation of the Member State the competent authority of which is conducting the investigation.

If in the course of the investigation an interested person acts through an authorised representative, the competent authority shall submit all information on the subject matter of the investigation to the interested person only through this representative.

74. Information provided by an interested person to the competent authority shall be deemed confidential if such person indicates the reasons confirming that disclosure of such information will provide a competitive advantage to a third person or entail adverse consequences for the person submitting such information or to the person from whom the information was obtained. Confidential information shall not be disclosed without the permission of the submitting interested person, except in cases provided for by the legislation of the Member States.

The competent authority shall be entitled to request from each interested person having submitted confidential information its non-confidential version. The non-confidential version shall be sufficiently detailed for understanding the essence of the confidential information submitted. If in response to the above request an interested person claims that confidential information may not be presented in a non-confidential form, this person shall have to provide appropriate reasons.

If the competent authority establishes that the reasons provided by the interested person are insufficient for regarding the information as confidential or if the interested person that failed to submit a non-confidential version of the confidential information does not submit the appropriate reasons or submits information that does not constitute such a reasons, the competent authority may disregard this information.



75. The competent authority shall bear liability for the disclosure of confidential information provided for by the legislation of its Member State.

## VI. General Exceptions

76. Nothing in this Protocol shall be construed as:

1) requiring any Member State to provide any information the disclosure of which is considered by such state as contrary to its essential security interests;

2) preventing any Member State from taking any action it deems necessary to protect its essential security interests:

actions in relation to fissionable materials or their source materials;

actions for the development, manufacture and trade in weapons, ammunition and military materials, as well as other goods and materials, carried out, directly or indirectly, for the purpose of supplying a military establishment;

any action taken in time of war or other emergency in international relations;

3) preventing any Member State from taking any action in pursuance of its obligations under the Charter of the United Nations to preserve the world peace and international security.

77. The provisions of this Protocol shall not prevent the Member States from using specific subsidies that distort trade if such subsidies are introduced in exceptional circumstances (provided that the purpose of these measures is not to limit the importation of goods from the territory of other

Member States and such measures are non-discriminatory) and if their introduction is required to protect:

- 1) public morality, public law and order and national security;
- 2) life or health of people, animals and plants;
- 3) national treasures of artistic, historic or archaeological value;
- 4) intellectual property rights;
- 5) exhaustible natural resources (if such measures are taken in conjunction with restrictions on domestic production or consumption).

#### VII . Specific subsidies the provision of which does not constitute grounds for adopting compensatory measures

78. The provision of such a specific subsidy as support for research activities carried out by economic entities, as well as universities and research institutions on a contractual basis with economic entities, shall not be regarded as the grounds for the introduction of any compensatory measures, provided that such support covers not more than 75 percent of the cost of industrial research or 50 percent of the cost of developments at the pre-competitive stage and that it is provided solely to cover:

- 1) personnel costs (for researchers, technicians and other support personnel engaged solely in the research activities);
- 2) the cost of tools, equipment, land and buildings used exclusively and permanently for the research activities (except for sale on a commercial basis);
- 3) the cost of advisory and equivalent services used exclusively for the research activities (including the purchase of research results, technical knowledge, patents, etc.);

4) additional overhead costs incurred directly as a result of the research activities;

5) other current expenses (for materials, software, etc.) incurred directly as a result of the research activities.

79. For the purposes of this Section, industrial research activities shall refer to any planned research or critical studies aimed at discovery of new knowledge in the hope that such knowledge may be useful in developing new goods, processes or services, as well as for the significant improvement of existing goods, processes or services.

Developments at the pre-competitive stage shall refer to conversion of the results of industrial research into a plan, drawing or layout of new, modified or improved goods, processes or services intended for the sale or use (including the creation of the first prototype unsuitable for commercial use). These developments may also include the formulation of the concept and design of alternative goods, methods or services, as well as initial pilot or demonstration designs, provided that they may not be adapted or applied for industrial or commercial use. These developments shall not include current and periodic changes to existing goods, production lines, treatment processes, services, and other common operations, even if such changes lead to improvements.

80. The acceptable level of support specified in paragraph 78 of this Protocol that does not constitute grounds for the adoption of compensatory measures shall be determined in relation to the total relevant costs incurred over the period of implementation of the respective specific project.

In the case of implementation of programmes combining industrial research and pre-competitive stage developments, the permissible level of

support that does not constitute grounds for the adoption of measures shall not be higher than the arithmetic mean value of the permissible levels for these two categories calculated taking into account all costs referred to in paragraph 78 of this Protocol.

81. The provisions of this Protocol shall not apply to fundamental scientific research conducted by higher educational institutions or research institutions independently. Fundamental scientific research shall refer to the expansion of common scientific and technical knowledge not associated with any industrial or commercial purposes.

82. Support to disadvantaged regions on the territory of a Member State provided as part of the general regional development shall be non-specific (subject to the provisions of section II of this Protocol) and shall be distributed between the respective regions, provided that:

1) each disadvantaged area represents a clearly demarcated and compact administrative and economic zone;

2) such region is deemed disadvantaged based on neutral and objective criteria indicating that the region's difficulties arise not only due to temporary circumstances (such criteria shall be clearly specified in the laws, regulations or other official documents so that they can be verified);

3) the criteria referred to in sub-paragraph 2 of this paragraph shall include the measurement of economic development based on at least one of the following parameters measured for a 3-year period (such measurement may be complex and may take into account other factors):

income per capita or per household or the gross domestic product per capita, which shall not exceed 85 percent of the average rate for the territory concerned;

the unemployment rate, which shall be at least 110 percent of the average rate for this area.

83. The general regional development shall refer to regional subsidy programmes forming part of an internally consistent and universally applicable regional development policy, implying non-provision of regional development subsidies to individual geographical locations which produce no or almost no impact on the development of the region.

The neutral and objective criteria shall refer to criteria that do not provide benefits to certain regions beyond those required to eliminate or reduce the differences between regions within the regional development policy. In this regard, regional subsidy programmes shall include the maximum amounts of support that may be provided under each subsidised project. These maximum amounts shall be differentiated according to the level of development of the regions supported and shall be expressed in the form of spending on investment or job creation. Within these amounts, the support shall be distributed widely enough to avoid pre-emptive use of subsidies or provision of disproportionately large amounts to certain enterprises in accordance with Section II of this Protocol.

84. The support of adaptation of existing production capacities (representing production capacities in operation for at least 2 years prior to the introduction of new requirements for environmental protection) to the new requirements for environmental protection imposed by the legislation and/or regulations and entailing additional restrictions and increased financial burden for economic entities shall not be regarded as grounds for any compensatory measures, provided that such support:

- 1) is a one-time, non-recurring measure;

- 2) amounts to no more than 20 percent of the costs of adaptation;
- 3) does not cover the cost of replacement and operation of subsidised equipment to be borne by the enterprise;
- 4) is directly related and proportionate to the pollution reduction planned by an economic entity and does not cover the production costs savings that may be achieved;
- 5) is available for all economic entities that may convert to new equipment and/or production processes.

#### VIII. Introduction and Application of compensatory Measures and Response Measures

85. The competent authority of a Member State shall be entitled to conduct an investigation with regard to the compliance of subsidies provided on the territories of other Member States with the provisions of this Protocol or an investigation into the use by other Member States of the measures referred to in paragraph 11 of this Protocol, in accordance with the procedure determined by section V of this Protocol. The competent authority having initiated an investigation shall inform the Member States of the commencement of the investigation. The competent authorities shall have the right to request the necessary information on the progress of the investigation.

86. If, as a result of an investigation, the competent authority of a Member State establishes that the subsidising authority of another Member State provides a specific subsidy and this specific subsidy causes damage to a sector of the national economy of the Member State the competent authority of which is conducting the investigation, such competent authority may send

to the subsidising Member State an application for the adoption of compensatory measures. This application shall contain evidence of non-compliance of the subsidy with the provisions of this Protocol.

87. If, at the end of the proceedings conducted in accordance with paragraph 6 of this Protocol, the Commission confirms the existence of damage to a sector of the national economy of one of the Member States, the competent authority of the Member State shall be entitled to send to the subsidising Member State an application for the adoption of a compensatory measure. This application shall contain evidence of non-compliance of the subsidy in accordance with sub-paragraph 3 of paragraph 6 of Article 93 of the Treaty.

The Member States shall not apply compensatory measures to subsidies approved by the Commission in accordance with paragraph 6 of this Protocol.

The provisions of this paragraph shall be applied subject to the transitional provisions stipulated in paragraph 1 of Article 105 of the Treaty.

88. An application for countervailing measures may be voluntarily granted by a Member State that has received such application within a period not exceeding 2 months or based on the results of the settlement of disputes.

89. A Member State having received an application for the adoption of countervailing measures, the validity of which has been recognised voluntarily by the Member State or based on the results of the settlement of disputes in accordance with Article 93 of the Treaty, shall introduce the countervailing measure stated in the application within 30 calendar days.

90. The countervailing measure introduced under paragraph 89 of this Protocol shall represent a sum of the subsidy provided and interest accrued

on the amount of the subsidy for the entire period of use of these funds (assets), as specified in the application for the adoption of the countervailing measure.

