Agreement on Common Rules for Determining the Country of Origin of Goods of 25 January 2008

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

With a view to simplifying and harmonizing customs procedures in trade with the States which are not parties to this Agreement (hereinafter “third countries”),

Wishing to create favorable conditions for developing trade on the basis of mutual advantage and international law,

Endeavoring to reinforce the multilateral trade system,

Have agreed as follows:

Article 1

On the common customs area of the Parties, as regards goods originating from third countries, except for goods originating from developing and the least developed countries and countries having agreements on free trade in which all the Parties participate, the Rules for determining the country of origin of goods shall apply, in accordance with the addendum forming an integral part of this Agreement.

The Rules for determining the country of origin of goods originating from developing and the least developed countries shall be ratified by a separate agreement between the Parties.

As regards goods originating from a country having an agreement on free trade in which all the Parties participate, the Rules for determining the country of goods origin established by this Agreement shall apply.

Article 2

Disputes arising in connection with the application or interpretation of the provisions of this Agreement shall be settled by means of mutual consultations and negotiations between the Parties and, in the case of failure to achieve an agreement, shall be submitted for adjudication to the Court of Justice of the Community.

Article 3

Upon agreement between the Parties, this Agreement may be subject to changes which shall be formalised by the Parties’ separate protocols.

Article 4

The procedure for entry into force of this Agreement, acceding thereto and withdrawing therefrom shall be laid down by the Protocol on the procedure for entry into force of international treaties aimed at the establishment of the contractual and legal framework of the customs union, and accession to them and withdrawal from them, dated 6 October 2007.

Done in the city of Moscow on 25 January 2008, in a single original in Russian.

The original of this Agreement shall be deposited with the Integration Committee of the Eurasian Economic Community, which, as the depositary of this Agreement shall send legal copies to each Party.

For the Government of the Republic of Belarus

For the Government of the Republic of Kazakhstan

For the Government of the Russian Federation

Annex to the Agreement on common
rules determining the country of origin

Rules of Determination of the Country Of Origin

1. Definitions used in this Regulation mean the following:

value added - the difference between the price of goods on an "ex works" and the value of imported raw materials used for manufacturing;

shipment of goods - goods that are sent on one transport document addressed to one consignee by one shipper, and also the goods sent by a postal waybill or moved as hand baggage by one natural person crossing the customs border;

country of origin - the country where the goods were wholly obtained or sufficiently processed
in accordance with the criteria of sufficient processing of goods, the present rule. At the same time under the country of origin can be understood as a group of countries or customs unions of countries or a region or part of the country, if there is need for their allocation for purposes of determining the country of origin of goods;

price on an "ex works" - the price to be paid to its manufacturer, who made the last substantial transformation of the goods, minus all internal taxes that are paid or can be paid for its exports.

2. Commodities completely produced in this country, are:

1) minerals produced from the depths of the country in its territorial sea (water) or at the bottom of the sea;

2) products of vegetable origin, grown or gathered in this country;

3) live animals born and reared in this country;

4) products obtained in this country from the animals grown in the country;

5) products obtained from hunting and fishing in this country;

6) products of sea fishing and other products of sea fishing by the ship of the country;

7) Products obtained aboard a processing vessel of that country solely from products referred to in subparagraph 6 of this point;

8) products obtained from the seabed or the subsoil of the sea beyond the territorial sea (water) of the country, provided that the country has exclusive rights to develop the resources of the seabed or the subsoil of the sea;

9) waste and scrap (secondary raw materials) derived from the production or processing operations in the country and second-hand products, collected in a given country and suitable only for processing into raw materials;

10) products of high technologies obtained in the open space on the space objects, if that country is a State of registration of the space object;

11) goods produced in this country solely of the goods referred to in subparagraphs 1) - 10) of this paragraph.

3. If the production of goods involves two or more countries, as a the country of origin should be considered the one in which last processing or manufacturing operations to goods were implemented, that meet the criteria of sufficient processing, established in accordance with these Rules.

4. If in respect of certain types of goods or any country no particularities of origin of goods in accordance with paragraph 6 of this Regulation are not specified, the product is considered to be originated from this country, if as a result of the processing or manufacturing of goods classification code of goods has changed according to Common commodity nomenclature of foreign economic activity at the level of any of the first four digits.

