

A G R E E M E N T

On Common Rules of State Support of Agriculture

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, based on the Agreement on the Customs Union of 20 January 1995, the Agreement on the Customs Union and the Single Economic Space of 26 February 1999, the Agreement on the Establishment of a Single Customs Territory and the Establishment of the Customs Union of 6 October 2007,

acknowledging the need for further development of mutually beneficial, fair and market-oriented agricultural trading system,

to ensure consistency of the positions of Customs Union Parties within the process of the WTO accession,

guided by the principles of international law,

have agreed as follows:

Article 1

Subject of the Agreement

1. The subject of this Agreement is establish the rules of the state support for agricultural products producers.

2. This Agreement shall be in force on the territory of Single Economic Space of the Parties and applicable in respect of goods specified in Annex № 1, which is an integral part of this Agreement, (hereinafter - agricultural goods).

Article 2

Definitions

The terms used in herein Agreement are the following:

"Administrative-territorial units" - subjects of the Russian Federation and (or) oblasts (regions) of the Republic of Belarus and the Republic of Kazakhstan (including Minsk, Astana and Almaty);

"State support of agriculture" - financial assistance provided by the government or other state body of the Parties or local government to agricultural products' producers either directly or through their authorized agent.

The method for calculating of the state support of agriculture is provided in Annex № 2, which is an integral part of this Agreement;

"Subsidizing body" - one or more state bodies or local authorities of the Parties, which take decision in relation to state support of agriculture.

Subsidizing body in accordance with the legislation of the Parties may request or make an order to the authorized agent (of any organization) to fulfill one or more of its functions relating to the state support of agriculture. Such actions of authorized agent will be considered as actions of the subsidizing authority.

Actions of the president of a Party relating to the state support of agriculture are considered as actions of the subsidizing authority.

Article 3

Classification of state support measures by the distorting effects on trade

1. State support measures are classified as follows:
 - 1) Measures that do not distort agricultural trade between the Parties;
 - 2) Measures that distort agricultural trade between the Parties to a larger extent;
 - 3) Measures that distort agricultural trade between the Parties.
2. Measures that do not distort agricultural trade between the Parties. This type of support includes those measures that are listed in Annex № 3, which is an integral part of this Agreement.
3. Measures that distort agricultural trade between the Parties to a larger extent:
state support measures linked as a single or one of several conditions with the result of exports of agricultural goods from the territory of one Party to another Party. An illustrative list of such measures is provided in Annex № 4, which is an integral part of this Agreement;
state support measures of agriculture, the provision of which is linked as a single or one of several conditions with the use of agricultural goods exclusively originating from the territory of the State Party, providing such state support for agriculture in the production of agricultural goods in the territory of that Party.
4. Measures that distort agricultural trade of the Parties are measures that cannot be classified as measures that do not distort agricultural trade between Parties or measures that distort agricultural trade to a larger extent referred to in paragraphs 2 and 3 of this article.

Article 4

Application of the measures that do not distort agricultural trade between the Parties

Measures under this category are allowed to apply without any restrictions.

Article 5

Application of the measures that distort agricultural trade between the Parties to a larger extent

Those measures, which fall into this category are prohibited to apply in mutual trade.

Article 6

Application of the measures that distort agricultural trade between the Parties

1. The amount of state support in the Parties covered by this category shall not exceed 10% of the gross value of agricultural products produced by each of the Party.
2. For the Republic of Belarus transitional period is established until 2016, during which the Republic of Belarus committed to reduce the amount of state support as follows:
 - in 2011 - 16 percent;
 - in 2012 - 15 percent;
 - in 2013 - 14 percent;
 - in 2014 - 13 percent;
 - in 2015 - 12 percent;
 - in 2016 - 10 percent.
3. After the accession of a Party to the World Trade Organization, level of measures referred to in the paragraph 1 of this Article shall be established within the limits of the obligations of a Party in the World Trade Organization.