The amount of the subsidy shall be calculated in accordance with this Protocol.

The interest rate shall be equal to one and a half refinancing rate prevailing on the date of provision of the subsidy and set by the national (central) bank of the subsidising Member State. The interest rate shall be calculated by applying the compound interest for the entire period from the date of provision of the subsidy to the date of implementation of the countervailing measure.

The compound interest is interest charged each year with regard to an amount including the interest accrued in the previous year.

91. A countervailing measure shall be deemed implemented after the amount of the subsidy, including all relevant interest amounts, has been withdrawn from the recipient of the subsidy and transferred to the budget of the subsidising Member State.

92. A countervailing measure shall be deemed non-implemented if it is charged from any sources other than those specified in paragraph 91 of this Protocol.

By mutual agreement of the claimant state and the respondent state and solely in order to avoid circumvention of payment by the recipient of the subsidy of the funds constituting a countervailing measure, the sources of levying the countervailing measure may be changed.

93. Implementation of a countervailing measure shall constitute sufficient grounds for the granted application for the adoption of



countervailing measures to be deemed executed. In this case, the Member State shall execute such application within a period not exceeding 1 calendar year from the date of accepting such application.

94. If the Member State fails to execute the granted application for the adoption of a countervailing measure within the determined time limit, the applying Member State shall be entitled to take response measures, which shall be approximately proportional to the countervailing measure.

For the purposes of this Protocol, a response measure shall refer to temporary suspension by the Member State introducing such response measure of its obligations in respect of the Member State against which the response measure is introduced under any existing trade and economic treaties (except for those related to the oil and gas industry).

Response measures shall be temporary and shall be applied by the claimant state only until the measure violating the provisions of the Treaty is cancelled or changed in such a way as to comply with the provisions of the Treaty or until the Member States agree otherwise.

## IX. Notices

95. The Member States (authorised authorities of the Member States) shall annually, but not later than December 1, notify each other and the Commission of all subsidies planned for the provision in the next year, at the federal (national) and regional (municipal, local) levels.

The Member States shall not subsume the information on provided subsidies to confidential information, except in cases stipulated in paragraph 76 of this Protocol.

96. The sources of the information for the notices sent pursuant to paragraph 95 of this Protocol shall be cost-related parts of draft federal/national budgets and budgets of administrative-territorial entities.

97. The Member States (authorised authorities of the Member States) shall, on a quarterly basis and no later than on the 30th day of the month following the reporting quarter, send to each other and to the Commission notices in the determined form of all subsidies provided at the federal (national) and regional (municipal, local) levels in the reporting quarter.

The provisions of this paragraph shall be applied subject to the transitional provisions stipulated in paragraph 1 of Article 105 of the Treaty.

98. The Member States (authorised authorities of the Member States) shall, annually and no later than on July, 1 of the year following the reporting year, send to each other and to the Commission notices in the determined form of all subsidies provided at the federal (national) and regional (municipal, local) levels in the reporting year. These notices shall contain sufficient information for the competent authority of another Member State and the Commission to estimate the amount of subsidies provided and their compliance with the provisions of this Protocol.

99. The forms of the notices of subsidies of the Member States (competent authorities of the Member States) provided for by this section, as well as the procedure for their completion, shall be approved by the Commission in consultation with the Member States.

100. The notices on subsidies shall contain the following information:

1) the name of the subsidy programme (if any) and a brief description or identification of the subsidy (for example, “Development of Small Business”);

2) the reporting period for the notice;

3) the main purpose and/or purpose of the subsidy (information on the purpose of the subsidy is normally contained in the regulatory legal act under which the subsidy is provided);

4) the basis for the provision of the subsidy (the name of the regulatory legal act under which the subsidy is provided, as well as a brief description of this act);

5) the form of the subsidy (grant, loan, tax exemption, etc.);

6) the subject (manufacturer, exporter or other person) and the method of provision of the subsidy (funds used to provide the subsidy, fixed or variable amount per unit of goods (in the latter case, indicating the mechanism for determining the amount)), as well as the mechanism and conditions for the provision of the subsidy;

7) the amount of the subsidy (the annual or total amount allocated for the subsidy, if possible, the subsidy per unit of products);

8) the duration of the subsidy and/or any other time limit applicable to the subsidy (including the opening (completion) date of the subsidy);

9) the data on the effects on trade (statistical data allowing to assess the trade effects of the subsidy);

101. The information referred to in paragraph 100 of this Protocol shall, to the extent possible, contain statistical data on the manufacture, consumption, import and export of subsidised goods or sectors:

1) for the recent 3 years for which statistical data are available;

2) for the year preceding the introduction of the subsidy or the most recent major change in the subsidy.

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Annex  
to the Protocol on the Common  
Rules for the  
Provision of Industrial Subsidies

**List of measures not subject to the provisions of the Protocol on  
the Common Rules for the Provision of Industrial Subsidies**

Measure	Transitional period for the measure
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I. The Republic of Belarus

<p>Measures relating to investment agreements concluded in accordance with Presidential Decree No.175 of April 4, 2009 On Measures to Develop the Manufacture of Passenger Cars and the Decision No.130 of the Commission of the Customs Union of November 27, 2009 On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation*</p>	<p>up to December 31, 2020, unless otherwise provided for by the protocol of accession of the Republic of Belarus to the World Trade Organisation</p>
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II. The Republic of Kazakhstan

<p>1. Interest rate subsidies on bank loans in export-oriented industries in accordance with Resolution No.301 of the Government of the Republic of Kazakhstan of April 13, 2010 On approval of the Programme “Business Road Map 2020”,</p>	<p>up to July 1, 2016, for loans issued by lending institutions before July 1, 2011</p>
<p>2. Exemption of goods deemed to originate in the Republic of Kazakhstan based on the sufficient processing criteria from customs duties and taxes when exported from the territory of a free warehouse to the rest of the customs territory of the Customs Union in accordance with Code No.99-I of the Republic of Kazakhstan of December 10, 2008 On Taxes and Other Obligatory Payments to the Budget (the Tax Code), Resolution No.1647 of</p>	<p>up to January 1, 2017</p>

Measure	Transitional period for the measure
<p>the Government of the Republic of Kazakhstan of October 22, 2009 On Approval of the Rules of Origin, Compilation and Issuance of the Certificate of Examination of Origin and Compilation, Certification and Issuance of the Certificate of Origin, and the Agreement on Free Warehouses and the Customs Procedure of a Free Warehouse of June 18, 2010</p>	
<p>3. Exemption of goods deemed to originate in the Republic of Kazakhstan based on the sufficient processing criteria from customs duties and taxes when exported from the territory of special economic zones into the rest of the customs territory of the Customs Union in accordance with the Agreement on Free (Special) Economic Zones on the Customs Territory of the Customs Union and the Customs Procedure of a Free Customs Zone of June 18, 2010, Law No.469-IV of the Republic of Kazakhstan of July 21, 2011, On Special Economic Zones in the Republic of Kazakhstan, and Resolution No.1647 of the Government of the Republic of Kazakhstan of October 22, 2009, On Approval of the Rules of Origin, Compilation and Issuance of the Certificate of Examination of Origin and Compilation, Certification and Issuance of the Certificate of Origin</p>	<p>up to January 1, 2017</p>
<p>4. Measures in respect of investment agreements concluded in accordance with Order No.113 of the Ministry of Industry and Trade of the Republic of Kazakhstan of June 11, 2010 On certain issues of conclusion, terms and the standard form of the Agreement on industrial assembly of motor vehicles with juridical persons that are residents of the Republic of Kazakhstan, and Decision No.130 of the Commission of the Customs Union of November 27, 2009 On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of</p>	<p>up to December 31, 2020, unless otherwise provided for by the protocol of accession of the Republic of Kazakhstan to the World Trade Organisation</p>

Measure	Transitional period for the measure
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Kazakhstan and the Russian Federation\*

5. The local content in subsoil use contracts between the Government of the Republic of Kazakhstan and a subsoil user concluded before 1 January 2015 pursuant to Law No.291-IV of the Republic of Kazakhstan of June 24, 2010, On Subsoil and Subsoil Use

up to January 1, 2023, unless otherwise provided for by the protocol of accession of the Republic of Kazakhstan to the World Trade Organisation

6. The local content in procurement made by Samruk-Kazyna National Welfare Fund (NWF) and organisations, in which 50 percent or more of the voting shares (participation interests) are directly or indirectly owned by Samruk-Kazyna, as well as companies directly or indirectly owned by the state (with the state share amounting to 50 percent or more), in accordance with Law No.550-IV of the Republic of Kazakhstan of February 1, 2012 On the National Welfare Fund, and Resolution No.787 of the Government of the Republic of Kazakhstan of May 28, 2009, On Approval of Model Regulations on procurement of goods, works and services provided by the national management holding, national holdings, national companies and organisations in which fifty and more percent of shares (participation interests) or more are directly or indirectly owned by the national management holding, national holdings or national companies.

up to January 1, 2016, unless otherwise provided for by the protocol of accession of the Republic of Kazakhstan to the World Trade Organisation

### III. The Russian Federation

1. Measures regarding investment agreements concluded before February 28, 2011, including provisions of Presidential Decree No.135 of the Russian Federation of February 5, 1998, On Additional Measures to Attract Investment for the Development of the Domestic Automotive Industry, Resolution No.166 of the Government of the Russian Federation of March 29, 2005, On Amendments to the Customs Tariff of the Russian Federation in respect of Automotive Components Imported for Industrial Assembly, Decision No.130 of

the transitional period shall correspond to the term of the agreements specified at their signature and may be extended for a period provided for by the Protocol of December 16, 2011 on Accession of the Russian Federation to the Marrakesh Agreement Establishing the World Trade Organisation of April 15, 1994, but may not exceed 2 calendar years

Measure	Transitional period for the measure
<p>the Commission of the Customs Union of November 27, 2009 On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation*</p>	
<p>2. Measures applied in accordance with Federal Law No.16-FZ of January 10, 2006 On the Special Economic Zone in the Kaliningrad Region and on Amendments to Certain Legislative Acts of the Russian Federation</p>	<p>up to April 1, 2016</p>

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\*To be applied subject to the conditions for the application of concept of 'industrial assembly of motor vehicles' approved by the Supreme Council on the territories of the Member States.

