PROTOCOL

On Amendments and Additions to the Agreement on the Determination of Customs Value of Goods, Transferring Across Customs Border of the Customs Union of January 25, 2008

The Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation, hereinafter - the Parties, taking as a base the Treaty on establishing a single customs territory and establishing a Customs Union dated October 6, 2007 , the Agreement on the Determination of Customs Value of Goods, Transferring Across Customs Border of the Customs Union of January 25, 2008 and in accordance with the generally accepted norms and rules in international trade,

taking into account the generally recognized principles and norms of international law,

have agreed as follows:

Article 1.

Amend the Agreement on the Determination of Customs Value of Goods, Transferring Across Customs Border of the Customs Union of January 25, 2008 (hereinafter – the Agreement) as follows:

1. Throughout the text of the Agreement:

a) the words "the person declaring the goods" shall be replaced with the words "a declarant (a customs representative)";

b) the words " a state of the Party" and "a state of the relevant Party" shall be replaced with the words "a member state of the Customs Union";

c) the words "commercial and administrative expenses" and "general expenses" shall be replaced with the words "general expenses (commercial and administrative expenses)";

d) the words "single customs territory of the Customs Union" shall be replaced with the words "customs territory of the Customs Union", with the exception of subparagraph "b" of paragraph 2 of Article 1 of this Protocol,

in the appropriate number and case.

2. In Article 1:

a) the words "Article 1" shall be replaced with the words "Article 1. General Provisions";

b) The second sentence of paragraph 2 shall be read as follows:

"The provisions of this Agreement shall be applied for goods in case they have actually crossed the customs border of the Customs Union during importing them into a single customs territory of the Customs Union (hereinafter - the customs territory of the Customs Union), or have been declared in the application of the prior declaration for importing them and in respect of such goods after being transferred through the customs border or in the course of preliminary declaration a customs procedure is applied for the first time. ";

c) paragraph 3 shall be read as follows:

“3. The customs value of goods transferred through the customs border of the Customs Union shall be determined in accordance with this Agreement, based on the principles and general rules established in Article VII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the WTO Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

The Customs Union Commission take decisions on the application of methods for determining the customs value of imported goods specified in this Agreement on the basis of the relevant provisions of the WTO Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, including Interpretative Notes, as well as documents on the customs valuation of goods developed by the Technical Committee on customs valuation of

the World Customs Organization. ".

3. In article 2:
a) the words "Article 2" shall be replaced by "Article 2. System for determining the customs value of goods";
b) The second subparagraph of paragraph 1 after the words "If it is impossible to determine the customs value of imported goods under transaction value," shall be added with the words "customs value is determined in accordance with the provisions established in Articles 6 and 7 of this Agreement that applied sequentially. At the same time "

4. Article 3:
a) the words "Article 3" shall be replaced with the words "Article 3. Terms used in this Agreement";
b) sixteenth subparagraph of paragraph 1 shall be read as follows:
"place of arrival of goods into the customs territory of the Customs Union "- post control through the state (customs) border of a CU Party, or any other places specified by the legislation of a CU Party, where the goods after actual crossing the state (customs) borders of a CU Party must be delivered to. The procedure for inclusion transportation charges (transport) of goods, taking into account concrete notion of "place of arrival of goods into the customs territory of the Customs Union" for the various modes of transport for determination of customs value of imported goods, into the customs value list of imported goods shall be determined by the Customs Union Commission, ".

5. In Article 4:
a) the words "Article 4" shall be replaced with "Article 4. Method on the transaction value of imported goods (method 1)";
b) in the first passage of paragraph 1 the word "any from" shall be displaced with «performance";
c) paragraph 2:
after the words "seller or" shall be added with the words "another person";
add a second paragraph with the text as follows:

"If the declared goods are part of a larger quantity imported into the customs territory of the Customs Union of the same goods purchased in one transaction, price actually paid or payable for the declared goods shall be determined in the same ratio which corresponds to the number of declared goods and the total amount of purchased goods.';

d) paragraphs 3 and 4 shall be read as follows:

"3. The fact that the buyer and the seller are related shall not in itself be grounds for regarding the transaction value as unacceptable for the purposes of determination of the customs value of goods. In such case, the circumstances surrounding the sale must be examined. If the mentioned relationship does not influence the price actually paid or payable, the value of the transaction shall be considered acceptable for the purposes of determining the customs value of goods.

4. If the seller and the buyer are related persons, and on the basis of information provided by the declarant (customs representative), or received by the customs body by other means, the customs body finds signs that the relationship between the buyer and the seller has influenced the price actually paid or payable, the customs body informs the declarant (customs representative) in written form about such sign. In this case, customs body decides to conduct additional examination, including examination of the circumstances surrounding the sale. A declarant (a customs representative) has the right to prove the absence of influence of relationship of the seller and the buyer on price actually paid or payable. The proof of the absence of influence of the relationship between the seller and the buyer on price actually paid or payable, for the determination the customs value of goods according to the method of the transaction value of

imported goods (paragraph 1 of this Article) is carried out according to the method specified either in paragraph 4.1 of this Article or method specified in paragraph 4.2 of this Article. ";