Article 7

Notifications

1. The Parties shall notify each other in writing of any planned in the next year program of state support financed at the federal and (or) the national level. The notification must contain sufficient information necessary to assess the size of the state support provided to agriculture by the Parties and its compliance with this Agreement by the competent authorities of each Party. The Parties shall not transfer to the restricted information section all information of state support provided for agriculture. The Parties shall provide notifications to each other and to the Commission of the Customs Union annually, not later than the First day of December of the current year.

2. The Parties shall send notifications to each other, specified in paragraph 1 of this Article, which shall contain expenditure of the projects of the federal or state budget provided by section, subsection and kinds of functional and departmental expenditure classifications, as well as rules on the procedure and volume of state support for agriculture in introduction of such projects to the highest legislative body of the Parties. In case of changes in a state Party of the federal or the republican draft budget for inclusion of or withdrawal from a program on provision of state support for agriculture, the Party shall notify in writing the other Party about such changes no later than within 30 days after making changes to the draft.

In case of changes of the federal or state budget of a state Party for the current year relating to the provision of state support for agriculture, this Party shall notify the other Parties about this no later than 20 days before the effective date of such changes.

3. The budgets of the administrative-territorial units of the state Parties shall be published or made public in any other available way. List of the sources of such information must be submitted by the Party or its authorized state body on request of a Party.

4. The authorized bodies of the Parties shall send to each another notifications on provision of state support for agriculture in the territory of their states for the reporting year within 2 months after the entry into force of the law on execution of federal or state budget and the budgets of administrative-territorial units for the reporting year. The notification must contain sufficient information to assess the size of the state support provided to agriculture by the Parties and its compliance with this Agreement by the competent authorities of each Party.

5. Parties shall agree on the notification form referred to in paragraph 4 of this Article

Article 8

Liability of the Parties

In the case of a violation of the provisions of Articles 5 and 6 of this Agreement by a Party, that Party shall immediately and unconditionally cease to apply the measures that distort agricultural trade between the Parties to a larger extent, or measure distorting trade above the volume allowed and shall pay to other Parties compensation in the amount of support measures, which have the most distorting effect on trade, or exceeding the amount allowed. If compensation has not been paid within the terms agreed by the Parties, each Party shall have a right to introduce a compensatory measure in accordance with the legislation of the Party.

Article 9

Dispute Settlement

1. Disputes related to the interpretation and (or) the application of the provisions of this Agreement, in the first instance shall be resolved through negotiations and consultations between the Parties. If the dispute cannot be resolved through negotiations and consultations within 60 days of formal written request on their conduct, directed by the Party initiating the dispute to the respondent party, the complainant Party is entitled to apply to the Community Court, or to initiate the creation of the Conciliation Commission.

2. If the complainant Party will take a decision on the resolution of the dispute in the Conciliation Commission, it submits a petition to the respondent party.

3. The Conciliation Commission is temporary and created to deal with a particular dispute. After the resolution of the dispute Conciliation Commission shall be disbanded.

4. If the parties have not agreed otherwise, the powers of the Conciliation Commission are the following: in light of the relevant provisions of this Agreement to consider resolution of the dispute, as set out in the petition of a Party, and to make a conclusion on compliance of the proposed measures with this Agreement.

5. Any Party may submit any dispute concerning the application or interpretation of this Agreement to the Conciliation Commission. The complainant Party shall indicate the measures or practices in the petition that, in its opinion, are relevant to the dispute and submit the petition with the notice of the appointment of its intermediary to other Party. The complainant Party also offers up to three candidates for the post of chairman of the Conciliation Commission.

The other Party within 15 days appoints the second intermediary, and offers up to three candidates for the post of chairman of the Conciliation Commission.

Both Parties shall endeavor to agree on a candidacy of Chairman of the Conciliation Commission within 15 calendar days after the appointment of the second intermediary.

6. If the Parties are unable to agree on a candidacy of Chairman within 20 calendar days after the appointment of the second intermediary, he is chosen by lot by the representatives of the Parties within 7 calendar days among the persons included in the indicative list referred to in paragraph 9 of this Article, and are not citizens of the Parties to the dispute.

