FREE TRADE AGREEMENT BETWEEN UKRAINE AND REPUBLIC OF BELARUS

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

Date of signing: December 17, 1992
Date of ratification: March 19, 1999
Effective date: November 11, 2006

With amendments and additions
introduced by the Protocol of October 18, 2005

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

relying on the Treaty between the Belorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic signed on December 20, 1990.

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

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

proceeding from the sovereign right of every state to pursue an independent foreign economic policy,

intending to facilitate the upgrading of economic activity, ensure complete employment, raise productivity and rational use of resources,

confirming the need to develop bilateral relations on trade and economic relations in compliance with the principles of the World Trade Organization (WTO),

(paragraph 6 of the preamble
in the wording of the Protocol of October 18, 2005)

have agreed as follows:

Article 1

1. The Parties shall not apply customs duties, taxes and charges – equivalent in effect to customs duties – to the export and/or import of commodities originating from the customs territory of one of the Parties and intended for the customs territory of another Party. When necessary, the Parties may foresee the exclusion from the given trade regime by a conciliated classification of commodities to be formalized by corresponding protocols, which shall be inseparable parts of the present Agreement

2. For the purposes of the present Agreement and for its validity period, the commodities originating from the territory of the states Parties shall mean the commodities identified by the Rules for Identifying the Countries of the Commodities' Origin approved by the Decision of the Council of the Heads of Governments of the Commonwealth of Independent States of November 30, 2000.

(Article 1 in the wording
of the Protocol of October 18, 2005)

Article 2

The Parties shall not:

- directly or indirectly impose on the other Party's commodities, which come within the purview of the present Agreement, domestic taxes or charges that exceed corresponding taxes or charges imposed on similar commodities of domestic manufacture or commodities originating from third countries;

- introduce relative to imports and exports, which come within the purview of the present Agreement, any special restrictions or requirements which under a similar situation are not applied to similar commodities of domestic manufacture or commodities originating from third countries;

- apply to the warehousing, reloading, storage, movement of commodities originating from the territory of another state, 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 Parties shall in mutual trade refrain from applying measures that restrict the export and/or import of commodities within the framework of the present Agreement. The Parties may institute measures restricting the export and/or import of commodities under unilateral procedures, but only for a strictly defined time. These measures may be introduced as quantitative restrictions on exports and/or imports or as special customs duty, antidumping and compensating customs duties. The referred to measures must be of an exclusive nature and be applied only in the following cases:

- acute shortage of commodities on the domestic market (before the stabilization of the situation on the market);

- acute balance of payments deficit (before the stabilization of the balance of payments);

- import of commodities into the territory of one of the Parties in such increasing quantities or on such terms that cause or threaten to cause damage to domestic producers of similar or directly competitive commodities;

- in order to take measures provided for in Article 5 of the present Agreement.

The Party that applies quantitative restrictions under the present Article shall be bound, in compliance with the request of the other Party, to provide in the shortest possible time the necessary information about the reasons, forms and time for introducing the above-mentioned restrictions. When selecting the measures in compliance with this Article, the Parties shall give priority to those of them that produce the least negative impact on the achievement of the purposes of the present Agreement.

(Article 3 in the wording
of the Protocol of October 18, 2005)

Article 4

All settlements and payments in trade and economic cooperation between the business entities of the states Parties shall be made on the basis of corresponding interbank agreements.

Article 5

Each Party shall not permit the reexport of commodities, relative to the export of which the Party from whose customs territory these commodities originate applies measures of tariff and/or nontariff regulation.

Such commodities may be reexported only by a written consent and on the terms set by the authorized agency of the country of origin of the said commodities. In case of failure to comply with this provision, the Party concerned shall be entitled, after preliminary consultations with the other Party, to unilaterally take measures on regulating the export of such commodities to the territory of the other Party that permitted the unconciliated reexport. In case of the reexport of such commodities, the state on whose territory they were manufactured shall be entitled to demand compensations for damages.

In this Article, reexport shall mean the removal of commodities, which originate from the customs territory of one of the states, as specified in Item 2, Article 1 of the present Agreement, by another state beyond its customs territory in order to export them to a third country.

Article 6

The Parties shall on a regular basis exchange all principal information about customs issues, all available customs statistics included. Corresponding authorized agencies of the Parties shall conciliate the procedure for exchanging such information.

Article 7

1. The Parties shall strive to approximate the customs rates that are used in the trade with third countries, for which purpose it was agreed to hold regular consultations.

2. The Parties shall inform each other about the operative customs tariffs and all exceptions related to them.

Article 8

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

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

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

Article 9

When effecting measures of tariff and nontariff regulation of bilateral economic relations, for the exchange of statistical information and for conducting customs procedures, the Parties have agreed to use the Harmonized System of Description and Coding of Commodities of the World Trade Organization.

