

FREE TRADE AGREEMENT BETWEEN UKRAINE AND AZERBAIJANI REPUBLIC

FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF UKRAINE AND THE GOVERNMENT OF THE AZERBAIJANI REPUBLIC

Date of signing: July 28, 1995

Date of ratification: July 12, 1996

Effective date: September 2, 1996

The Government of Ukraine and the Government of the Azerbaijani Republic, referred to hereinafter as the Contracting Parties,

confirming their favorable regard to the free development of mutual economic cooperation,

taking into account the integrative economic relations that evolved between Ukraine and the Azerbaijani Republic, as well as the mutual interest of the two countries' economies,

desiring to develop trade and economic cooperation between Ukraine and the Azerbaijani Republic on the basis of equality and mutual benefit,

recognizing that the free movement of goods and services requires effecting mutually agreed measures,

confirming the intentions of Ukraine and the Azerbaijani Republic to become Contracting Parties to the General Agreement on Tariffs and Trade (GATT), sharing the goals and principles of GATT and taking into account the results of the agreements and accords achieved within the framework of the Uruguay Round of Multilateral Trade Negotiations,

have agreed as follows:

Article 1

1. The Contracting Parties shall not apply customs duties, taxes and charges of equivalent effect to the export and/or import of commodities originating from the customs territory of one of the Contracting Parties and intended for the customs territory of another Contracting Party. Exclusion from the given trade regime by a conciliated classification of commodities shall be formalized by documents that are an inseparable part of the present Agreement, if the Contracting Parties deem it necessary.

2. For the purposes of the present Agreement and for its validity period, the commodities originating from the territories of the Contracting Parties shall mean the commodities identified by the Rules for Identifying the Countries of the Commodities' Origin of September 24, 1993 approved by the Decision of the Council of the Heads of Governments of the Commonwealth of Independent States.

Article 2

Each of the Contracting Parties shall not:

- directly or indirectly impose on commodities, which come within the purview of the present Agreement, domestic taxes and charges that exceed corresponding taxes or charges imposed on similar commodities of domestic manufacture or commodities originating from third countries;
- apply to the warehousing, reloading, storage, movement of commodities originating from another Contracting Party, as well as payments and remittance of payments other rules than those that are applied in similar cases to its own commodities or commodities originating from third countries.

Article 3

The Contracting Parties shall in mutual trade refrain from applying discriminatory measures, and from introducing quantitative restrictions or equivalent measures on the export and/or import of commodities within the framework of the present Agreement.

The Parties may set the quantitative restrictions, mentioned in this Article, under unilateral procedure, and within reasonable limits and for a clearly defined time only in cases of:

- acute shortage of commodities on the domestic market, during the stabilization of the situation on the market, or
- acute balance of payments deficit before the stabilization of the balance of payments, or
- import of commodities into the territory of one of the Parties in such increased quantities and on such terms that cause or threaten to cause damage to domestic producers of similar or directly competitive commodities, or
- in order to take measures provided for in Article 4 of the present Agreement.

The Contracting Party that applies quantitative restrictions under the present Article shall as far as possible provide to the other Contracting Party in good time full information about the main reasons for introducing the referred to restrictions in the due form and for the foreseen periods of their application, after which it shall appoint consultations.

Article 4

The Contracting Parties agree that the issues related to the reexport of commodities shall be regulated by the Agreement on the Reexport of Commodities and the Procedure of Issuing Permits for Reexport of April 15, 1994, which was concluded at the Council of the Heads of Governments of the Commonwealth of Independent States in Moscow.

Article 5

The Contracting Parties shall exchange on a regular basis information about:

- laws and statutory acts related to economic activity, including on issues of trade, investment, taxation, banking, insurance, financial services, as well as on issues of transport and customs, customs statistics included.

The Contracting Parties shall without delay notify each other about the changes in national legislation that may impact on the performance of the present Agreement.

The authorized agencies of the Contracting Parties shall conciliate the procedure for exchanging such information.

