

FREE TRADE AGREEMENT BETWEEN THE KYRGYZ REPUBLIC AND THE RUSSIAN FEDERATION

AGREEMENT ON FREE TRADE BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KYRGYZSTAN AND THE GOVERNMENT OF THE RUSSIAN FEDERATION

The Cabinet of Ministers of the Republic of Kyrgyzstan and the Government of the Russian Federation, hereinafter referred to as the “Contracting Parties”,

Being guided by the provisions of the Agreement on Friendship, Collaboration and Mutual Aid between the Russian Federation and the Republic of Kyrgyzstan, signed on 10 June 1992,

Taking into consideration the multilateral Agreement on Collaboration in the Area of Foreign Economic Activity, as of 15 May 1992,

Considering the multilateral Agreement on the Coordination of Work on the Issues of Export Control of Raw Materials, Materials, Equipment, Technologies and Services, which can be used to create weapons of mass extermination and rocket resources for its delivery, as of 26 June 1992,

Aspiring to the development of economic trade cooperation between the Republic of Kyrgyzstan and the Russian Federation based on equality and mutual benefit,

Proceeding from the sovereign right of each Contracting Party to carry out an independent foreign economic policy and provide the execution of relevant international obligations and realization of proclaimed intentions,

Intending to assist in the creation of a single market of goods, services, capitals, and manpower,

Wishing to further the creation of conditions required for the formation of a customs union,

Hereby agreed as follows:

Article 1

1. The Contracting Parties shall not apply the customs duties, taxes and levies, which have equivalent effect, with respect to importation and exportation of goods originating in the customs territory of one of the Contracting Parties and intended for the customs territory of the other Contracting Party. The features of using a trade regime between both countries based on the agreed nomenclature of goods shall be in the form of a yearly Protocol which is integral part of this Agreement.

2. For the purposes of this Agreement and for the period it is effective, the goods originated from the territory of the Contracting Parties shall be the goods:

- (a) wholly produced on the territory of the Contracting Parties;

- (b) which were subject to processing on the territory of the Contracting Party with the use of raw materials, materials and parts originated from third countries, which changed (because of that) their belonging based on the classification of the Harmonized Commodity Description and Coding System proceeding from the first four digits;
- (c) produced with the use of raw materials, materials, and parts mentioned in paragraph (b), provided that their total cost does not exceed a fixed share of the export price for saleable goods.

The Contracting Parties will coordinate the detailed rules of goods' origin in a separate document which will be integral part of this Agreement.

Article 2

The Contracting Parties will not:

- directly or indirectly impose on goods, subject to this Agreement, domestic taxes or levies which exceed the relevant taxes or levies imposed on similar domestically produced goods or goods originated from third countries;
- with respect to importation or exportation of goods, subject to this Agreement, introduce any special restrictions or requirements which are not similarly applied to similar domestically produced goods or goods originated from third countries,
- with respect to warehousing, transshipping, storing and transporting goods originated from the other Contracting Party and with respect to payments and transfer of payments, apply rules other than those which are similarly applied with respect to its own goods or goods originated from third countries.

Article 3

1. Under this Agreement the Contracting Parties will refrain from applying quantitative restrictions or measures, equivalent with them, with respect to exportation and/or importation of goods.

2. The quantitative restrictions mentioned in paragraph 1 of this Article may be unilaterally established in reasonable limits and for a strictly appointed term in cases of:

- acute deficit of this product in the domestic market until the market situation is stabilized;
- acute deficit of balance of payments until the situation with the balance of payments is stabilized;
- carrying out measures provided by Article 4 of this Agreement.

3. The quantitative restrictions mentioned in paragraph 1 of this Article may also be established by mutual agreement of the Parties and shall be included in yearly Protocols mentioned in paragraph 1 of Article 1 hereof.

4. A Contracting Party which applies quantitative restrictions in compliance with paragraph 2 of this Article, upon inquiry of the other Contracting Party, shall provide it with necessary information concerning the reasons for the introduction, forms and possible terms of applying the mentioned restrictions.

5. The Contracting Parties will aspire to solve all questions arising in connection with the application of quantitative restrictions in compliance with paragraph 2 of this Article by way of consultations.

Article 4

Each Contracting Party will not allow re-exportation of goods with respect to exportation of which the other Contracting Party, where these goods originate from, applies measures of tariff and/or non-tariff regulation.

Re-exportation of such goods to third countries can be carried out only by written consent and on terms determined by the authorized body of the State which is the country of origin of these goods. In the event that this provision is not followed, a Contracting Party, whose national interests have been violated, shall have the right to unilaterally introduce measures for the regulation of exportation of goods to the territory of the State which allowed a non-sanctioned re-export. And currency earnings from such re-exportation shall return to the country of origin of the relevant goods.

Re-exportation shall mean that goods originated from the customs territory of one of the Contracting Parties, as defined in paragraph 2 of Article 1 hereof, are exported by the other Contracting Party outside the customs territory of the latter with the aim of exporting them to a third country.