5. Notwithstanding the provisions established by paragraph 4 of these Rules do not meet the criteria of sufficient processing:

1) operations to ensure safety of goods during its storage or transportation;

2) operations to prepare goods for sale and transportation (the division of the party, forming up, sorting, repacking) for disassembly and assembly of packages;

3) simple assembly operations and demolition of goods, as well as other operations, the implementation of which essentially does not change the condition of the goods on the list, as determined by the Commission of the customs union, established in accordance with the Treaty of the Commission of the Customs Union on October 6, 2007;

4) mixing of goods (components), which does not to differ materially derived products from the original components;

5) slaughter of animals, cutting (sorting) of meat;

6) washing, cleaning, removal of dust, oxide coating, oil or other substances;

7) ironing or pressing of textiles (all types of fibers and yarn, woven materials of all kinds of fibers and yarns and products from them);

8) Operation on painting or polishing;

9) scaling, partial or total bleaching, polishing and polished grains and rice;

10) the operation of painting sugar or the formation of lump sugar;

11) Removal of the skin, extracting the seeds and cut fruit, vegetables and nuts;

12) sharpening, simple grinding or simple cutting;

13) sifting through a sieve or a sieve, sorting, classification, selection, selection (including the preparation of sets of products);

14) bottling, packing in cans, bottles, bags, boxes, boxes and other simple packaging operations;

15) the division of goods into components, which does not to differ materially components derived from the original product;

16) a combination of two or more of these operations.

6. To determine the country of origin are also used in the manner determined by the Commission of the customs union, the following criteria for sufficient processing:

1) the performance of certain conditions, industrial or technological operations sufficient to country of origin of goods was considered a country where these operations took place;

2) the change the value of goods when the percentage of the cost of materials used or the value added reaches a fixed percentage of the price of the final product (usually ad valorem percentage).

7. If the rule applies ad valorem percentage, the value indicators are calculated:

1) for imported materials - on the customs value of these materials when they are brought into the country in which the manufacture of final products, or (for an unknown origin of imported materials) (RF) documented the price of their first sale in the country, in which the manufacture of final products;

2) for the final product - for a price on an "ex-factory" basis.

8. In determining the country of origin of goods in assembled or unassembled condition, delivered in several batches because of the impossibility of their shipment by one consignment due to production or transport conditions, as well as goods, shipment of which is divided into several consignments as a result of errors, are considered depending on the wish of declarant as a single whole.

9. The rule provided for in paragraph 8 of these Regulations shall apply if the following conditions:

1) preliminary notification of the customs authority in the country of import of goods in unassembled or disassembled condition, delivered in several batches, or the division of goods in several batches indicating the reasons for this separation, the application specification of each party with an indication of the goods under the Common Code of commodity nomenclature of foreign economic activity, price and country of origin within each party, or documented the fallacy of separation of goods on several consignments;

2) delivery of all shipments of goods from one country to one supplier;

3) declaration of all consignments of a customs authority;

4) Delivery of all shipments under a single contract;

5) delivery of all shipments in a period not exceeding one year from the date of acceptance of customs declaration or until the expiration of its filing for the first lot of goods. By a reasoned statement of the declarant in case of failure of delivery of all consignments for reasons beyond the recipient of the goods, the deadline may be extended by customs authorities at the time required for delivery of all shipments, but not more than one year.

10. In determining the country of origin of goods, origin of manufacture or processing of thermal and electrical energy, machinery, equipment and tools are not counted.

11. Accessories, spare parts and tools designed for use with machinery, equipment, apparatus or vehicle, are considered as originating from the same country as the machinery, equipment, devices or vehicles, if such devices, accessories, spare parts and tools imported and used in conjunction with these machines, equipment, apparatus or vehicle in a configuration and in quantities that are normally supplied with these devices in accordance with the technical documents.

12. The packing of the imported goods shall be considered originating from the same country as the product itself, except when the package according to the Common commodity nomenclature of foreign economic activity to be declared separately from the goods. In this case, the country of origin of packaging is determined separately from the country of origin. If the packaging in which goods are imported into the customs territory shall be considered originating from the same country as the product itself, the only packaging that is taken into consideration for the purposes of determination of origin of goods is the one, in which goods are sold in retail, including the application of the rules of an ad valorem percentage referred to in sub-point 2 of point 6 of these Rules.