Article 6

The Contracting Parties shall recognize unfair business practices as being incompatible with the purposes of the present Agreement and shall undertake not to resort, in particular, but not exclusively, to such of their methods:

- agreements between enterprises, decisions made by associations of enterprises, as well as joint methods of business practices that aim to hinder or restrict competition or violate the terms for it on the territories of the Contracting Parties;

- actions by which one or several enterprises use their dominating status, restricting competition on the entire or a substantial part of the Contracting Parties' territories.

Article 7

When effecting measures of tariff and nontariff regulation of bilateral economic relations, for the exchange of statistical information and for conducting customs procedures, the Contracting Parties shall apply the uniform nine-digit classification of foreign trade commodities (CFTC) based on the Harmonized System of Description and Coding of Commodities and the combined tariff-statistical classification of the European Union. For their own needs the Contracting Parties shall, when necessary, develop the commodity classification beyond the nine-digit limit.

A model copy of commodity classification shall be maintained on the basis of mutual agreement through the existing missions at corresponding international organizations.

Article 8

1. The Contracting Parties agree that abidance by the principle of free transit is an important condition for achieving the purposes of the present Agreement and an essential element in the process of their linkup with the system of international division of labor and cooperation.

In this connection, each Contracting Party shall ensure unhindered transit through its territory of commodities originating from the customs territory of another Contracting Party and/or third countries and intended for the customs territory of the other Contracting Party or any third country, except for the commodities that are completely prohibited from being imported or require a special permit in compliance with the national legislation of each of the Contracting Parties, and provide to exporters, importers or carriers all the available and required facilities and services for transit on terms that are not worse than those on which the very same facilities and services are provided to their own exporters, importers or exporters, importers or carriers of any third country.

2. The procedure and terms of transit of freight through the territory of states shall be regulated in compliance with international carriage rules.

Article 9

The present Agreement shall not preclude the right of any of the Contracting Parties from taking measures generally accepted in international practice, which it considers necessary for the protection of its vital interests or which are undoubtedly necessary for the performance of the international treaties to which it is a party or intends to be a party, if these measures concern the following:

- information that affects the interest of national defense;
- trade in weapons, ammunition and materiel;
- research or production related to the needs of defense;
- delivery of material and equipment used in the nuclear industry;
- protection of public morals and public order;
- protection of industrial or intellectual property;
- gold, silver or other precious metals and stones;
- protection of the health of people, animals and plants.

Article 10

In order to pursue a concerted policy of export control with regard to third countries, the Contracting Parties shall hold regular consultations and take mutually conciliated measures for the development of an effective system of export control.

Article 11

The provisions of the present Agreement shall replace the provisions of bilateral agreements concluded earlier between the Contracting Parties to the extent when the latter are either not compatible with the first or identical to them.

Article 12

Disputes between the Contracting Parties as to the interpretation or application of provisions of the present Agreement shall be settled through negotiations.

The Contracting Parties shall strive to avoid conflict situations in mutual trade.

Each Contracting Party shall ensure on its territory effective ways of recognizing and executing arbitral decisions.

Article 13

In order to achieve the purposes of the present Agreement and draft recommendations for the improvement of trade and economic cooperation between the two countries, the Contracting Parties have agreed to set up a joint Ukrainian- Azerbaijani Commission.

Article 14

The present Agreement shall come into force from the date when the Contracting Parties exchange notifications about their performance of the inter-state procedures required for this purpose and remain in force until the expiry of twelve months from the date when one of the Contracting Parties forwards a written notification to the other Contracting Party about the intention to terminate its effect.

The provisions of the present Agreement after the termination of its validity period shall be applied to the contracts between the enterprises and organizations of both countries that were concluded but not performed during its validity period.

Signed at the city of Baku on July 28, 1995 in two valid copies, each in the Ukrainian, Azerbaijani and Russian languages, each text being of equal force.

For the purpose of interpreting the provisions of the present Agreement, the Russian language shall prevail.

For the Government of Ukraine

(signature)

For the Government of the Azerbaijani Republic

(signature)