

FREE TRADE AGREEMENT BETWEEN THE KYRGYZ REPUBLIC AND KAZAKHSTAN

AGREEMENT ON FREE TRADE BETWEEN GOVERNMENT OF THE KYRGYZ REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN

The Government of Kyrgyz Republic and the Government of the Republic of Kazakhstan,
hereinafter referred to as the Parties,

Aspiring to the development of trade and economic cooperation between the Kyrgyz Republic
and the Republic of Kazakhstan on the basis of equality and mutual benefit,

Being guided by the Agreement of the Heads' Council of the CIS States on the Creation of a
Free-Trade Area, of 15 April 1994,

Expressing the resolution to favour a harmonious development and growth of world trade and
elimination of barriers on the way of its development,

Hereby agreed as follows:

Article 1

1. The Parties shall not apply customs duties, which have equivalent effect, to exportation and/or importation of goods originating in the customs territory of one of the Parties and intended for the customs territory of the other Party. Exceptions to this trade regime according to the coordinated Goods Nomenclature shall be formulated yearly in the form of a separate Protocol.

2. For the purpose of this Agreement and the period it is effective, goods originating in the customs territories of the Parties shall be goods:

- (a) wholly produced on the territory of the Parties or;
- (b) which were subject to the processing on the territory of the Parties with the use of raw material, materials and parts which originate in third countries and the classification of which has thereby changed by at least one of the first four digits according to the HCDCS;
- (c) produced with the use of raw material, materials and parts mentioned in subparagraph "b".

Article 2

The Parties shall not:

- (a) Directly or indirectly impose on goods, subject to this Agreement, domestic taxes or levies which exceed the relevant taxes and levies imposed on similar domestically produced goods or goods originating in third countries:

- (b) introduce with respect to importation or exportation of goods, subject to this Agreement, any special restrictions and requirements which in a similar situation are not applied to similar domestically produced goods or goods originated from countries:
- (c) apply with respect to warehousing, trans-shipping, storing and transporting goods originating in the other Party, as well as payments and transfer of payments, rules other than those applied in similar cases with respect to their own goods or goods originating in third countries.

Article 3

1. Under this Agreement, in mutual trade, the Parties shall refrain from applying discriminatory measures and introducing quantitative restrictions or measures, equivalent with them, to exportation and/or importation of goods.
2. The Parties may unilaterally establish quantitative restrictions, but in reasonable limits and for a strictly defined period.
3. These restrictions must be exclusive and may be applied only in cases of an acute deficit of the products in the domestic market and acute deficit of the balance-of-payments.
4. A Party which applies quantitative restrictions in compliance with this Article must, as far as possible in advance, provide the other Party with full information concerning the basic reasons for the introduction, forms and expected terms of applying the mentioned restrictions. After that, consultations shall be scheduled.
5. The introduction of quantitative restrictions in compliance with this Article shall be in the form of a separate Protocol.

Article 4

All settlements and payments on trade and economic cooperation between business entities of the Parties shall be made in compliance with the Agreement between the authorized banks of the Parties.

Article 5

1. The Parties have agreed that the issues concerning re-exportation of goods shall be regulated by the Agreement on Re-exportation of Goods and Procedure of Granting a Permit for Re-exportation, as of 15 April, 1994.
2. If the above-mentioned Agreement is not followed, an interested Party shall, after preliminary consultations with the other Party, have the right to unilaterally introduce measures on regulating exportation of such goods to the territory of the other Party that allowed/permitted uncoordinated re-exportation.

Article 6

1. The Parties shall, on a regular basis, exchange information concerning laws and other normative (legislative) acts on the economic activity, as well as on the issues of trade, investments, taxation, banking and insurance activity, and other financial services, on transport and customs issues, including customs statistics.

2. The Parties shall in proper time inform each other of changes in the national legislation which may affect the implementation of this Agreement.

3. The authorized bodies of the Parties shall coordinate the procedure of exchanging such information.

Article 7

1. The Parties shall aspire to bring together the levels of customs duty rates applied in trade with third countries, and for these purposes they have agreed to arrange regular consultations.

