Treaty Series

Treaties and international agreements
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VOLUME 3049 **2015** **I. No. 52764**

Recueil des Traités

Traités et accords internationaux
enregistrés
ou classés et inscrits au répertoire
au Secrétariat de l'Organisation des Nations Unies

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United Nations • Nations Unies
New York, 2022

Print ISBN: 978-92-1-970008-6
e-ISBN: 978-92-1-001085-6
ISSN: 0379-8267
e-ISSN: 2412-1495

TABLE OF CONTENTS

I

Treaties and international agreements
registered in July 2015
No. 52764

TABLE DES MATIÈRES

I

Traités et accords internationaux
enregistrés en juillet 2015
Nº 52764

NOTE BY THE SECRETARIAT

Under Article 102 of the Charter of the United Nations, every treaty and every international agreement entered into by any Member of the United Nations after the coming into force of the Charter shall, as soon as possible, be registered with the Secretariat and published by it. Furthermore, no party to a treaty or international agreement subject to registration which has not been registered may invoke that treaty or agreement before any organ of the United Nations. The General Assembly, by resolution 97 (I), established regulations to give effect to Article 102 of the Charter (see text of the regulations, vol. 859, p. VIII; https://treaties.un.org/Pages/Resource.aspx?path=Publication/Regulation/Page1_en.xml).

The terms "treaty" and "international agreement" have not been defined either in the Charter or in the regulations, and the Secretariat follows the principle that it acts in accordance with the position of the Member State submitting an instrument for registration that, so far as that party is concerned, the instrument is a treaty or an international agreement within the meaning of Article 102. Registration of an instrument submitted by a Member State, therefore, does not imply a judgement by the Secretariat on the nature of the instrument, the status of a party or any similar question. It is the understanding of the Secretariat that its acceptance for registration of an instrument does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status, and does not confer upon a party a status which it would not otherwise have.

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NOTE DU SECRÉTARIAT

Aux termes de l'Article 102 de la Charte des Nations Unies, tout traité ou accord international conclu par un Membre des Nations Unies après l'entrée en vigueur de la Charte sera, le plus tôt possible, enregistré au Secrétariat et publié par lui. De plus, aucune partie à un traité ou accord international qui aurait dû être enregistré mais ne l'a pas été ne pourra invoquer ledit traité ou accord devant un organe de l'Organisation des Nations Unies. Par sa résolution 97 (I), l'Assemblée générale a adopté un règlement destiné à mettre en application l'Article 102 de la Charte (voir texte du règlement, vol. 859, p. IX; https://treaties.un.org/Pages/Resource.aspx?path=Publication/Regulation/Page1_fr.xml).

Les termes « traité » et « accord international » n'ont été définis ni dans la Charte ni dans le règlement, et le Secrétariat a pris comme principe de s'en tenir à la position adoptée à cet égard par l'État Membre qui a présenté l'instrument à l'enregistrement, à savoir que, en ce qui concerne cette partie, l'instrument constitue un traité ou un accord international au sens de l'Article 102. Il s'ensuit que l'enregistrement d'un instrument présenté par un État Membre n'implique, de la part du Secrétariat, aucun jugement sur la nature de l'instrument, le statut d'une partie ou toute autre question similaire. Le Secrétariat considère donc que son acceptation pour enregistrement d'un instrument ne confère pas audit instrument la qualité de traité ou d'accord international si ce dernier ne l'a pas déjà, et qu'il ne confère pas à une partie un statut que, par ailleurs, elle ne posséderait pas.

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I

Treaties and international agreements

registered in

July 2015

No. 52764

Traités et accords internationaux

enregistrés en

juillet 2015

N° 52764

No. 52764

Multilateral

Treaty on the Eurasian Economic Union (with annexes). Astana, 29 May 2014

Entry into force: *1 January 2015, in accordance with article 113*

Authentic texts: *Belarusian, Kazakh and Russian*

Registration with the Secretariat of the United Nations: *Eurasian Economic Commission, 24 July 2015*

Only the English courtesy translation of the Treaty and its Annexes is published in volumes 3049 and 3050. The French translation is published in volumes 3051 and 3052. The authentic texts of the Treaty and its Annexes are published in volumes 3042 to 3048 as follows: Belarusian: volumes 3042 and 3043; Kazakh: volumes 3044 to 3046; Russian: volumes 3046 to 3048.

