PROTOCOL ON CONDITIONS AND PROCEDURE FOR USE IN EXCEPTIONAL CASES OF THE RATES OF IMPORT CUSTOMS DUTIES OTHER THAN COMMON CUSTOMS TARIFF RATES

AS OF 12 DECEMBER 2008

Government of Republic of Belarus, Government of the Republic of Kazakhstan and Government of Russian Federation, hereinafter named as the Parties,

in order to implement paragraph 6 of article 4 of the Agreement on a common customs tariff regulation dated 25 January 2008,

guided by the universally recognized norms and rules of international trade,

agreed as follows:

Article 1

In this Protocol terms "unified customs tariff", “rate of import customs duties" and " unified commodity nomenclature of foreign economic activity" are used in meanings defined in Article 2 of the Agreement on a unified customs tariff regulation dated 25 January 2008.

Article 2

From the date of introduction of the Common Customs Tariff and the provision of authority on management of the Commission of the Customs Union (hereinafter - Commission) higher or lower rate of import customs duty rate in comparison with the Common Customs Tariff (hereinafter - higher or lower rate) can be applied one of the Parties in respect of goods originating from third countries, in exceptional cases on the basis of the Commission's decision made under this Protocol.

One of the Parties can use higher rate by request of the Party, if such a measure is a necessary condition for the development of industries of the State of this Party.

One of the Parties can use higher rate by request of the Party in the case of an acute shortage of goods, if such a measure is necessary to address the socially relevant needs of the population or the needs of production, which depends largely on traditional imports from third countries and can not be implemented through the production of this or similar goods in the customs union.

Article 3

1. For the Commission's consideration of the application of one of the Parties to the higher or lower rate this Party shall provide proposal to apply a higher or lower rates with the application of justifying the need for its use to the Commission.

2. Proposal on the use of higher or lower rate should contain the following information:

a) rate of single customs tariff on goods;

b) information on the volume of production and the demand on goods in State of the Party making the proposal and in the Customs Union in general (in physical and value measurements);

c) information on the volume of imports of goods both State of the Party making the proposal and the customs union as a whole;

d) intended period of higher or more low rates;

e) measures to be adopted by other Parties to achieve goals of a higher or lower rates.

3. Justification of necessity for a higher or lower rate should include statistical data, financial and economic calculations and other information confirming the feasibility of a higher or lower rates and the inability to achieve the objectives of its use by other means, as well as evaluating the consequences of its application for markets of the Parties States and the assessment of possible actions by third countries.

4. The Commission addresses the proposal of use of one of the Parties a higher or lower rates to other Parties.

5. The issue of use of one of the Parties higher or lower rates considered by the Commission within 30 days from the date of receipt of the proposal on the use of higher or lower rates by the Commission.

Article 4

1. The decision to use one of the Parties higher or lower rates adopted by the Commission with the following conditions:

a) justification of use higher or lower rates;

b) the disagreement of the other Parties to the corresponding change of rates in the Common Customs Tariff.

2. The decision to use by one of the Parties higher or lower rates is adopted by the Commission on the basis of consensus.

3. The Commission's decision on the use by one of the Parties higher or lower rates should contain the following information:

a) name of goods;

b) product code on the Single Commodity Classification of foreign trade;

c) period of use higher or lower rates;

d) the amount of higher or lower rates;

e) measures to be adopted by other Parties for achievement of a higher or lower rates.

4. Established by the Commission's decision period of use higher or lower rates by one Party may not exceed six months.

5. The question of extending the use of higher or lower rates for the next six months may be proposed by the Party not later than one month before the expiry of that period.

Article 5

1. The Commission maintains a list of goods, while the import of which Parties use higher or lower rates.

2. The list referred to in paragraph 1 of this article includes the following information:

a) name of goods;

b) product code on the Single Commodity Classification of foreign trade;

c) Party applying higher or lower rates;

d) amount of higher or lower rates;

e) period of use higher or lower rates;

f) the size of Common Customs Tariff rate.

Article 6

This Protocol valid for five years from the date of entry into force and is not renewable.

Article 7

Disputes between the Parties concerning the interpretation and (or) the application of this Protocol shall be settled through consultation and negotiation between the interested Parties, and in the case of not reaching an agreement dispute on the initiative of any of the Parties transfer into consideration to the Court of the Eurasian Economic Community.

Article 8

On the agreement of the Parties this Protocol may be amended and these changes are documented with separate protocols.

Article 9

The order of entry into force of this Protocol, accession to and withdrawal from it are defined by the Protocol on the order of entry into force of international agreements aimed at forming of legal basis of the customs union, withdrawal from them and joining them on 6 October 2007.

Done in Moscow on 12 December 2008 in one original copy in Russian.

The original of this Protocol shall be kept by the depositary, which before the transfer functions of the depositary of the Commission is the Integration Committee of Eurasian Economic Community.

The Depositary shall send certified copies to each Party to this Protocol.