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ANNEX 29  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Agricultural State Support Measures**

1. This Protocol has been developed in accordance with Articles 94 and 95 of the Treaty on the Eurasian Economic Union and shall apply to the goods specified in section II of this Protocol (hereinafter “agricultural goods”).

2. The terms used in this Protocol shall have the following meanings:

“administrative-territorial entities” means administrative-territorial entities and regions of the Republic of Belarus and the Republic of Kazakhstan (including the cities of Minsk, Astana and Almaty), constituent entities and municipalities of the Russian Federation;

“state support for agriculture” means financial contribution provided by the government or other state or local authority of a Member State in the interests of manufacturers of agricultural goods, either directly or through their authorised agent;

“subsidising authority” means one or more state or local authorities of the Member State adopting decisions on the provision of state support for agriculture; In accordance with the legislation of a Member State, its subsidising authority may designate or instruct an authorised agent (any organisation) to perform one or more of its functions relating to the provision of measures of state support for agriculture. Actions of such authorised agent (any organisation) shall be regarded as actions of the subsidising authority.



Acts of the head of a Member State aimed at the provision of measures of state support for agriculture shall be regarded as actions of its subsidising authority.

### I. Measures of State Support for Agriculture

3. Measures of state support for agriculture shall include:

1) measures not producing distorting effects on mutual trade in agricultural goods between the Member States (hereinafter “measures with no trade-distorting effect”);

2) measures producing the most distorting effect on mutual trade in agricultural goods between the Member States (hereinafter “measures with the most trade-distorting effect”);

3) measures producing distorting effects on mutual trade in agricultural goods between the Member States (hereinafter “measures with trade-distorting effect”).

4. Measures with no trade-distorting effect shall include the measures specified in section III of this Protocol. Measures with no trade-distorting effect may be applied by the Member States without restrictions.

5. Measures with the most trade-distorting effect shall include:

measures of state support for agriculture, the provision of which is associated as the sole or one of several conditions with the results of previous or possible future exportation of agricultural goods from the territory of the Member State providing the measure of state support to the territory of any other Member State;

measures of state support for agriculture, the provision of which is associated as the sole or one of several conditions to the acquisition or use of

agricultural goods originating exclusively from the territory of the Member State providing this measure of state support in the manufacture of agricultural goods on the territory of that Member State, regardless of indication of specific goods, their amounts, value, proportion of the amount or value of the output or use of domestic goods, and the level of localisation of production of domestic goods used.

A list of measures with the most trade-distorting effect is specified in Section IV of this Protocol.

6. The Member States shall not apply measures with the most trade-distorting effect.

7. Measures with trade-distorting effect shall include measures that may not be identified as the measures specified in paragraphs 4 and 5 of this Protocol.

8. The level of measures with trade-distorting effect, calculated as a percentage of the amount of state support for agriculture to the total gross value of agricultural goods manufactured, determined as the permitted amount, shall not exceed 10 percent prior to the entry into force of the obligations under the third indent of this paragraph.

The methodology for calculating the permitted level of measures with trade-distorting effect shall be developed by the Member States taking into account the international experience and approved by the Council of the Commission.

Obligations of the Member States regarding measures with trade-distorting effect shall be determined in accordance with the above methodology and approved by the Supreme Council.

The provisions of this paragraph shall be applied taking into account the transitional provisions provided for by Article 106 of the Treaty on the Eurasian Economic Union.

9. Upon accession of a Member State to the World Trade Organisation, obligations of the Member State regarding measures with trade-distorting effect undertaken as a condition for accession to the WTO shall become its obligations within the Union.

10. The amount of state support for agriculture shall be calculated in accordance with Section V of this Protocol taking into account the methodology for calculating the permitted level of measures with trade-distorting effect provided for by paragraph 8 of this Protocol.

## II. Goods Subject to Common Rules of State Support for Agriculture

11. The common rules of state support for agriculture shall apply in respect of the following goods in CN of FEA EAEU:

1) CN of FEA EAEU groups 01 - 24, except for group 03 (fish and crustaceans, molluscs and other aquatic invertebrates), items 1604 (prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs) and 1605 (prepared or preserved crustaceans, molluscs and other aquatic invertebrates);

2) CN of FEA EAEU sub-item 2905 43 000 0 (mannitol);

3) CN of FEA EAEU sub-item 2905 44 (D-glucitol (sorbitol));

4) CN of FEA EAEU item 3301 (essential oils (with or without terpenes), including concretes and absolutes; resinoids; extracted essential oils; concentrates of essential oils in fats, fixed oils, waxes or similar products obtained by enfleurage or maceration; terpenic by-products of

deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils);

5) CN of FEA EAEU items 3501 - 3505 (casein, caseinates and other casein derivatives; casein glues; albumins (including concentrates of two or more whey proteins containing over 80 wt. percent of whey protein based on dry matter), albuminates and other albumin derivatives; gelatin (including rectangular (including square) sheets, surface treated or untreated, coloured or uncoloured) and gelatin derivatives; fish glue; other glues of animal origin (excluding casein glues included in item 3501); peptones and their derivatives; other protein substances and their derivatives not specified or included elsewhere; hide or offal powder, chromed or non-chromed; dextrans and other modified starches (e.g., pregelatinised or esterified starches); glues based on starches or dextrans or other modified starches), except sub-items 3503 00 800 1 (dry fish glue) and 3503 00 800 2 (liquid fish glue));

6) CN of FEA EAEU sub-item 3809 10 (finishing agents, substances to accelerate dyeing or fix dyestuffs and other products and preparations (e.g., dressings and mordants) used in the textile, paper, leather or similar industries, not specified or included elsewhere, based on starchy substances);

7) CN of FEA EAEU sub-item 3824 60 (sorbitol, except sorbitol in sub-item 2905 44);

8) CN of FEA EAEU items 4101 - 4103 (raw hides of cattle (including buffalo) or equine animals (fresh, salted, dried, limed, pickled or otherwise preserved, except for tanned, parchment-dressed or without additional treatment), with or without hair, double or non-double; raw skins of sheep or lambs (fresh, salted, dried, limed, pickled or otherwise preserved, except for tanned, parchment-dressed or without additional treatment), with or without

hair, double or non-double, other than those excluded by Note 1c to this group; other raw hides and skins (fresh, salted, dried, limed, pickled or otherwise preserved, except for tanned, parchment-dressed or without additional treatment), with or without hair, double or non-double, other than those excluded by Note 1b or 1c to this group);

9) CN of FEA EAEU item 4301 (raw furskins (including heads, tails, paws and other pieces or cuttings suitable for the manufacture of fur products), other than raw hides and skins specified in CN of FEA EAEU items 4101, 4102 or 4103);

10) CN of FEA EAEU items 5001 00 000 0 - 5003 00 000 0 (silk cocoons suitable for reeling; raw silk (untwisted); silk waste (including cocoons unsuitable for reeling, waste cocoon filament and loose raw material));

11) CN of FEA EAEU items 5101 - 5103 (wool, not carded or combed; animal hair, fine or coarse, not carded or combed; waste wool, of fine or coarse animal hair, including yarn waste, but excluding garnetted raw materials);

12) CN of FEA EAEU items 5201 00 - 5203 00 000 0 (cotton, not carded or combed; cotton waste (including yarn waste and garnetted raw materials); cotton fibre, carded or combed);

13) CN of FEA EAEU item 5301 (raw flax or linen processed, but not spun; flax tow and waste (including yarn waste and garnetted raw materials));

14) CN of FEA EAEU item 5302 (hemp (*cannabis sativa* L.), raw or processed, but not spun; hemp tow and waste (including yarn waste and garnetted raw materials)).

### III. Measures with no Trade-Distorting Effect

12. Measures with no trade-distorting effect implemented in the interests of manufacturers of agricultural goods (hereinafter “the manufacturers”) shall meet the following basic criteria:

1) the support shall be provided from the budget (unclaimed revenues), including under state programmes, but not at the expense of consumers' funds. Unclaimed revenues shall refer to the amount of mandatory payments rejected by the Member State permanently or temporarily;

2) the support shall not result in the maintenance of manufacturers' prices.