7. The Conciliation commission shall be composed of three members (intermediaries of each Party to the dispute, and the chairman.) Date of establishment of the Conciliation Commission is the date of appointment of the chairman.

8. Persons who are willing and able to act as intermediaries and members of the Conciliation Commission, should have expertise or experience in law, international trade, and other fields relevant to the resolution of disputes arising from international treaties in the field of international trade. They should serve in their personal capacity, not as representatives of State Parties, or any organization, operate fully independently and not be associated with a party, or receive any instructions from it. No more than three intermediaries and members of the Conciliation Commission may be citizens of the State Parties.

9. Party shall not later than 90 calendar days after the entry into force of this Agreement constitute a sample list of no more than 15 persons who are willing and able to act as intermediaries, and 5 of them must not be citizens of State Parties.

10. Decisions taken by the Conciliation Commission are binding upon each Party.

11. The parties shall disclose the results of disputes.

12. Settlement of dispute and all decision-makings are made on the basis of the principle of equality of the Parties involved in the procedure.

13. At the request of a Party or on its own initiative, the Conciliation Commission may request information or technical advice from any individual or body which deems it appropriate, in the consent of the Parties and on the conditions on which Parties may agree.

14. Conciliation Commission does not meet with a Party and has no contact with her in the absence of the other Party. Neither the intermediary cannot discuss the matter of the proceeding with a Party or both Parties in the absence of other intermediaries.

15. Conciliation Commission interprets the provisions of this Agreement in accordance with the norms of international law.

16. A Party asserting, that the measure of other Party is inconsistent with the provisions of this Agreement, shall bear the burden of proof for the discrepancy.

17. If the Conciliation Commission will come to the conclusion that the Party against which the complaint is made, did not fulfill its obligations under this Agreement, in its decision, it stresses the need to take measures to eliminate these violations by the respondent party, and a reasonable period, which cannot exceed one calendar year, to fulfill their decisions.

18. A Respondent party shall expeditiously stop the violation of its obligations under this Agreement through the faithful implementation of decisions of the Conciliation Commission.

19. If the decision of the Conciliation Commission will not performed for a specified period, or if the Conciliation Commission will decide that the measures notified by the respondent Party are not consistent with the provisions of this Agreement, the Conciliation Commission authorizes the Party that initiated the dispute, to take proportionate retaliation measures. Volume, proportion and duration of retaliation measures are determined by the Conciliation Commission.

20. Retaliation measures are temporary and applied by the complainant Party only as long as the measure which violates the provisions of this Agreement shall not be canceled or changed in such way as to comply with the provisions of this Agreement, or until the Parties have not reached agreement on the resolution of the dispute.

21. The Parties bear costs of conciliation in equal shares. All other expenses incurred by a Party shall be borne by the party itself.

Article 10

Powers of the Customs Union Commission

The Customs Union Commission shall have the following powers:

1) Monitoring and conducting comparative legal analysis of the relevant legislation of each of the Parties for compliance with this Agreement, as well as preparation of annual reports on the compliance with its provisions by the Parties;

2) assisting in the organization of consultations of the Parties on the implementation of the harmonization and unification of the relevant legislation of the Parties.

Article 11

Changes

Changes can be made to this Agreement by mutual consent of the Parties, which are documented by protocols.

Article 12

The entry into force of this Agreement

This Agreement shall enter into force from the date of receipt by the Depository of the last written notification of the Parties on the implementation of internal procedures by the Parties necessary for its entry into force.

Done in Moscow « ___ » _____ 2010 in a single copy in Russian language

The original copy of this Agreement is stored in the Integration Committee of the Eurasian Economic Community, which will send to each Party signed the Agreement a certified copy.

**For
The Government of
The Republic of
Belarus**

**For
The Government of
The Republic of
Kazakhstan**

**For
The Government of
The Russian
Federation**