Multilatéral

Traité relatif à l'Union économique eurasienne (avec annexes). Astana, 29 mai 2014

Entrée en vigueur : *1er janvier 2015, conformément à l'article 113*

Textes authentiques : *biélorusse, kazakh et russe*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Commission économique eurasienne, 24 juillet 2015*

Seule la traduction de courtoisie anglaise du Traité et de ses annexes est publiée dans les volumes 3049 et 3050. La traduction française est publiée dans les volumes 3051 et 3052. Les textes authentiques du Traité et de ses annexes sont publiés dans les volumes 3042 à 3048 comme suit : biélorusse : volumes 3042 et 3043; kazakh : volumes 3044 à 3046; russe : volumes 3046 à 3048.

[TRANSLATION – TRADUCTION][1]

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,

[1] Translation provided by the Eurasian Economic Commission – Traduction fournie par la Commission économique eurasienne.

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 sub-paragraphs 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 spere 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).

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 wtih 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 consists 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.

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.

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.

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.

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, dextrins, 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 preciding 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.

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.

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 licenses 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.

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 supressing 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, expect 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 sub-paragraph 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 and 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 voluntary agrees on the verification visit before such response have 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 if 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.

[TRANSLATION – TRADUCTION][1]

ANNEX TO THE PROTOCOL ON APPLICATION OF SAFEGUARD, ANTI-DUMPING AND COUNTERVAILING MEASURES WITH RESPECT TO THIRD COUNTRIES

REGULATION ON TRANSFER AND DISTRIBUTION OF SAFEGUARD, ANTI-DUMPING, COUNTERVAILING DUTIES

I. General Provisions

1. This Regulation determines the procedure for transfer and distribution between the Member States of the amounts of the safeguard, anti-dumping and countervailing duties imposed in accordance with Section IX of the Treaty on the Eurasian Economic Union (hereinafter – "the Treaty"). The indicated procedure for transfer and distribution of the amounts of safeguard, anti-dumping, countervailing duties between the Member States shall also apply to the amounts of penalties (interest) accrued on the amounts of safeguard, anti-dumping, countervailing duties in cases and in accordance with the procedure provided for in the Customs Code of the Eurasian Economic Union.

2. The terms used in this Regulation shall have the meaning defined in the 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 (Annex No. 5 to the Treaty), Protocol on the application of safeguard, anti-dumping and countervailing measures to third countries (Annex No. 8 to the Treaty) and the Customs Code of the Eurasian Economic Union.

II. Transfer and Accounting of Amounts of Safeguard, Anti-Dumping, Countervailing Duties

3. From the date of entry into force of the decision of the Commission on application of safeguard, anti-dumping, countervailing measure the amounts of safeguard, anti-dumping, countervailing duties (except for provisional safeguard, provisional anti-dumping, provisional countervailing duties) the obligation to pay which in respect of products imported into the customs territory of the Union arises from the date of application of the respective measure, shall be transferred, distributed to the budgets of the Member States in order and according to the distribution ratios defined in the Protocol on the procedure for transfer and distribution of imports customs duties (other duties, taxes and fees having equivalent effect) and their transfer to the budgets of the Member States (Annex No. 5 to this Treaty) taking into account particularities specified by this Regulation.

4. In cases where the amounts of distributed safeguard, anti-dumping, countervailing duties are not transferred or incompletely transferred to the budget of other Member States within the determined time limits and the information from authorised body of that Member State on the absence of amounts of safeguard anti-dumping, countervailing duties is not provided, the provisions of paragraphs 20-28 of the Protocol on the procedure for transfer and distribution of imports customs duties (other duties, taxes and fees having equivalent effect), their transfer to the budgets of the Member States (Annex No. 5 to the Treaty) specified for transferring and distribution of the customs import duties between Member States shall be applied.

5. The amounts of safeguard, anti-dumping, countervailing duties shall be transferred in the national currency to the single account of the authorised body of the Member State in which they are to be paid in accordance with the Customs Code of the Eurasian Economic Union, including the recovery of such duties.

6. Safeguard, anti-dumping, countervailing duties shall be paid by payers to single account of the authorised body to which they are to be paid in accordance with the Customs Code of the Eurasian Economic Union, under separate settlement (payment) documents (instructions).

[1] Translation by the World Trade Organization – Traduction de l'Organisation mondiale du commerce.

7. Safeguard, anti-dumping, countervailing duties may not be offset against any other payments, except for the offset against arrears of the payers for customs fees and fines (percent) (hereinafter – "offset against arrears").