(Article 9 in the wording
of the Protocol of October 18, 2005)

Article 10

1. The Parties have agreed that abidance by the principle of free transit is the most 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 of the two states shall ensure unhindered transit through its territory of commodities originating from the customs territory of another state and/or third state, and shall 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 carriers of any third state.

The Parties agree that the transit tariffs for any type of transport, including tariffs of loading and unloading, will be economically justified.

Article 11

The present Agreement shall not preclude the right of any of the 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 12

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

(Article 12 in the wording
of the Protocol of October 18, 2005)

Article 13. Deleted

(in compliance with of the Protocol of October 18, 2005,
whereby articles 14, 15 and 16 shall be considered
as articles 13, 14, 15 and 16 respectively)

Article 13

Nothing in the present Agreement shall hinder each of the Parties from establishing relations with third countries and perform the undertaken obligations in accordance with any other international agreement to which this Party is or might be a signatory, provided these relations and obligations are consistent with the provisions and purposes of the present Agreement.

(Article 13 in the wording
of the Protocol of October 18, 2005)

Article 14

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

The amendments and additions to the present Agreement shall be introduced by mutual consent of the Parties and formalized by protocols, which are an inseparable part of the present Agreement.

(Article 14 supplemented by paragraph 2
in compliance with the Protocol of October 18, 2005)

Article 15

The Parties have vested the Intergovernmental Mixed Ukrainian-Belorussian Commission with the achievement of the goals of the present Agreement and the drafting of proposals for the improvement of trade and economic cooperation between the two countries.

(Article 15 in the wording
of the Protocol of October 18, 2005)

Article 17. Deleted

(in compliance with the
Protocol of October 18, 2005)

Article 18. Deleted

(in compliance with the
Protocol of October 18, 2005)

Article 16

The present Agreement shall come into force from the date of receipt of the last written notification about the Parties having performed the inter-state procedures required for the Agreement to come into force.

The present Agreement shall be invalid after the expiry of twelve months from the date when one of the Parties forwards a written notification about the intention to terminate its effect.

The provisions of the present Agreement after the termination of its effect shall be applied to the contracts between the business entities of the states Parties, which were concluded but not performed during its validity period.

(Article 16 in the wording
of the Protocol of October 18, 2005)

Made at the city of Kyiv on December 17, 1992 in two valid copies, each in the Ukrainian, Belarussian and Russian languages, all texts being of equal force.

On behalf of the Government of Ukraine **On behalf of the Government of the Republic of Belarus**

(signature) **(signature)**

Protocol
between the Government of Ukraine and the Government of the Republic of Belarus on the Exclusion from the Regime of Free Trade to the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus of December 17, 1992

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

in compliance with the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus of December 17, 1992,

have agreed as follows:

Article 1

The Contracting Parties shall establish exclusion from the regime of free trade, as provided for by the present Protocol, which applies to the following:

1. Commodities within the purview of Law of Ukraine No.180/06-VR of December 7, 1996 *Duty of the Export of Live Cattle and Raw Hides* (Annex No.1).

2. White sugar in compliance with Council of Ministers of the Republic of Belarus Regulation No.992 of July 30, 1997 *On Introducing Additions to Council of Ministers of the Republic of Belarus Regulation No.72 of February 10, 1997.*

Article 2

1. As to the commodities liable to duty in compliance with Article 1 of this Protocol, the Parties shall grant each other the most favored nation status with regard to the following:

- duties and charges which are collected during export, including the methods of collection of such duties and charges;
- provisions concerning customs declaration of transit, transportation, warehousing, reloading and other similar services;
- methods of payments and remittance of payments;
- issue of export (import) licenses;
- rules concerning the sale, purchase, transportation, distribution and use of commodities on the domestic market.

Article 3

The export/import of goods (works, services) shall be licensed and quotaed in compliance with the national legislations of the Parties in effect at the moment of customs declaration of the commodities during their export from Ukraine to the Republic of Belarus and during their import from the Republic of Belarus into Ukraine.

Article 4

This Protocol shall be an inseparable part of the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus of December 17, 1992.

This Protocol shall come into force from the date when the Contracting Parties notify in writing about the performance of all the inter-state procedures required for this purpose.

This Protocol shall be in effect throughout the period prior to the conclusion of a new Protocol, as stipulated in Article 1 of the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus of December 17, 1992.

Made at the city of Kyiv on February 13, 1998 in two valid copies, each in the Ukrainian, Belarussian and Russian languages, all texts being of equal force. In case of differences in the interpretation of this Protocol, the text in the Russian language shall prevail.

For the purpose of interpreting the provisions of this Protocol, be used.

