

Treaty
On the Functioning of the Customs Union in the framework of the
Multilateral Trading System

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

BEING the Parties to the Customs Union they have created,

CONFIRMING THE PURSUIT of the Parties of earliest accession to the World Trade Organization, hereafter referred to as the WTO, on coordinated terms,

RECOGNIZING that membership of each of the Parties to the WTO will create favorable conditions for their deepening of their integration into the international trading system, and effective functioning of the Customs Union in compliance with rules and obligations in the framework of the WTO,

CONFIRMING the need for and benefits of unification and uniform application of the trade regimes of the Parties in respect to third countries with the view to trade development and investment promotion,

TAKING INTO ACCOUNT the universal nature of the WTO as to the composition of its membership and the scope of matters of international trade covered under its provisions,

NOTING the high demands of the WTO to its Members as to complying with the Marrakesh Agreement Establishing the World Trade Organization (hereafter referred to as the WTO Agreement), as well as the commitments undertaken by each Member,

RECOGNIZING the need to interpret the trade regimes of the Customs Union Parties consistent with the WTO Agreement,

BASING on the agreed principle approaches to the Parties' accession to the WTO,

Have agreed as follows:

Article 1

1. From the date of accession of any of the Parties to the WTO, the provisions of the WTO Agreement as set out in its Protocol of Accession, including the commitments undertaken by this Party as part of the terms of its accession to the WTO, which relate to matters that the Parties have authorized Customs Union Bodies to regulate in the framework of the Customs Union, as well as the legal relationships, regulated by the international treaties, constituting the legal framework of the Customs Union, shall become a part of the legal framework of the Customs Union. The Party which accedes to the WTO first shall notify other Parties and coordinate with them actions in respect of undertaking the commitments as a term of its accession, which require amendment to the legal framework of the Customs Union.

30 March 2011

2. From the date of accession of such a Party to the WTO, the rates of the Common Customs Tariff of the Customs Union shall not exceed the import tariff rates stipulated in the Schedule of Concessions and Commitments on Goods, which is annexed to that Party's Protocol of Accession to the WTO, unless otherwise is provided for in the WTO Agreement.

3. Upon the subsequent accession of another Party to the WTO, the commitments undertaken by that Party as part of the terms of its accession to the WTO, which relate to matters that the Parties have authorized Customs Union Bodies to regulate in the framework of the Customs Union, as well as the legal relationships, regulated by the international treaties, constituting the legal framework of the Customs Union, shall also become a part of the legal framework of the Customs Union. The Party acceding to the WTO shall notify other Parties and coordinate with them actions in respect of undertaking the commitments as a term of its accession, which require amendment to the legal framework of the Customs Union.

4. In case of divergence between the consolidated results of import tariff negotiations, achieved in the course of the accession to the WTO, the Parties concerned shall consult each other expeditiously and enter into negotiations with interested WTO Members expeditiously with a view to harmonize import tariffs rates. The Parties shall coordinate their positions and express the intention to follow the respective provisions of the WTO Agreement, that are applied in case of tariff harmonization by the customs unions. The rates of the Common Customs Tariff of the Customs Union shall not exceed the import tariff rates agreed as a result of harmonization unless otherwise is provided for in the WTO Agreement.

5. In the course of negotiations pertaining commitments on rules on matters within the competence of the Bodies of the Customs Union, each Party newly acceding to the WTO shall aspire to create such set of commitments, which relate to matters that the Parties have authorized Customs Union Bodies to regulate in the framework of the Customs Union, as well as the legal relationships, regulated by the international treaties, as well as the legal relationships, regulated by the international treaties, constituting the legal framework of the Customs Union, which would comply to the maximum extent with the commitments of the Party which become a WTO Member first. Substantial deviations from such commitments, resulting from the negotiations of the Party newly acceding to the WTO, are subject to consultations with and consent of the Parties.

6. Regardless of the provisions in paragraphs 1 and 3 of this Article, a Party which is not a Member of the WTO shall have the right to deviate from the provisions of the WTO Agreement, including the commitments undertaken by the Party which are WTO Members that are part of the legal framework of the Customs Union, to the extent that the legal framework of the Customs Union and the decisions of Customs Union Bodies are required to be adjusted pursuant to Article 2 and/or its national legal regime autonomously regulates the matter. A Party availing itself of

30 March 2011

such deviations shall notify Customs Union Commission of the nature and extent of such deviations and the Customs Union Commission shall publish such notifications. After the accession of such Party to the WTO any of the mentioned deviations shall be allowed only if it is expressly provided for by the terms of accession of such Party to the WTO.

Article 2

1. The Parties shall adopt measures to adjust the legal framework of the Customs Union and the decisions of its Bodies to comply with the WTO Agreement as set out in each Party's Protocol of Accession, including the commitments undertaken by this Party as part of the terms of its accession to the WTO. Prior to adoption of such measures the provisions of the WTO Agreement, including the commitments undertaken by the Parties as a terms of their accession to the WTO, shall prevail over respective provisions of the treaties concluded within the framework of the Customs Union and of the decisions adopted by its bodies.

2. The rights and obligations of the Parties resulting from the WTO Agreement , as set out in each Party's Protocol of Accession, including the commitments undertaken by this Party as part of the terms of its accession to the WTO, which become part of the legal framework of the Custom Union, can not be abrogated or limited by decision of the Bodies of the Customs Union, including the EurAsEC Court, or an international agreement concluded between the Parties.

3. Should certain norms of the legal framework of the Customs Union be more liberal as compared to the WTO Agreement and not in a conflict with it, the Parties ensure the application of such norms with the view of effective functioning of the Customs Union and the development of international trade.

4. When making an international treaty in the framework of the Customs Union and when Customs Union Bodies adopt and apply Customs Union acts, the Parties shall ensure the consistency of these treaties and acts with the WTO Agreement.

5. The provisions of this Article shall be applied subject to the deviations provided for in paragraph 6 of Article 1 of this Treaty.

Article 3

The application of this Treaty is subject to the provisions of the WTO Agreement regulating the formation of customs unions.

Article 4

Reservations to the present Agreement shall not be permitted.

Article 5

The present Agreement shall be subject to ratification.

30 March 2011

Entry into force of the Agreement, withdrawal from and accession to the Agreement shall be determined by the Protocol on the procedure of entry into force of international treaties aimed at establishing the contractual and legal framework of the customs union, accession to them and withdrawal from them of 6 October 2007.

Done in the city of _____ in one original in the Russian language.

The original of this Agreement shall be kept by the depositary, which is the Commission of the Customs Union.

The Depositary shall forward a true copy of this Agreement to each Party..

For the Republic of Belarus

For the Republic of Kazakhstan

For the Russian Federation