8. Taxes and fees, other payments (excluding import customs duties and export customs duties on crude oil and certain categories of goods produced from oil (petroleum) and exported outside the customs territory of the Union), received on the single account of the authorised body of the Member State in which they are to be paid in accordance with the Customs Code of the Eurasian Economic Union may be offset for payment of safeguard, anti-dumping, countervailing duties.

Import customs duties may be offset against arrears of payers for safeguard, anti-dumping, countervailing duties.

9. Authorised bodies shall separately register:

1) inpayments (refunds, offsets against arrears) of safeguard, anti-dumping, countervailing duties on the single account of the authorised body;

2) distributed amounts of safeguard, anti-dumping, countervailing duties transferred to foreign currency accounts of other Member States;

3) revenues transferred to the budget of the Member State from the distribution of safeguard, anti-dumping, countervailing duties by the Member State;

4) amounts of safeguard, anti-dumping, countervailing duties received in the budget of a Member State from other Member States;

5) default interest received in the budget of Member States for infringement provisions of this Regulation, which caused failure, incomplete and (or) untimely fulfilment of the obligations of a Member State to transfer amounts from distribution of safeguard, anti-dumping, countervailing duties;

6) distributed safeguard, anti-dumping, countervailing duties the transfer of which to foreign currency accounts of other Member States has been suspended.

10. The amounts of revenues indicated in paragraph 9 of this Regulation shall be registered separately in the report on implementation of the budget of each Member State.

11. Amounts of safeguard, anti-dumping, countervailing duties received on the single account of the authorised body on the last business day of a calendar year of a Member States shall be included in the report on implementation of the budget for the reporting year.

12. Amounts of distributed safeguard, anti-dumping, countervailing 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 report on implementation of the budget for the reporting year.

13. Revenues from the distribution of safeguard anti-dumping, countervailing duties received in the budget of a Member State from the authorised bodies of other Member States for the last business day of a calendar year of other Member States shall be included in the report on implementation of the budget for the current year.

14. No funds may be recovered from the single account of the authorised body in execution of judicial acts or otherwise, except in cases of arrears collection for customs fees, safeguard, anti-dumping and countervailing duties, as well as penalties (interest) in accordance with the Customs Code of the Eurasian Economic Union.

15. Provisional safeguard, provisional anti-dumping, provisional countervailing duties shall be paid (recovered) in the national currency to the account specified by the legislation of the Member

State customs authorities of which levies provisional safeguard, provisional anti-dumping, provisional countervailing duties.

16. In cases specified in the Protocol on the application of safeguard, anti-dumping and countervailing measures to third countries (Annex No. 8 to the Treaty) the amounts of paid (recovered) provisional safeguard, provisional anti-dumping, provisional countervailing duties, as well as anti-dumping, countervailing duties paid in the manner prescribed for the levying of appropriate types of provisional duties shall be offset for payment of safeguard, anti-dumping, countervailing duties and transferred to the single account of the authorised body of the Member State in which they were paid, not later than 30 business days from the date of entry into force of the Commission's decision on application (extension of the measure, extension on parts and (or) modifications of the product) of safeguard, anti-dumping, countervailing measures.

In the cases specified in the Protocol on the application of safeguard, anti-dumping and countervailing measures to third countries (Annex No. 8 to the Treaty) amounts to secure the payment of anti-dumping duties shall be offset to anti-dumping duties and transferred to the single account of the authorised body of the Member State in which they were paid, not later than 30 business days from the date of entry into force of the relevant decision of the Commission on the application of anti-dumping measure.

III. Refund of Safeguard, Anti-Dumping and Countervailing Duties

17. Amounts of provisional safeguard, provisional anti-dumping, provisional countervailing duties, as well as anti-dumping, countervailing duties paid in the manner prescribed for the levying of provisional anti-dumping and provisional countervailing duties shall be refunded in cases specified in the Protocol on the application of safeguard, anti-dumping and countervailing measures to third countries (Annex No. 8 to the Treaty), in accordance with the legislation of the Member States in which such duties were paid (recovered), unless otherwise specified by the Customs Code of the Eurasian Economic Union.

18. Refund of safeguard, anti-dumping, countervailing duties shall be carried out in accordance with the legislation of the Member State in which such duties were paid (recovered), unless otherwise specified by the Customs Code of the Eurasian Economic Union, taking into account the provisions of this Regulation.