Article 5

The Contracting Parties will, on a regular basis, exchange information on customs issues, as well as customs statistics. The relevant authorized bodies of the Contracting Parties shall coordinate a procedure of exchanging such information and shall conclude a relevant agreement.

Article 6

1. The Contracting Parties will take measures to bring together the levels of customs duty rates applied in trade with third countries. For these purposes they have agreed to conduct regular consultations.

2. The Contracting Parties shall inform each other of all exceptions to the current customs tariffs which are unilaterally applied.

Article 7

The Contracting Parties shall consider unfair business practice incompatible with the objectives of this Agreement that is in particular expressed in the following:

- in concluding agreements between enterprises, their associations aimed at impeding or restricting competition, or violating conditions for the competition on the territories of the Contracting Parties;
- in carrying out actions with the help of which one or several enterprises use their dominant position restricting competition on the whole or considerable part of the territories of the Contracting Parties.

Article 8

In carrying out measures of tariff and non-tariff regulation of bilateral economic relations, for exchanging statistical information and carrying out customs procedures, the Contracting Parties will

apply a single nine-digit Goods Nomenclature of Foreign Economic Activity (GN FEA) based on the Harmonized Commodity Description and Coding Systems and the Combined Tariff Statistical Nomenclature of the European Economic Community. And for own needs the Contracting Parties shall, if necessary, carry out the development of the Goods Nomenclature beyond nine-digits.

The Russian Party shall carry out the maintenance of a standard copy of the Goods Nomenclature through the available representative offices in the relevant international organizations for that period of time until the Kyrgyz Party announces its independent maintenance of the standard copy.

Article 9

The Contracting Parties will not use the State aid in the form of subsidies to enterprises or in any other form if such State aid would cause violation of normal economic conditions on the territory of the other Contracting Party.

Article 10

The Contracting Parties have agreed that the observance of the principle of transit freedom shall be the most important condition for achieving the objectives of this Agreement and shall be an essential element of the process of their attachment to the system of international division of labour and cooperation.

In this connection, each Contracting Party shall provide a free transit, via its territory, of goods originated in customs territory of the other Contracting Party and/or third countries and intended for the customs territory of the other Contracting Party or any third country. Each Contracting Party shall provide exporters, importers or carriers with all means and services available and necessary to provide transit on terms not worse than those on which the same means and services are provided to their own exporters, importers or carriers or to exporters, importers or carriers of any third country.

Tariffs on transit of any kind of transport including tariffs on loading and unloading works will be economically substantiated and will not exceed normal working expenses, including a reasonable rate of profit. The Contracting Parties will not require payment for services on warehousing, transshipping, storing and transporting goods in currency of any third country.

Article 11

Nothing herein must prevent a Contracting Party from taking measures which it considers necessary to protect its vital interests or which are undoubtedly necessary for the implementation of the international agreements to which it is a signatory, if these measures concern:

- information damaging interests of national defence;
- trade in weapons, ammunition and military equipment;
- investigations or production connected with needs of defence;
- deliveries of materials and equipment used in nuclear industry;
- defence of public moral and public order;
- protection of industrial or intellectual property;
- gold, silver or other precious metals and stones;
- protection of people's health, animals and plants.

Article 12

In order to carry out an agreed policy with respect to third countries in compliance with the Agreement on the Coordination of Work on the Issues of Export Control of Raw Material, Materials, Equipment, Technologies and Services, which can be used to create weapons of mass extermination and rocket means for its delivery, as of 26 June 1992, the Contracting Parties will create an Intergovernmental Coordinating Council for Export Control as part of Heads of the national state bodies of export control with the Working Office based on the Export Control Commission of the Russian Federation. The functions of the Intergovernmental Coordinating Council shall include the approval of single control lists, consideration of facts of violation of export control requirements, preparation of suggestions on introducing and cancelling sanctions, and other issues of export control.

Article 13

For the purposes of developing trade between the two countries, the Contracting Parties will render assistance in the participation in trade fairs and exhibitions held in one of the two countries.

Article 14

The provisions of this Agreement shall replace provisions of the agreements earlier concluded between the Contracting Parties to that extent to which the latter is either not compatible with the former or is identical to them. The Contracting Parties shall instruct their competent bodies to prepare and sign a relevant Protocol on this issue.

Article 15

This Agreement shall not affect actions of the Agreements concluded earlier by the Contracting Parties with third countries.

Article 16

Nothing herein shall prevent the Contracting Parties from carrying out relations, which do not contradict the objectives and terms hereof, with third countries and their associations and international organizations.

Article 17

Disputes between the Contracting Parties regarding the interpretation or application of the provisions hereof will be settled by way of negotiations.

Article 18

To carry out this Agreement and work out recommendations on improving trade economic cooperation between the two countries, the Contracting Parties have agreed to establish a joint Russian-Kyrgyz Commission.