13. In addition to the criteria specified in paragraph 12 of this Protocol, measures with no trade-distorting effect shall meet the specific criteria and conditions stipulated in paragraphs 14 to 26 of this Protocol.

14. State programmes for the provision of general services shall provide for allocation of budget funding (the use of unclaimed revenues) for the provision of services or benefits to the agriculture or rural population, with the exception of direct payments to persons engaged in the manufacture or processing of agricultural goods.

15. State programmes for the provision of general services may be carried out in the following areas:

1) scientific research, including general research, in connection with environmental programmes and research programmes for specific products;

2) pest and disease control, including general measures to combat pests and diseases, as well as measures relating to a particular product, such as early warning, quarantine and elimination systems;

3) general and special staff training;

4) dissemination of information, consultancy services, including the provision of means to facilitate the transfer of information and results of research to manufacturers and consumers;

5) inspection services, including general inspection services and inspections of individual agricultural goods for the purposes of healthcare, safety, standardisation and quality sorting;

6) services for marketing and promotion of agricultural goods, including market information, consultations and promotion of specific agricultural goods (excluding the cost of non-specific tasks that may be used by sellers to reduce selling prices of agricultural goods or provide direct economic benefits to customers);

7) infrastructure services, including electricity supply, roads and other means of communication, market and port facilities, water supply, dams and drainage systems, infrastructure developments in conjunction with environmental protection programmes. In all cases, the funds shall only be allocated for equipment or construction of capital and public infrastructure facilities intended for general use, with the exception of funds allocated to cover operating costs or lost profits from servicing customers with benefits.

16. State reserves to ensure food security shall be created using funds (unclaimed revenues) budgeted for the purpose of accumulation and storage of food stocks and allocated within the programme provided for by the legislation of the Member State to ensure food security and shall meet the following requirements:

1) the amount and accumulation of state reserves to ensure food security shall comply with the predetermined targets related solely to food security;

2) the process of formation and distribution of reserves shall be financially transparent;

3) food products shall be procured at current market prices; sales from the food reserves shall be conducted at prices not lower than the current domestic market prices for particular products of appropriate quality.

17. Domestic food aid shall be provided to the part of the population in need at the expense of budget funds (unclaimed revenues).

Domestic food aid provided shall meet the following requirements:

the right to receive domestic food aid shall be determined by the legislation of the Member State;

domestic food aid shall be provided in the form of direct food supplies to interested persons or the provision of funds for the purchase of food at market or subsidised prices by these persons;

within the framework of provision of domestic food aid, food products shall be procured at current market prices; the funding and distribution of funds shall be transparent.

18. State support measures implemented in the form of direct payments to manufacturers (the use of unclaimed revenues and payments in kind) shall comply with the criteria specified in paragraph 12 of this Protocol, as well as other criteria applicable to individual types of direct payments specified in paragraphs 19 - 26 of this Protocol. Direct payments, except for those specified in paragraphs 19 - 26 of this Protocol, shall comply with the requirements specified in sub-paragraphs 2 and 3 of paragraph 19 of this Protocol, in addition to the general criteria specified in paragraph 12 of this Protocol.

19. "Unrelated" support of manufacturers' income shall meet the following requirements:



1) eligibility for payments shall be determined by the legislation of the Member State depending on the level of income, status of the manufacturer, the use of production factors or the level of output in a specific fixed base period;

2) the amount payable shall not depend on the type or volume of products (including livestock), domestic or world prices for manufactured products and production factors;

3) manufacture of products shall not be required to receive payments.

20. Financial participation of authorised state government authorities in insurance and income security programmes shall meet the following requirements:

1) eligibility for payments shall depend on the losses in income (taking into account only the income derived from agricultural activities) exceeding 30 percent of the average gross income or the equivalent in the form of net income (excluding any payments received under these or similar programmes) in the previous 3-year period or of the average value for 3 years calculated on the basis of the previous 5-year period, excluding the highest and the lowest annual rates. Any manufacturer that meets this condition shall be entitled to receive payments;

2) the amount of compensation may not exceed 70 percent of the losses in income of a manufacturer for the year in which the manufacturer is eligible to receive the support;

3) the amount payable shall not depend on the type or volume of products (including livestock), domestic or world prices for manufactured products and production factors;

4) upon receipt by a manufacturer of agricultural products of state support within 1 calendar year in accordance with this paragraph and

paragraph 21 of this Protocol, the total amount of compensation may not exceed 100 percent of the total losses of the manufacturer.

21. Support payments in cases of natural and other disasters, exercised either directly or through the financial participation of authorised state government authorities (their authorised organisations) in insurance programmes for crops and animals shall meet the following requirements:

1) eligibility for payments shall arise after the official recognition by authorised state government authorities of the actual occurrence of a natural or other disaster (including disease outbreaks, pest infestation, invasion of locusts, wildfires, droughts, floods and other severe weather events, man-made events, nuclear accidents and military operations on the territory of the Member State, etc.);

2) the amount of payments shall be determined based on the amount of production losses exceeding 30 percent of the average output in the preceding 3-year period or the average output for 3 years calculated on the basis of the previous 5-year period, excluding the highest and the lowest annual rates;

3) the payments shall be made in respect of losses of income, livestock (including payments related to veterinary services for animals), retirement of agricultural land and other production factors caused by the natural or other disaster;

4) the amount of payments shall not exceed the total amount of the loss of the manufacturer caused by the natural or other disaster, regardless of the type or quantity of future products;

5) the amount of payments shall not exceed the level required to prevent or mitigate further losses as specified in sub-paragraph 3 of this paragraph;

6) upon receipt by a manufacturer of state support within 1 calendar year in accordance with this paragraph and paragraph 20 of this Protocol, the total amount of compensation may not exceed 100 percent of the total losses of the manufacturer.

22. Fostering structural changes through programmes encouraging manufacturers to cease their activities shall provide for the following:

1) eligibility for payments shall be based on clearly defined criteria under programmes designed to facilitate the termination of activities by persons engaged in manufacture of marketable agricultural products or their relocation to other sectors of the economy;

2) payments shall depend on termination of manufacture of marketable agricultural products by the recipient of the support in full and on an ongoing basis.

23. Fostering structural changes through programmes to eliminate the use of resources shall provide for the following:

1) eligibility for payments shall be based on clearly defined criteria under programmes aimed at cessation of the use of land or other resources, including livestock, for the manufacture of agricultural goods;

2) payments shall depend on the withdrawal of land from the sphere of manufacturing of marketable agricultural products for at least 3 years and, in the case of livestock, slaughtering thereof with further refuse from breeding;

3) payments shall neither require nor specify any alternative use of land and other resources withdrawn from the sphere of manufacturing of marketable agricultural products;

4) payments shall not depend on the type and amount of output, domestic or world prices for products manufactured with the use of land or other resources remaining for production.

24. Fostering structural changes by encouraging investment shall provide for the following:

1) eligibility for payments shall be based on the clearly defined criteria under state programmes designed to assist financial or physical restructuring activities of the manufacturer due to objectively justified structural losses. Eligibility for such payments may also be based on a clearly specified state programme for the denationalisation of agricultural lands;

2) the amount of payments shall not be based and shall not depend on the type or volume of manufactured products (including livestock), except for the requirement stipulated in sub-paragraph 5 of this paragraph;

3) the amount of payments shall not be based on and shall not depend on domestic or world prices of specific goods;

4) payments shall be provided only for the period required to implement the investments for which the payments are intended;

5) when effecting the payments, it shall not be indicated or instructed to the recipient of support which agricultural goods shall be manufactured by it, except for the requirement not to manufacture a particular product;

6) the payments shall be limited to the amount required for compensation of the structural losses.

25. Payments under environmental protection programmes shall be made taking into account the following:

1) eligibility for the payments shall be conditioned by the manufacturer's participation in a state programme for the protection or conservation of the environment and shall depend on the fulfilment of specific conditions provided for by the state programme, including conditions related to production methods or materials required;

2) the amount of payments shall be limited to the extra costs or losses of income related to the implementation of the state programme.

26. Payments under regional support programmes shall be carried out taking into account the following:

1) the right to the payment shall be granted to manufacturers operating in disadvantaged regions. A disadvantaged region shall refer to an administrative and (or) economic territory as determined by the legislation of the Member State;

2) the amount payable shall not be based on and shall not depend on the type or output of agricultural goods (including livestock), but shall be related to the reduction in the output of such goods;

3) the amount of payments shall not be based on and shall not depend on domestic or world prices of specific goods;

4) the payments shall be provided only to manufacturers in the regions eligible for the support and shall be available to all manufacturers operating in such regions;

5) payments related to production factors shall be carried out on a regressive scale in excess of the threshold level for this production factor;

6) the amount of payments shall be limited to the extra costs or losses of income related to the manufacture of agricultural goods on the specified territory.