19. Refund of amounts of safeguard, anti-dumping, countervailing duties to the payer, their offset against arrears shall be carried out from the single account of the authorised body in the current day within the amounts of safeguard, anti-dumping, countervailing duties received on the single account of the authorised body, as well as the amounts offset against safeguard, anti-dumping, countervailing duties in the reporting day, taking into account the amount of refund of safeguard, anti-dumping, countervailing duties not approved by the national (central) bank for execution on the reporting day, except for the cases specified in the paragraph 20 of this Regulation.

20. Refund of the amounts of safeguard, anti-dumping, countervailing duties to the payer, their offset against arrears are carried out from the single account of the authorised body of the Republic of Kazakhstan on the reporting day within amounts of safeguard, anti-dumping, countervailing duties received (offset) to the single account of the authorised body of the Republic of Kazakhstan on the day of the refund (offset).

21. Determination of the amounts of refund of safeguard, anti-dumping, countervailing duties to be refunded and (or) offset against arrears in the current day shall be determined prior to the distribution of received safeguard, anti-dumping, countervailing duties between the budgets of the Member States.

22. In case of insufficient funds for the refund of safeguard, anti-dumping, countervailing duties and (or) their offset against arrears in accordance with paragraphs 19 and 20 of this Regulation, the refund (offset) shall be carried out by a Member State in subsequent business days.

Penalties (interest) for untimely refund to the payer of safeguard, anti-dumping, countervailing duties shall be paid from the budget of that Member State to the payer and shall not be included in the safeguard, anti-dumping, countervailing duties.

IV. Exchange of Information Between Authorised Bodies of the Member States

23. The exchange of information between the authorised bodies required for the implementation of this Regulation shall be carried out in accordance with the decision of the Commission determining the procedure, form and timing of the exchange of such information.

[TRANSLATION – TRADUCTION][1]

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

[1] Translation provided by the Eurasian Economic Commission – Traduction fournie par la Commission économique eurasienne.

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.

ANNEX 10
to the Treaty on the Eurasian
Economic Union

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.

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.

ANNEX 12
to the Treaty on the Eurasian
Economic Union

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.

ANNEX 13
to the Treaty on the Eurasian
Economic Union

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.

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 polices 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 polices 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 polices 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.

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.

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 sub-paragraph 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.

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)
	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 leasehold basis	paragraphs 23 and 26	Presidential Decree No.667 of December 27, 2007, On 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)
land located in the border zone and border strip of the Republic of Kazakhstan, as well as within the boundaries of its sea ports. 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		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
4. The right for permanent use of land may not be granted to foreign land users	paragraphs 23 and 26	Land Code of the Republic of Kazakhstan
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	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.

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
shall apply prior to the entry into force of the Treaty[1]		
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[2]:	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.
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		

[1] 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.

[2] 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)
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)
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)
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)
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.[3] 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		

[3] 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)
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		
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	paragraphs 16, 17, 23, 26, 31, 33 and 35	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

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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. [4]		
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	paragraphs 15, 16, 23, 26, 31 and 33	Law No. 527-IV of the Republic of Kazakhstan of January 6, 2012, On National Security, Law No. 461 of the Republic of Kazakhstan of July 2, 2003, On the Securities Market

[4] 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)
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
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)
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
9. As regards production sharing agreements entered into before January 1, 2012 (hereinafter - the agreements)[5]:	paragraphs 23 and 26	Federal Law No.225-FZ of December 30, 1995, On Production Sharing Agreements
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		
the agreements shall provide for obligations of the investor to:		
grant to Russian juridical persons the		

[5] 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)
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)
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)
to the use of major pipeline transportation facilities, the construction and purchase of which are not provided for by the agreement		
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	paragraphs 15-17, 23, 26, 31 and 33	Federal Law No.115-FZ of July 21, 2005, On Concession Agreements
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.	paragraphs 15, 16, 23, 26, 31 and 33	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

Restrictions	Grounds for Application of Restrictions (paragraphs of Annex 16 to the Treaty)	Grounds for Application of Restrictions (regulatory legal act)
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. 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		
12. Land plots located within the boundaries of a sea port may not be owned by foreign nationals, stateless persons or foreign organisations	paragraphs 23 and 26	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

[For ANNEX 17, see volume 3050 -- Pour l'annexe 17, voir au volume 3050.]

ISBN 978-92-1-970008-6

22-00421

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3049

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