For the Government of Ukraine **For the Government of the Republic of Belarus**

_____ _____

(signature) **(signature)**

Annex No.1
to the Protocol on the Exclusion from
the Regime of Free Trade to the Free Trade
Agreement between the Government of Ukraine
and the Government of the Republic of Belarus

Classification of Commodities Liable to Customs Duty by Ukraine

CFTC Code 1993	Name of commodities
01.02.90100	Live cattle
01.02.90310	Young stock
01.02.90330	Cows
01.02.90350	Bulls
01.02.90370	Oxen
01.02.90900	etc.
01.04.10	Live sheep
41.01	Cattle hides
41.02	Sheep and lambs
41.03.90000	Pigs only

Protocol
between the Cabinet of Ministers of Ukraine and the Government of the Republic of Belarus on the Exclusion from the Regime of Free Trade to the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus of December 17, 1992

Date of signing: October 18, 2005
Date of ratification: December 20, 2006
Effective date: January 25, 2007

The Cabinet of Ministers of Ukraine and the Government of the Republic of Belarus, referred to hereinafter as the Contracting Parties, have agreed to introduce to the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus of December 17, 1992 the following amendments.

1. Paragraph 6 of the preamble shall be set forth in the following wording:

"confirming the need to develop bilateral relations in trade and economic links in compliance with the principles of the World Trade Organization (WTO),"

2. Article 1 shall be set forth in the following wording:

"1. The Parties shall not apply customs duties, taxes and charges – equivalent in effect to customs duties – to the export and/or import of commodities originating from the customs territory of one of the Parties and intended for the customs territory of another Party. When necessary, the Parties may foresee the exclusion from the given trade regime by a conciliated classification of commodities to be formalized by corresponding protocols, which shall be inseparable parts of the present Agreement.

"2. For the purposes of the present Agreement and for its validity period, the commodities originating from the territory of the state Parties shall mean the commodities identified by the Rules for Identifying the Countries of the Commodities' Origin approved by the Decision of the Council of Heads of Governments of the Commonwealth of Independent States on November 30, 2000."

3. Article 3 shall be set forth in the following wording:

"The Parties shall in mutual trade refrain from applying measures that restrict the export and/or import of commodities within the framework of the present Agreement. The Parties may institute measures restricting the export and/or import of commodities under unilateral procedures, but only for a strictly defined time. These measures may be introduced as quantitative restrictions on exports and/or imports or as special customs duty, antidumping and compensation customs duties. The referred to measures must be of an exclusive nature and be applied only in the following cases:

- acute shortage of commodities on the domestic market (before the stabilization of the situation on the market);
- acute balance of payments deficit (before the stabilization of the balance of payments);
- import of commodities into the territory of one of the Parties in such increasing quantities or on such terms that cause or threaten to cause damage to domestic producers of similar or directly competitive commodities;
- in order to take measures provided for in Article 5 of the present Agreement.

“The Party that applies quantitative restrictions under the present Article shall be bound, in compliance with the request of the other Party, to provide in the shortest possible time the necessary information about the reasons, forms and time for introducing the above-mentioned restrictions. When selecting the measures in compliance with this Article, the Parties shall give priority to those of them that produce the least negative impact on the achievement of the purposes of the present Agreement.”

4. Article 4 shall be set forth in the following wording:

“All settlements and payments in trade and economic cooperation between the business entities of the states Parties shall be made on the basis of corresponding interbank agreements.”

5. Article 9 shall be set forth in the following wording:

“When effecting measures of tariff and nontariff regulation of bilateral economic relations, for the exchange of statistical information and for conducting customs procedures, the Parties have agreed to use the Harmonized System of Description and Coding of Commodities of the World Trade Organization.”

6. Article 12 shall be set forth in the following wording:

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

7. Articles 13, 17, and 18 shall be deleted. Articles 14, 15 and 16 shall be considered as articles 13, 14, 15 and 16 respectively

8. Article 13 shall be set forth in the following wording:

“Nothing in the present Agreement shall hinder each of the Parties from establishing relations with third countries and perform the undertaken obligations in accordance with any other international agreement to which this Party is and might be a signatory, provided these relations and obligations are consistent with the provisions and purposes of the present Agreement.

9. Article 14 shall be supplemented by paragraph 2 in the following wording:

“The amendments and additions to the present Agreement shall be introduced by mutual consent of the Parties and formalized by protocols, which are an inseparable part of the present Agreement.”

10. Article 15 shall be set forth in the following wording:

“The Parties have vested the Intergovernmental Mixed Ukrainian-Belorussian Commission with the achievement of the goals of the present Agreement and the drafting of proposals for the improvement of trade and economic cooperation between the two countries.”

11. Article 16 shall be set forth in the following wording:

“The present Agreement shall come into force from the date of receipt of the last written notification about the Parties having performed the inter-state procedures required for the Agreement to come into force.

“The present Agreement shall be invalid after the expiry of twelve months from the date when one of the Parties forwards a written notification about the intention to terminate its effect.

“The provisions of the present Agreement after the termination of its effect shall be applied to the contracts between the business entities of the states Parties, which were concluded but not performed during its validity period.

“Made at the city of Minsk on October 18, 2005 in two valid copies, each in the Ukrainian, Belarussian and Russian languages, each text being of equal force.”