#### IV. Measures with the Most Trade-Distorting Effect

27. The following measures shall be recognised as measures with the most trade-distorting effect:

1) effecting direct payments (including payments in kind) to specific manufacturers, a group or association of manufacturers of agricultural goods, depending on the results of export of such goods;

2) sale or offer for export to the territory of another Member State of non-commercial stocks of agricultural goods at prices lower than the prices for similar goods offered to purchasers in the domestic market of the Member State;

3) effecting payments for export to the territory of another Member State of agricultural goods funded with support from the government, at the expense of state funds and other funds, including payments financed from the proceeds of levies on agricultural product or agricultural product used as the basis for the manufacture of product exported to the territory of another Member State;

4) provision of state support to reduce the cost of marketing and promotion of agricultural goods for export to the territory of another Member State (except for prevalent services for the promotion of export and consultancy services), including the costs of handling, improving product quality and other processing costs, as well as costs associated with international shipments;

5) setting domestic tariffs for transportation of agricultural goods intended for export to the territory of another Member State on more favourable terms than determined for the transportation of agricultural goods intended for domestic consumption;

6) provision of state support for agriculture depending on the inclusion of agricultural goods in the list of products intended for export to the territory of another Member State.

## V. Calculation of the Volume of State Support for Agriculture

28. When calculating the volume of state support for agriculture, the following shall be taken into account:

- 1) direct transfer of funds;
- 2) provision of performance guarantees (e.g., loan guarantees);
- 3) acquisition by the state of goods, services, securities, companies (property complexes) or a part thereof, stakes in the authorised capital of a company (including the acquisition of shares), other property, intellectual property rights, etc., at prices exceeding the market prices;
- 4) full or partial waiver of the collection of payments due to the state budget and the budgets of administrative-territorial entities (such as debt relief for payments due to the budget, etc.);
- 5) preferential or free provision of goods or services;
- 6) price support combining measures aimed at maintaining the level of market prices.

29. In case of a direct transfer of funds, the amount of state support for the agriculture shall correspond to the amount of funds provided free of charge (e.g., in the form of grants, compensations, etc.). If funds are provided on a repayment basis on more favourable terms than those in the available market (the market of bank loans, bonds, etc.), the amount of the support shall be determined as the difference between the amount that would be required to pay for the use of these funds if received in the market and the actual amount paid.

30. The amount of state support for agriculture under a provided performance guarantee shall be determined as the difference between the amount that would be payable on the basis of the tariff for the insurance risk

for a default of the corresponding obligations on the available insurance market and the amount payable for the provision of the guarantee to the subsidising authority.

Budgetary costs of performance guarantees shall be included into the state support in the amount of excess of the level calculated in accordance with the first indent of this paragraph.

The Member States shall include in the notices provided for in Section VI of this Protocol information allowing to assess the level of state support for the provision of state performance guarantees.

31. In case of acquisition by the state of goods, services, securities, companies (property complexes) or a part thereof, stakes in the authorised capital of a company (including the acquisition of shares), other property, intellectual property rights, etc., at prices exceeding the market prices, the amount of the state support for agriculture shall be calculated as the difference between the amount actually paid for the assets acquired and the amount that would be required to pay for these assets at prices prevailing in the market.

State expenditures for the acquisition of shares, increasing its equity in the authorised capital of the company, etc., meeting the conditions of normal investment practices, shall not be included in state support measures.

32. In case of a full or partial waiver of collection of payments due to the budgets of the Member States and administrative-territorial entities, the amount of state support for agriculture shall correspond to the amount of outstanding financial obligations of the manufacturer to the budget, including liabilities that might arise in the absence of such support. The amount of state support for agriculture in case of deferred fulfilment of an obligation shall be determined as the amount payable in the form of interest for the use of



borrowed funds equal to the amount of deferred liabilities, but obtained in the available credit market.

33. In case of preferential or free of charge provision of goods or services, the amount of state support for agriculture shall be calculated as the difference between the market value and the amount actually paid for the acquisition (provision) of the goods or services.

34. The amount of price support combining measures aimed at maintaining the level of market prices shall be calculated as the product of the amount of a particular type of agricultural goods in respect of which the price regulation was implemented or measures to control prices were applied by the difference between the domestic regulated price and the reference world price adjusted to the quality and the degree of processing of the goods (e.g., basic milk fat). Budget expenditures aimed at maintaining prices (for example, the costs of purchasing and storage of goods) shall not be included in the calculation of the amount of the price support.

## VI. Notices of State Support for Agriculture

35. The Member States shall notify each other and the Commission in writing of all programmes of state support for agriculture planned in the current year, at the federal or national levels, as well as at the level of administrative-territorial entities, including information on the amount and procedure for the provision of the state support for agriculture. The notice shall contain sufficient information for the authorised authorities of the Member State and the Commission to assess the amount of state support for agriculture provided by the Member States and its compliance with this Protocol. The Member States shall not subsume to a classified information

category the information on the state support for agriculture provided. The Member States shall send the notices to each other and to the Commission annually, not later than on May 1.

36. The Member States shall send to each other and to the Commission the notices specified in paragraph 35 of this Protocol, containing information on the expenditures in the federal or republican budgets broken down by sections, subsections and types of functional and departmental classifications of expenditures, as well as rules on the procedure and scope of the provision of state support for agriculture. Budget expenditures of administrative-territorial entities of the Member States shall be reflected in the notices in any other way.

37. A list of sources of information on the volumes and areas of state support for agriculture, at the federal or national levels, as well as at the level of administrative-territorial entities, shall be submitted by a Member State or an authorised authority of a Member State at the request of another Member State or the Commission.

38. Authorised authorities of the Member States shall send to each other and to the Commission notices indicating the state support for agriculture provided during the reporting year on the territory of their states before December 1 of the year following the reporting year.

39. The form of notices of the programmes of state support for agriculture planned for the current year and of the state support for agriculture provided in the reporting year shall be developed by the Commission in cooperation with the Member States and approved by the Commission.

## VII. Liabilities of the Member States

40. In case of violation of the provisions of paragraphs 6 and 8 of this Protocol by a Member State, the Member State shall, within a reasonable time, cease the provision of measures with the most trade-distorting effect or measures with trade-distorting effect provided in excess of the permitted amount, and shall pay to other Member States a compensation equal to the amount of measures with the most trade-distorting effect or the amount of measures with trade-distorting effect exceeding the permitted amount. The procedure for payment of the compensation shall be determined by the Council of the Commission. In case of a failure by a Member State to pay the above compensation, other Member States shall be entitled to introduce response measures.

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ANNEX 30  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on Provision of Medical Treatment of**  
**Workers of the Member States and their Family Members**

1. This Protocol has been developed in accordance with Section XXVI of the Treaty on the Eurasian Economic Union and governs the provision of medical treatment to workers of the Member States and their family members.

2. The terms used in this Protocol shall have the following meanings:

"state of permanent residence" means a state of which a patient is a national;

"medical (healthcare) organisation" means a juridical person, regardless of its organisational legal form, performing medical activities as its core (statutory) activities under a license issued in accordance with the procedure determined by the legislation of a Member State, or another juridical person, regardless of its organisational legal form, performing medical activities along with its core (statutory) activities, or a natural person registered as an individual entrepreneur engaged in medical activities in accordance with the legislation of a Member State;

"medical evacuation" means transportation of a patient in order to save his/her life and preserve his/her health (including patients in life-threatening conditions who cannot be properly treated in medical (healthcare) organisations, in which they are located, and patients affected by emergencies

and natural disasters, as well as suffering from diseases posing a threat to others);

"patient" means a worker of a Member State or his/her family member receiving or seeking medical care, regardless of their diseases and condition;

"emergency medical care" means a set of medical services provided at unexpected acute diseases and conditions and exacerbation of chronic diseases without any evident signs of threat to the life of the patient;

"rescue emergency care" means a set of medical services provided for acute diseases, accidents, injuries, poisoning and other conditions that threaten the life of a patient.

3. The state of employment shall provide medical treatment to workers of the Member States and members of their families in accordance with the procedure and under the conditions that are determined by the legislation of the state of employment and by international treaties.

4. The Member States shall grant workers of the Member States and their family members the right to receive free emergency medical care and rescue emergency care in their territories in accordance with the same procedure and under the same conditions as to the nationals of the state of employment.

Emergency medical care and rescue emergency care shall be provided to workers of the Member States and their family members by medical (healthcare) organisations of the state and municipal healthcare systems of the state of employment free of charge, regardless of the availability of a health insurance policy.

All costs of medical (healthcare) organisations incurred in the provision of emergency medical care and rescue emergency care to workers of the Member States and their family members shall be reimbursed from the

relevant budgets of the budget system of the state of employment in accordance with the effective system of healthcare funding.

5. In the event of continued treatment of a patient in a medical (healthcare) organisation of the state of employment after the elimination of the immediate threat to his/her life or the health of others, the actual costs of the services rendered shall be paid directly by the patient or from other sources not prohibited by the legislation of the state of employment according to the tariffs or negotiated prices.

6. When medical evacuation of a patient to the state of his/her permanent residence is required, the patient's health records shall be sent by the medical (healthcare) organisation to the embassy and (or) the authorised authority (organisation) of the state of permanent residence.