Article 19

The Contracting Parties have agreed that the Republic of Kyrgyzstan may establish its trade representative office in the Russian Federation, and the Russian Federation may establish its trade representative office in the Republic of Kyrgyzstan. The legal status of these trade representative offices, their functions and location shall be determined by a separate Agreement.

Article 20

Any State may, provided that the Contracting Parties approve this, join this Agreement on terms and conditions which will be agreed between a joining state and the Contracting Parties.

Article 21

The Protocol on exceptions to free trade regime to be signed by the Parties within one-month period from the date of signing the Agreement shall be integral part hereof.

Article 22

This Agreement may be amended and supplemented by mutual consent of the Contracting Parties. The mentioned amendments and supplements must be in writing.

Article 23

This Agreement shall come into force from the date of exchanging notifications on the fulfilment by the Contracting Parties of all inner-governmental procedures necessary for this Agreement to come into force.

The Agreement shall be invalid upon the expiration of 12 months from the date of a written notification of one of the Contracting Parties concerning the intention to terminate the Agreement.

DONE in the city of Bishkek on 8 October 1992, in duplicate. Each is in Kyrgyz and Russian. And both texts shall be equally valid.

For the Cabinet of Ministers of the Republic of Kyrgyzstan

For the Government of the Russian Federation

ANNEX

Protocol on Exceptions to Free Trade Regime to the Agreement on Free Trade between the Cabinet of Ministers of the Republic of Kyrgyzstan and the Government of the Russian Federation, as of 8 October 1992

The Cabinet of Ministers of the Kyrgyz Republic and the Government of the Russian Federation, hereinafter referred to as the Parties, agreed as follows:

Article 1

Exceptions provided by Article 1 of the Agreement on Free Trade between the Cabinet of Ministers of the Republic of Kyrgyzstan and the Government of the Russian Federation, as of 8 October 1992, (further referred to as the Agreement on Free Trade) shall apply to:

- goods subject to the Kyrgyz legislation on export tariff/and licensing of exportation of goods (works, services) which is in force at the moment of customs clearance of goods during their exportation from the Kyrgyz Republic to the Russian Federation (at the moment of signing this Protocol the following documents are in force: the Presidential Decree of the Kyrgyz Republic “On some measures for the protection and development of private entrepreneurship”, as of 25 March 1994, and No 613 Resolution of the Cabinet of Ministers of the Kyrgyz Republic “Temporary Customs Tariff of the Kyrgyz Republic”, as of 30 December 1993);
- goods subject to the Russian legislation on export tariff and licensing and quoting of exportation of goods (works, services) which is in force at the moment of customs clearance of goods during their exportation from the Russian Federation to the Kyrgyz Republic (at the moment of signing this Protocol the following documents are in force: No 1103 Resolution of the Cabinet of Ministers - Government of the Russian Federation “On approving export customs duty rates and a schedule of goods with respect to which they are applied”, as of 30 October 1993, No 854 Resolution of the Government of the Russian Federation “On licensing and quoting of exportation and importation of goods (works, services) on the territory of the Russian Federation”, as of 6 November 1992, and No 1102 Resolution of the Cabinet of Ministers – the Government of the Russian Federation “On measures for liberalization of foreign economic activity” with further amendments).

The Parties shall immediately inform each other of all changes to domestic legislation on the aforementioned issues.

Article 2

With respect to goods to which tariff and non-tariff export restrictions are applied in compliance with Article 1 of this Protocol, the Parties shall provide the MFN treatment to each other with respect to:

- customs duties and levies charged in exportation of goods, including the methods for charging such duties and levies;
- procedures and rules relating to exportation (importation) of goods including those which relate to their customs clearance, transit, warehousing and transshipment;
- taxes and other domestic levies of any kind directly or indirectly connected with exported (imported) goods;

- rules on selling, purchasing, transporting, distributing and using goods in the domestic market;
- ways and transfer of payments.

Article 3

The provisions of Article 2 hereof shall not be applied to advantages and privileges granted by each of the Parties to:

- third countries with the purpose of creating a customs union or a free trade area, or as a result of creating such a union or such an area;
- developing countries on the basis of the international agreements.

Article 4

The Parties shall not impose export duties on goods delivered for the national needs on a mutually agreed basis in compliance with the Intergovernmental Agreement on Trade Economic Cooperation in 1994.

Article 5

This Protocol shall be integral part of the Agreement on Free Trade.

The Protocol on Exceptions to Free Trade Regime between the Republic of Kyrgyzstan and the Russian Federation, as of 26 December 1992, shall be invalid on the day when this Protocol comes into force.

Article 6

This Protocol shall come into force on the date it is signed and shall be valid until the new Protocol provided by Article 1 of the Agreement on Free Trade comes into force.

Done in the city of Moscow on 12 July 1994, in two originals. Each is in the Kyrgyz and Russian languages. And both of the texts shall be equally valid.

For the Cabinet of Ministers of the Kyrgyz Republic

For the Government of the Russian Federation