d) to add new paragraphs 4.1 and 4.2 as follows:
"4.1. To prove the absence of influence of the relationship between the seller and the buyer on price actually paid or payable, a declarant (a customs representative) must submit additional documents and information, including additional information requested by customs body, which characterize (reflect) the circumstances surrounding the sale. In order to determine the effect of relationship between the seller and the buyer on price actually paid or payable, customs body in its examination for determining the circumstances surrounding the sale shall consider all the terms of transactions, including the way how the buyer and the seller have organized their commercial relations and the way how the price has been set. In case the result of the analysis customs body has established that the buyer and the seller, as related parties, one sells and one buys goods on the same terms, including those comparable prices (i.e. prices for the same level) as if they were not related persons, this fact is evidence that the relationship between the buyer and the seller has not influenced the price actually paid or payable.
4.2. To prove the absence of influence of the relationship between the seller and the buyer on price actually paid or payable, a declarant (a customs representative) must submit documents and information confirming that the transaction value of imported goods approximates to one of the following test values that occur in the same or corresponding time period in which the imported goods have crossed the customs border of the Customs Union:
1) transaction value in sales to unrelated buyers of identical or similar goods for export to the customs territory of the Customs Union;
2) customs value of identical or similar goods as determined in accordance with Article 8 of this Agreement;
3) customs value of identical or similar goods as determined in accordance with Article 9 of this Agreement.
If customs body has already sufficient information that one of the test values specified in this paragraph approximate to the value of the transaction, then it shall not ask a declarant (a customs representative) additional information proving compliance with these conditions (i.e., the cost of transaction approximates to test value). ";
f) in paragraph 5 the words "in accordance with paragraph 4 of this Article" shall be replaced with the words "in accordance with paragraphs 4, 4.1 and 4.2 of this Article";
g) in paragraph 6 the words "referred to in paragraph 4" shall be replaced with the words "referred to paragraph 4.2 of this Article."

6. In Article 5:
a) the words "Article 5" shall be replaced with the words "Article 5. Additional charges to price actually paid or payable for the goods";
b) in paragraph 1:
in subparagraph 2, "d" after the words "of the Customs Union" a comma shall be deleted; in paragraph 6 the words "referred to in paragraphs 4 and 5 of paragraph 1" shall be replaced with the words "referred to in paragraphs 4 and 5 of this paragraph."

7. In Article 6:
a) the words "Article 6" shall be replaced with the words "Article 6. Method on transaction value of identical goods (method 2)";
b) Paragraph 1 of the second paragraph shall be added with the text as follows:
"Transaction value of identical goods is the customs value of goods adopted by the customs body in accordance with Article 4 of this Agreement.";

8. In Article 7.

a) the words "Article 7" shall be replaced with the words "Article 7. Method on the transaction value of similar goods (method 3)";
b) paragraph 1 shall be added with the second passage and read as follows:
"Transaction value of similar goods is the customs value of goods adopted by the customs body in accordance with Article 4 of this Agreement.";

9. In Article 8:
a) the words "Article 8" shall be replaced with the words "Article 8. Deductive method (method 4)";
b) paragraph 1 after the words "of this article and article" shall be added with the words "9 of this Agreement";
d) in paragraph 3 after the words " respectively valued (imported)" a comma shall be deleted;
e) in the second passage of paragraph 7 the word "respective" shall be deleted.

10. In Article 9:
a) the words "Article 9" shall be replaced with the words "Article 9. Computed method (method 5)";
b) in paragraph 2 after the words "or on behalf of" a comma shall be deleted;
c) in paragraph 3 after the words "referred to subparagraphs 1" b "and 1 " c "of paragraph 1 Article 5 of this Agreement," a comma shall be put;
d) paragraph 6 shall be read as follows:

"6. The customs bodies of CU Parties shall not demand from any person who is not a resident of a CU Party for providing documents and information for the purposes of determining the estimated value of the goods unless otherwise provided by the CU legislation or legislation of the CU Party.

Documents and information submitted by a foreign producer for goods for the determination the estimated value of goods can be inspected in the country of origin of goods by an authorized body of a CU Party with the consent of a foreign producer of goods, and on conditions that a prior notification to the authorized body of the country of origin of goods has been made, and if the authorized body has not rejected to conduct such inspection. Verification of documents and information on goods submitted by a foreign producer or on his/her behalf are hold by authorized bodies of a CU Party in accordance with international treaties to which a state is a participant. ".

11. In Article 10 the words "Article 10" shall be replaced with the words "Article 10. Fall-back method (method 6)."

12. Article 11 shall be read as follows:

"Article 11. Suspended procedure on determination of customs value of goods

In case when it is necessary to suspend the procedure finishing determination of customs value (final determination) of the estimated (imported) goods by a declarant (a customs representative) due to the fact that on the date of registration of the declaration of goods in accordance with terms of foreign trade contract documents there is no exact information necessary to calculate customs value, a declarant (a customs representative) has the right to get valued (imported) goods in the manner prescribed by customs law of the Customs Union.

The order of application of suspended procedure on determining the customs value that establishes cases of applying suspended procedures on determining the customs value of goods, specifics of applying methods on transaction value of imported goods on condition of applying suspended procedure on determining the customs value, as well as the procedure for declaring and control of the customs value of goods, specifics of calculating and payment of customs duties and taxes for such cases is determined by the Decision of Customs Union Commission.».

13. In Article 12 the words "Article 12" shall be replaced with the words "Article 12. Using of terms ".

14. In Article 13 the words "Article 13" shall be replaced with the words "Article 13. Arbitration and amendment procedure ".

15. In Article 14 the words "Article 14» shall be replaced with the words "Article 14. Order of coming into force, accession to and exit from ".

Article 2

Arbitration between the Parties with regard to explanation and (or) application of this Protocol is hold within the order of adopted Agreement.

Article 3

This Protocol is subject to ratification and it is applied provisionally from the date of signing. The order of coming into force of this Protocol, accession to and exit from it is determined by Protocol on order of coming into force of international agreements aimed at creating the legal framework of the Customs Union, accession to and exit from it of October 6, 2007.

Done in _____ on "_____" _____, 2011 in one original copy in Russian. The original copy of this Protocol is stored in the Customs Union Commission, which is a depositary of this Protocol and a notarized copy of it will be sent to each Party.

For the Government of Belarus	**For the Government of Kazakhstan**	**For the Government of Russia**