The possibility of a patient's medical evacuation and the procedure of the medical evacuation shall be determined in accordance with the legislation of the Member States. Medical evacuation shall be performed by mobile ambulance teams providing the required medical care to the patient during the transportation, including with the use of medical equipment.

Costs associated with the medical evacuation of a patient shall be reimbursed from the relevant budget of the budgetary system of the state of permanent residence in accordance with the effective system of healthcare funding or from other sources not prohibited by the legislation of the state of permanent residence.

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ANNEX 31  
to the Treaty on the Eurasian  
Economic Union

**PROTOCOL**  
**on the Functioning of the Eurasian Economic Union within the**  
**Multilateral Trading System**

Within the Union, all corresponding relations shall be governed by the Treaty on the Functioning of the Customs Union within the Multilateral Trading System of May 19, 2011.

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**REGULATION**  
**on Social Guarantees, Privileges and Immunities within the**  
**Eurasian Economic Union**

I. General provisions

1. The terms used in this Regulation shall have the following meanings:

"host state" means a Member State of location of a Body of the Union;

"premises of the Bodies of the Union" means buildings or parts of buildings used for official purposes as well as for the residence of members of the Board of the Commission, judges of the Court of the Union, officials and employees;

"representatives of the Member States" means heads and members of delegations sent by the Member States to the meetings of the Bodies of the Union and events held within the Union;

"social security (social insurance)" means compulsory insurance against temporary disability and maternity insurance, compulsory insurance against occupational accidents and diseases and compulsory health insurance;

"family members of members of the Board of the Commission, judges of the Court of the Union, and officials" means spouses, minor children and dependent persons residing permanently with members of the Board of the Commission, judges of the Court of the Union, and officials;

"family members of employees" means spouses and minor children residing permanently with employees.



2. Members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be international public servants. When exercising their powers (in the performance of official (service) duties), they shall not seek or receive instructions from state government authorities or officials of the Member States, as well as from authorities of any states that are not members of the Union. They shall refrain from any action incompatible with their status of international public servants.

3. Each Member State shall be obliged to strictly respect the international nature of powers of members of the Board of the Commission, judges of the Court of the Union, officials and employees, and shall not influence them in the performance of their service duties.

## II. Privileges and Immunities of the Union

4. The property and assets of the Bodies of the Union shall enjoy immunity against any form of administrative or judicial intervention, except in cases when the Union waives its immunity.

5. Premises of the Bodies of the Union, as well as its archives and documents, including official correspondence, regardless of their location, shall be immune against searches, requisitions, confiscations or any other form of intervention preventing the normal functioning of these Bodies.

6. Representatives of relevant state government and administration authorities of the host state may not enter the premises of the Bodies of the Union except with the consent of the Chairman of the Board of the Commission, the Chairman of the Court of the Union or their representatives and on the conditions approved by them, except in the case of fire or other circumstances requiring immediate protection measures.

7. Any actions performed by decision of the relevant state government and administration authorities of the host state may be enforced in the premises of the Bodies of the Union only with the consent of the Chairman of the Board of the Commission, the Chairman of the Court of the Union or their substitutes.

8. Premises of the Bodies of the Union may not serve as a refuge for persons persecuted under the laws of any Member State or persons to be released to a Member State or any state that is not a member of the Union.

9. The inviolability of the premises of the Bodies of the Union shall not allow their use for any purposes incompatible with the functions and tasks of the Union or detrimental to the security and interests of natural persons or juridical persons of the Member States.

10. The host state shall take appropriate measures to protect the premises of the Union against any intervention or damage.

11. The Bodies of the Union shall be exempt from taxes, duties, fees and other charges collected in the host state, except for payments for specific services and payments (deductions and contributions) payable under paragraphs 44 and 45 of this Regulation.

12. Objects and other property intended for official use by the Bodies of the Union shall be exempt from customs duties, taxes and customs fees on the territories of the Member States.

13. With regard to their official means of communications, the Bodies of the Union shall apply conditions not less favourable than those provided by the host state to diplomatic missions.

14. The Bodies of the Union may place the flag, emblem or any other symbol of the Union on the premises occupied by them and their vehicles.

15. Subject to compliance with the legislation of the Member States, the Bodies of the Union may, in accordance with their purposes and functions, publish and distribute printed materials the publication of which is provided for by international treaties and acts constituting the law of the Union.

16. The host state shall assist the Union in purchasing or obtaining the premises required for the implementation by the Bodies of the Union of their functions.

17. The Union shall cooperate with the relevant state government and administration authorities of the Member States in order to ensure proper administration of justice and compliance with the directions of law enforcement agencies, as well as to prevent any abuse of the privileges and immunities provided for by this Regulation.

### III. Privileges and Immunities of Members of the Board of the Commission, Judges of the Court of the Union, Officials and Employees

18. Members of the Board of the Commission and judges of the Court of the Union, if they are not nationals of the host state, shall enjoy the privileges and immunities to the extent provided for by the Vienna Convention on Diplomatic Relations of April 18, 1961 for a diplomatic agent.

This immunities shall not extend to the following cases:

property claims relating to private immovable property located on the territory of the host state;

claims relating to succession, when a member of the Board of the Commission, a judge of the Court of the Union or a family member acts as a

testamentary executor, a trustee for the inherited property, an heir or a legatee as a private person and not on behalf of a Body of the Union;

claims relating to professional activities extending beyond the powers provided for by the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”).

The provisions of sub-paragraph 1 of paragraph 19 of this Regulation shall apply to members of the Board of the Commission and judges of the Court of the Union, who are nationals of the host state.

Family members of members of the Board of the Commission and judges of the Court of the Union residing with them, if these family members are not nationals of the host state, shall be subject to the provisions of sub-paragraphs 3 to 5 of paragraph 19 of this Regulation.

Family members of members of the Board of the Commission and judges of the Court of the Union, if they are nationals of the host state and (or) permanently reside in its territory, shall not enjoy the immunity against civil jurisdiction of the host state under claims for damages in connection with a traffic accident caused by a vehicle belonging to or driven by such a family member.

19. Officials shall:

1) not be subject to criminal, civil and administrative liability for words spoken or written by them and all actions performed by them in their official capacity;

2) be exempt from taxation of salaries and other remuneration paid by the Bodies of the Union;

3) be exempt from national service obligations;

4) be exempt from the restrictions on entry to and departure from the host state, from registration as aliens and from obtaining temporary residence permits;

5) enjoy the same repatriation privileges as diplomatic envoys in the time of an international crisis.

20. Officials, if they are nationals of the host state and (or) permanently reside in its territory, shall not be subject to the provisions of sub-paragraphs 2 to 5 paragraph 19 of this Regulation.

21. Family members of officials residing with them, if they are not nationals of the host state and (or) do not permanently reside in its territory, shall be subject to the provisions of sub-paragraphs 3 to 5 paragraph 19 of this Regulation.

22. Accreditation of members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be governed by international treaties on the conditions of stay of the Bodies of the Union on the territory of the host state.

23. Members of the Board of the Commission, judges of the Court of the Union, officials and employees shall not engage in any entrepreneurial or other business activities for their personal benefit or the benefit of other persons, except for scientific, artistic and teaching activities.

Any income generated from such scientific, artistic or teaching activities shall be taxable in accordance with international treaties and the legislation of the host state.

24. Members of the Board of the Commission, judges of the Court of the Union, officials and their family members shall comply with the legislation of the host state relating to insurance against damage that may be caused to third persons in connection with the use of a vehicle.

25. Employees shall not be subject to the jurisdiction of any judicial or administrative authorities of the host state in respect of actions committed as part of the direct performance of their service duties, except in cases of filing:

- 1) claims for damages in connection with a traffic accident caused by a vehicle belonging to or driven by an employee;
- 2) claims for death or personal injury caused by actions of employees.

26. Employees shall be exempt from the restrictions on entry to and departure from the host state, from registration as aliens and from obtaining temporary residence permits.

27. The provisions of paragraphs 25 and 26 of this Regulation shall not apply to the relations between employees and state government and administration authorities of the Member State of their nationality.

28. Privileges and immunities enjoyed by members of the Board of the Commission, judges of the Court of the Union, officials and employees shall not be provided for their personal benefit, but for the efficient and independent exercise of their powers (performance of official (service) duties) in the interests of the Union.

29. Members of the Board of the Commission, judges of the Court of the Union, officials, employees and their family members shall enjoy the privileges and immunities provided for by this Regulation from the time of their entry into the territory of the host state, on the way to their destination, or, if they are already on the territory of the host state, from the time of assumption by members of the Board of the Commission, judges of the Court of the Union, officials and employees of their powers (official (service) duties).

30. Upon termination of the powers (performance of official (service) duties) of members of the Board of the Commission, judges of the Court of

the Union, officials or employees, their privileges and immunities, as well as privileges and immunities of their family members residing with them, shall normally cease at the time of the departure of such persons from the host state or within a reasonable time allocated to depart from the host state, whichever occurs first. Privileges and immunities of family members shall terminate if they cease to be family members of members of the Board of the Commission, judges of the Court of the Union, officials or employees. In this case, if such persons intend to leave the host state within a reasonable time, their privileges and immunities shall remain valid until the time of their departure.