2. The Parties shall inform each other of the current customs tariffs and all exceptions to them.

Article 8

1. The Parties shall acknowledge incompatibility of unfair business practice with the objectives of this Agreement and shall be obliged not to allow/permit and eliminate particularly its following methods:

- (a) Agreements between enterprises, decisions made by their associations and general methods of business practice aiming at preventing from or restricting competition or violating conditions for it on the territory of the Parties.
- (b) actions with the help of which one or several enterprises use their dominant position restricting competition on the whole or considerable part of the territory of the Parties.

Article 9

1. When carrying out measures of tariff and non-tariff regulation of bilateral economic relations, for exchanging statistical information and carrying out customs procedures, the Parties have agreed to apply a single 9-digit Goods Nomenclature of Foreign Economic Activity (GN FEA) based on the Harmonized Commodity Description and Coding System and the Combined Tariff Statistical Nomenclature of the European Economic Community. The Parties shall, for the needs of their countries, if necessary, carry out the development of a Goods Nomenclature beyond 9-digits.

2. The introduction of a standard copy of the Goods Nomenclature shall be carried out on a mutually coordinated basis through the existing representative offices in the relevant international organizations.

Article 10

1. The 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.

2. In this connection, each Party shall provide a free transit, via its territory, of goods originating in the customs territory of the other Party or third countries and intended for the customs territory of the other Party or a third country. Each Party shall provide exporters, importers or carriers, who carry out such transit, with means and services available and necessary for ensuring transit on terms, including financial ones, not worse than those on which the same means and services are provided to exporters, importers and national carriers of any third State.

3. The Parties shall not require payment for services of warehousing, trans-shipping, storing and transporting goods in currency of any third state.

Article 11

This Agreement shall not prevent either of the Parties from the right to take measures generally accepted in the international practice which the party consider necessary for fulfilling the international treaties to which it is a signatory or intends to become a signatory, if these measures concern:

- (i) information damaging interests of the national defense;
- (ii) trade in weapons, ammunition and military equipment;
- (iii) investigations or production connected with needs of defense;
- (iv) deliveries of materials and equipment to be used in nuclear industry;
- (v) defense of public moral and public order;
- (vii) protection of industrial and intellectual property;
- (viii) trade in gold, silver or other precious metals and stones;
- (ix) protection of people's life and health, fauna and flora.

Article 12

For the purposes of carrying out a coordinated policy of export control with respect to third countries, the Parties shall conduct regular consultations and take mutually coordinated measures for the creation of an effective export control system.

Article 13

The provisions of this Agreement shall replace the provisions of the agreements concluded earlier between the Parties to that extent to which the latter is either not compatible with the former or is identical to them.

Article 14

Nothing herein shall prevent the Parties from establishing relations, which do not contradict the objectives and terms hereof, with States which are not Parties hereof and with their associations and international organizations.

Article 15

1. Disputes between the Parties regarding the interpretation or application of the provisions hereof shall be settled by way of negotiations.
2. The Parties shall aspire to avoid conflict situations in mutual trade.
3. The Parties shall determine that if claims and disputes between business entities of both countries, as a result of the interpretation or fulfilment of commercial contracts or transactions, are impossible to be settled in a friendly way on the basis of consultations and negotiations, unless otherwise agreed, shall be under the exclusive competence of Arbitration Courts (permanent or "ad hoc") created on the territory of the Parties or on the territory of the third States determined by the Parties which have signed the Contract.
4. The latter may also determine the applied material right, standards and procedures, and a place for conducting the hearing of the case.
5. Each Party shall ensure that effective means on the acknowledgement and implementation of arbitration decisions be on its territory.

Article 16

To implement the objectives of this Agreement and work out recommendations on improving trade and economic cooperation between the two States, the Parties have agreed to establish a joint Kyrgyz-Kazak Commission.

Article 17

1. The Agreement shall come into force on the date of receiving a written notification on the execution by the Parties of inner-state procedures provided by their national legislation.
2. The Agreement shall be concluded for five years and shall be automatically prolonged for the following 5 year periods, if one of the Parties does not notify 6 months before, in writing, the other Party of its intention to terminate the Agreement.
3. Done in the city of Bishkek on 22 June, 1995 in two originals. They are in Kyrgyz, Kazak and Russian. All the texts shall be equally valid. In case of disagreement of the Parties on the text thereof, the Parties shall be guided by the text in Russian.

For the Government of the
the Kyrgyz Republic

For the Government of
the Republic of Kazakhstan