31. In case of death of a member of the Board of the Commission, judge of the Court of the Union, an official or an employee, members of their families having resided with them shall continue to enjoy their privileges and immunities until the time of their departure from the host state or until the expiration of a reasonable time allocated to depart from the host state, whichever comes first.

32. Criminal, civil and administrative jurisdictional immunities of a member of the Board of the Commission, a judge of the Court of the Union or an official in respect of words spoken or written in the framework of their functions and all actions performed in their official capacities shall remain valid after the termination of their powers. This paragraph shall apply without prejudice to cases of liability of members of the Board of the Commission, judges of the Court of the Union or officials provided for by the Treaty or the international treaties within the Union.

33. All persons enjoying privileges and immunities in accordance with this Regulation shall, without prejudice to their privileges and immunities,

respect the legislation of the host state. They shall also not be entitled to interfere with internal affairs of such host state.

34. A member of the Board of the Commission, a judge of the Court of the Union, an official or an employee may be deprived of immunity, if such immunity prevents the administration of justice and the lifting of such immunity does not prejudice the purposes for which it was granted.

35. Immunity may be lifted:

1) in respect of a member of the Board of the Commission and a judge of the Court of the Union, by the Supreme Council;

2) in respect of officials and employees of the Commission, by the Council of the Commission;

3) in respect of officials and employees of the Court of the Union, by the Chairman of the Court of the Union.

36. A waiver of immunity shall be executed in writing and shall be specifically expressed.

#### IV. Privileges and Immunities of Representative of the Member States

37. In the exercise of their official functions and when travelling to the location of events organised by the Bodies of the Union on the territories of the Member States, representatives of the Member States shall enjoy the following privileges and immunities:

1) immunity from personal arrest or detention and from the jurisdiction of judicial and administrative authorities in respect of all actions that may be committed by them in that capacity;

2) inviolability of dwelling;



3) exemption of accompanied luggage and hand luggage from customs inspections, unless there are serious grounds to believe that they contain articles and other property not intended for official or personal use, or objects and other property the import or export of which is prohibited or restricted by the legislation of the Member State hosting the event;

4) exemption from the restrictions on entry to and exit from the host state and from registration as aliens and from obtaining temporary residence permits.

38. The provisions of paragraph 37 of this Regulation shall not apply to relations between a representative of a Member State and authorities of the Member State of current or previous nationality of such representative.

39. The privileges and immunities enjoyed by representatives of the Member States shall not be provided for their personal benefit but for the efficient and independent exercise of their official functions in the interests of their Member State.

40. Premises occupied by representatives of the Member States, all furnishings and other property, as well as vehicles used by such representatives for official business, shall be immune from search, requisition, arrest or any enforcement process.

41. Archives and documents of the Member States shall be inviolable at any time and regardless of the media used and of their location.

42. If it is not inconsistent with the laws and regulations concerning zones of prohibited or restricted entry for reasons of national security, the host state shall provide all representatives of the Member States freedom of movement and travel throughout its territory to the extent required for the performance of their official functions.

## V. Labour Relations and Social Guarantees in the Bodies of the Union

43. Labour relations of members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be governed by the legislation of the host state, taking into account the provisions of this Regulation.

44. Pension benefits of members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be governed by the legislation of the Member State of their nationality.

Mandatory pension contributions of members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be made by the Bodies of the Union, without any deductions from their salaries, from the Budget of the Union to the pension funds of the Member States of their nationality, in accordance with the procedure and in the amounts determined by the legislation the respective Member States. Pensions to members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be paid by the Member State of their nationality.

45. Social security (social insurance), except for pension insurance, and social insurance benefits for members of the Board of the Commission, judges of the Court of the Union, officials and employees shall be provided in accordance with the legislation of the host state under the same conditions and in accordance with the same procedure as applied to all nationals of the host state.

Social security (social insurance) contributions, except for pension insurance contributions, from payments to members of the Board of the Commission, judges of the Court of the Union, officials and employees shall

be paid from the Budget of the Union in accordance with the procedure determined by the legislation of the host state.

Social security (social insurance) benefits shall be paid by the host state without mutual settlements with other Member States.

46. For the purposes of determining pensions or social security (social insurance) benefits, the length of pensionable service or seniority shall include the period of service as a member of the Board of the Commission, judge of the Court of the Union, official or employee in accordance with the legislation of the Member State of their nationality.

The period of service as a member of the Board of the Commission, judge of the Court of the Union, official or employee shall be included in the length of pensionable service or seniority when determining their pensions in accordance with the legislation of the Member State of their nationality and in accordance with the legislation of the host state when determining social security (social insurance) benefits.

47. Earnings received by members of the Board of the Commission, judges of the Court of the Union, officials and employees during the period of their office shall be taken into account when determining the amounts of their pensions in accordance with the legislation of the Member State of their nationality, and in accordance with the legislation of the host state when determining the amounts of social security (social insurance) benefits.

48. During the period of their office, members of the Board of the Commission and judges of the Court of the Union shall be provided with the following social guarantees:

- 1) a paid annual leave of 45 calendar days;
- 2) medical care, including for family members, as well as transportation services paid from the Budget of the Union;

3) provision of the Union of official residential premises, paid from the Budget of the Union, to members of the Board of the Commission and judges of the Court of the Union (with their family members) if they do not have residential premises on the territory of the city of location of the respective Body of the Union;

4) inclusion of the period of office for a member of the Board of the Commission in the period of public (civil) service in the provision of social guarantees provided for by the legislation of the Member State of his/her nationality for public servants (federal civil servants), as well as in the period of office of a minister (federal minister) in determining for a minister (federal minister) the amount of (eligibility for) pension (social) security (monthly supplements to pensions) provided for by the legislation of the Member State of nationality of the member of the Board of the Commission;

5) inclusion of the period of office for judges of the Court of the Union in the seniority of the judge in the Member States of nationality of such judges of the Court of the Union.

49. The provision of social guarantees (including medical care and transportation services) to members of the Board of the Commission and judges of the Court of the Union shall be regulated by the competent authority of the host state.

50. Upon retirement from their office (except in cases of early termination of powers provided for by the Regulation on the Eurasian Economic Commission, members of the Board of the Commission who are nationals of the Russian Federation (Annex 1 to the Treaty)) shall be entitled to a monthly supplement to the insured old age (disability) pension. The rate of the monthly supplement to the pension shall be determined in the amounts, in accordance with the procedure and under the conditions provided for by

the legislation of the Russian Federation for federal ministers. Decisions determining monthly supplements to pensions shall be made by the head of the federal executive authority responsible for the formulation and implementation of the state policy and legal regulation in the sphere of pension provision. Monthly supplement to the pension shall be determined from the federal budget.

Upon termination of his/her powers, a judge of the Court of the Union shall be entitled to guarantees and allowances provided for by the legislation of the Member State for the Chairman of the Supreme Court of the Member State that has appointed the judge of the Court of the Union. These guarantees and allowances shall be determined for a judge of the Court of the Union in accordance with the procedure determined by the legislation of the Member State that has appointed the judge.

51. During the period of performance of their official (service) duties, officials, employees and their family members shall be provided with medical care paid from the Budget of the Union, directors of the departments of the Commission and the Head of the Secretariat of the Court of the Union shall also be provided with transportation services paid from the Budget of the Union.

52. During the period of performance of their official (service) duties, officials and employees who do not have residential premises on the territory of the city of location of the respective Body of the Union shall be provided with service residential premises (including for their family members) paid from the Budget of the Union.

53. Officials and employees of the Commission and the Court of the Union who are nationals of the Russian Federation, if they have occupied federal public (civil) service positions prior to the employment at the

Commission and the Court of the Union, have been dismissed from offices held at the Commission and the Court of the Union (except for cases of dismissal due to any wrongful actions), and having served in civil service for at least 15 years, shall be entitled to a longevity pension to be determined in accordance with the procedure provided for by the legislation of the Russian Federation for federal civil servants, if immediately prior to their dismissal from the Commission and the Court of the Union they have occupied their positions for at least 12 months. Recommendations (decisions) determining the longevity pension shall be made by the head of the federal executive authority responsible for the formulation and implementation of the state policy and legal regulation in the sphere of pension provision upon recommendation of the Chairman of the Board of the Commission and the Chairman of the Court of the Union.

The amounts of longevity pensions shall be calculated on the basis of the average monthly salary of an official or employee, the maximum amount of which shall be determined with respect to the basic salaries (monetary remuneration) determined for civil service positions of equal status according to the list of correspondence of positions of officials and employees of the Commission and the Court to the federal civil service positions at the Office of the Government of the Russian Federation and the administration of the Supreme Court of the Russian Federation, as approved by the Government of the Russian Federation.

Longevity pension, under the legislation of the Russian Federation, shall be paid from the federal budget.

54. The period of employment of officials and employees of the Commission and the Court of the Union shall be included in the duration of their public (civil) service in the Member State of their nationality for the

purposes of determining social guarantees for the period of public (civil) service and for granting longevity pension of public servants (federal civil servants).

55. The procedure for the provision of medical care and transportation service to members of the Board of the Commission, judges of the Court of the Union, officials and employees, as well as their family members, shall be determined by the Intergovernmental Council.

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**PROTOCOL**  
**on the Termination of the International Treaties Concluded within**  
**the Formation of the Customs Union and the Common Economic**  
**Space in Connection with the Entry into Force of the Treaty on the**  
**Eurasian Economic Union**

In connection with the entry into force of the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”) the following international treaties concluded within the establishment of the Customs Union and the Common Economic Space shall cease to be effective.

I. International treaties terminating as of the effective date of the Treaty

1. Treaty on the Establishment of a Common Customs Territory and the Formation of the Customs Union of October 6, 2007.

2. Protocol on the Procedure for Bringing into Force International Treaties Aimed at Formation of the Legal Framework of the Customs Union, Withdrawal from and Accession to Such Treaties of October 6, 2007.

3. Agreement on Customs Statistics of Foreign and Mutual Trade in Goods of the Customs Union of January 25, 2008.

4. Agreement on Common Customs and Tariff Regulation of January 25, 2008.

5. Agreement on Common Non-Tariff Regulatory Measures in Relation to Third Countries of January 25, 2008



6. Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures in Relation to Third Countries of January 25, 2008.

7. Agreement on the Principles of Collection of Indirect Taxes on the Export and Import of Goods, Performance of Works and Provision of Services in the Customs Union of January 25, 2008.

8. Protocol on Granting Tariff Exemptions of December 12, 2008.

9. Protocol on Ensuring Uniform Application of Rules for Determining the Customs Value of Goods Moved Across the Customs Border of the Customs Union of December 12, 2008.

10. Protocol on the Exchange of Information Required to Determine and Control the Customs Value of Goods Between the Customs Authorities of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of December 12, 2008.

11. Protocol on the Conditions and Procedure for the Application in Exceptional Cases of Import Customs Duties Different from the Rates of the Common Customs Tariff of December 12, 2008.

12. Agreement on the Types of Customs Procedures and Customs Regimes of December 12, 2008.

13. Agreement on the Procedure for Declaring the Customs Value of Goods Moved across the Customs Border of the Customs Union of December 12, 2008.

14. Agreement on the Procedure for Declaring Goods of December 12, 2008.

15. Agreement on the Procedure for Calculation and Payment of Customs Duties in the Member States of the Customs Union of December 12, 2008.

16. Agreement on the Procedure for Exercising Control over Correct Determination of the Customs Value of Goods Moved across the Customs Border of the Customs Union of December 12, 2008.

17. Agreement on the Procedure for Customs Clearance and Customs Control in the Participating States of the Customs Union of December 12, 2008.

18. Agreement on the Secretariat of the Commission of the Customs Union of December 12, 2008.

19. Agreement on the Conditions and Mechanism of Application of Tariff Quotas of December 12, 2008.

20. Agreement on the Procedure for Introduction and Application of Measures Affecting Foreign Trade in Goods on the Common Customs Territory with Regard to Third Countries of June 9, 2009.

21. Agreement on Licensing Rules in the Sphere of Foreign Trade in Goods of June 9, 2009.

22. Protocol on the Procedure for Collection of Indirect Taxes and the Mechanism of Control over their Payment in Export and Import of Goods in the Customs Union of December 11, 2009.

23. Protocol on the Procedure for Collection of Indirect Taxes in Performance of Works and Provision of Services in the Customs Union of December 11, 2009.

24. Protocol on the Procedure for Transfer of Statistics on Foreign Trade and Statistics on Mutual Trade of December 11, 2009.

25. Protocol on the Status of the Centre of Customs Statistics of the Commission of the Customs Union of December 11, 2009.

26. Agreement on Mutual Recognition of Accreditation of Certification (Conformity Assessment (Confirmation)) Authorities and Testing

Laboratories (Centres) Performing Assessment (Confirmation) Activities of December 11, 2009.

27. Agreement on Circulation of Products Subject to Mandatory Conformity Assessment (Confirmation) on the Customs Territory of the Customs Union of December 11, 2009.

28. Agreement of the Customs Union on Veterinary-Sanitary Measures of December 11, 2009.

29. Agreement of the Customs Union on Plant Quarantine of December 11, 2009.

30. Agreement of the Customs Union on Sanitary Measures of December 11, 2009.

31. Protocol of December 11, 2009 on Amendments to the Agreement on the Principles of Indirect Taxation in Export and Import of Goods, Performance of Works and Provision of Services in the Customs Union of January 25, 2008.

32. Agreement on Determination and Application in the Customs Union of the Procedure for Transferring and Distributing Import Customs Duties (other Duties, Taxes and Fees Having Equivalent Effect) of May 20, 2010.

33. Protocol of May 21, 2010 on the Amendments to the Agreement of the Customs Union on Plant Quarantine of December 11, 2009.

34. Protocol of May 21, 2010 on the Amendments to the Agreement of the Customs Union on Veterinary-Sanitary Measures of December 11, 2009.

35. Protocol of May 21, 2010 on the Amendments to the Agreement of the Customs Union on Sanitary Measures of December 11, 2009.

36. Protocol on Certain Temporary Exceptions from the Regime of Functioning of the Common Customs Territory of the Customs Union of July 5, 2010.

37. Agreement on Application of Information Technology in the Exchange of Electronic Documents in Foreign and Mutual Trade on the Common Customs Territory of the Customs Union of September 21, 2010.

38. Agreement on Establishment, Functioning and Development of an Integrated Information System of Foreign and Mutual Trade of the Customs Union of September 21, 2010.

39. Agreement on the Common Principles and Rules of Technical Regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of November 18, 2010.

40. Protocol on the Procedure for the Submission of Information Containing Confidential Information to the Investigating Authority for the Purposes of Investigation, prior to the Introduction of Safeguard, Anti-dumping and Countervailing Measures in Relation to Third Countries of November 19, 2010.

41. Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures in the Transitional Period of November 19, 2010.

42. Agreement on the Legal Status of Migrant Workers and their Family Members of November 19, 2010.

43. Agreement on the Access to Services of Natural Monopoly Entities in the Sphere of Electric Power, including Pricing and Tariff Policy Framework of November 19, 2010.

44. Agreement on State (Municipal) Procurement of December 9, 2010.

45. Agreement on the Common Rules of State Support for Agriculture of December 9, 2010.

46. Agreement on the Common Rules for the Provision of Industrial Subsidies of December 9, 2010.

47. Agreement on the Common Principles and Rules of Competition of December 9, 2010.

48. Agreement on the Common Principles and Rules of Regulation of the Activities of Natural Monopoly Entities of December 9, 2010.

49. Agreement on the Common Principles of Regulation in the Sphere of Protection and Enforcement of Intellectual Property Rights of December 9, 2010.

50. Agreement on the Procedure of Organisation, Management, Functioning and Development of Common Markets of Oil and Petroleum Products in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of December 9, 2010.

51. Agreement on the Access Rules for Services of Natural Monopoly Entities in the Sphere of Gas Transportation via Gas Transportation Systems, including Pricing and Tariff Policy Framework of December 9, 2010.

52. Agreement on Regulation of Access to Rail Transport Services, including Tariff Policy Framework of December 9, 2010.

53. Agreement on Agreed Macroeconomic Policy of December 9, 2010.

54. Agreement on Agreed Principles of Monetary Policy of December 9, 2010.

55. Agreement on Establishment of Conditions in the Financial Markets to Ensure Free Movement of Capital of December 9, 2010.

56. Agreement on Trade in Services and Investment in the Member States of the Common Economic Space of December 9, 2010.

57. Agreement on Implementation of Transport (Road) Control at the External Border of the Customs Union of June 22, 2011.

58. Protocol of October 18, 2011 on Introduction of Amendments and Additions to the Agreement on the Application of Safeguard, Anti-Dumping

and Countervailing Measures in Relation to Third Countries of January 25, 2008.

59. Protocol on the Procedure for the Exchange of Information Relating to the Payment of Import Customs Duties of October 19, 2011.

60. Treaty on the Eurasian Economic Commission of November 18, 2011.

61. Treaty on Cooperation of the Authorised Authorities of States that are Participants to the Agreement on Agreed Principles of Monetary Policy of December 9, 2010 Carrying out Currency Control of December 15, 2011.

62. Agreement on Information Exchange in the Sphere of Statistics of May 29, 2013.

63. Protocol of August 24, 2012 on Amendments to the Protocol on the Conditions and Procedure for the Application in Exceptional Cases of Import Customs Duties Different from the Rates of the Common Customs Tariff of December 12, 2008.

64. Protocol of June 21, 2013 on Amendments to the Agreement on the Conditions and Mechanism of Application of Tariff Quotas of December 12, 2008.

65. Protocol of September 25, 2013 on Amending the Agreement on the Common Customs Tariff Regulation of January 25, 2008.

## II. International treaties terminating on the effective dates of respective decisions of the Commission pursuant to Article 102 of the Treaty

1. Agreement on the Common Rules for Determining the Country of Origin of Goods of January 25, 2008.

2. Protocol on the Common System of Tariff Preferences of the Customs Union of December 12, 2008.

3. Agreement on the Rules for Determining the Origin of Goods from Developing and Least Developed Countries of December 12, 2008.

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