

FREE TRADE AGREEMENT BETWEEN UKRAINE AND REPUBLIC OF KAZAKHSTAN

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

Date of signing: September 17, 1994

Date of ratification: October 2, 1998

Effective date: October 19, 1998

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

taking guidance from the Agreement of Friendship and Cooperation between Ukraine and the Republic of Kazakhstan of January 20, 1994,

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

taking guidance from the Agreement of the Council of Heads of CIS States of April 14, 1994 on the establishment of a free trade area,

expressing their resolve to develop bilateral trade and economic relations with allowance for the principles of the General Agreement on Tariffs and Trade (GATT),

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

have agreed as follows:

Article 1

1. The Parties shall not apply customs duties, taxes and charges of equivalent effect on the export or import of commodities originating from the customs territory of one of the 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 a separate Protocol, if the Parties deem it necessary.

2. For the purposes of the present Agreement and for its validity period, the commodities originating from the customs territories of the Contracting Parties shall mean commodities that have been:

a) completely manufactured on the territory of the Parties

b) processed on the territory of the Parties with the use of raw materials, materials and components originating from third countries and, therefore, changed their affiliation with the Harmonized System of Description and Coding of Commodities at least as regards the first four digits;

c) manufactured with the use of the raw materials, materials and components specified in subitem "b".

The Parties shall conciliate the detailed rules for origination of commodities in a separate document that will be an inseparable part of the present Agreement.

Article 2

The 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 import or export of commodities, which come within the purview of the present Agreement, special restrictions and requirements, which under similar situations 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 another 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 present Agreement shall not preclude the right of each of the Parties from taking measures generally accepted in international practice in state regulation of foreign trade relations, which it considers 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:

- protection of public morals and public order;
- protection of human life and health,
- protection of animals and plants;
- protection of the environment;
- protection of artistic, archeological and historical values that constitute the national heritage
- protection of industrial and intellectual property;
- trade in gold, silver and other precious metals and stones;
- restriction of the export of products the domestic prices which are below world prices owing to programs of government support;
- conservation of irreplaceable natural resources;
- upsetting the balance of payments.

2. Nothing in the present Agreement shall preclude the right of any of the Parties from applying any measures of state regulation it deems necessary, if these measures concern the following:

- assurance of national security, including prevention of the outflow of confidential information referred to state secrets;
- trade in weapons, ammunition and materiel, provision of services of a military nature, transfer of technologies and provision of services for the manufacture of armaments and materiel, as well as for other military purposes;
- supply of fission material and sources of radioactive substances, recovery of radioactive waste;
- measures applied at times of war or under other emergency circumstances in international relations;
- actions aimed to meet the commitments under the UN Charter for the preservation of international peace and security.

Article 4

By mutual agreement the Parties may restrict the export of individual commodities with regard to their volumes and classification, which are annually specified in the agreements on trade and economic cooperation.

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.

Reexport shall mean the removal of commodities, which originate from the customs territory of one Party, by another Party beyond its customs territory in order to export them to a third country.

Article 5

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

Article 6

1. The Parties shall exchange information about their free trade agreements with third countries.
2. The Parties shall inform each other about all amendments to the operative customs tariffs in their countries.

Article 7

The Parties, in accordance with the legislation of the parties, shall recognize as being incompatible with the purposes of the present Agreement unfair business practices resorted to, in particular, in the following:

- agreements between enterprises or associations of enterprises that aim to hinder or restrict competition or violate the terms for it on the territories of the Parties;
- actions by which one or several enterprises use their dominating status, restricting competition on the entire or a substantial part of the Parties' territories.

Article 8

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 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 state 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 9

Each Party, in compliance with its operative domestic legislation, shall ensure free transit through its territory of commodities originating from the customs territory of another Party or third countries and intended for the customs territory of the other Party or third country, and provide to exporters, importers or carriers all the available and required facilities and services, financial services included, 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 national carriers of any third country. Each Party shall

guarantee exemption of transit commodities, originating from the customs territory of the other Party, from customs duty and transit charges, which shall be formalized by a separate Agreement.

Article 10

Nothing in the present Agreement shall hinder the Parties from maintaining relations (which do not contradict the goals and terms of the present Agreement) with states that are not parties to the present Agreement, as well as with their associations and international organizations.

Article 11

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

Article 12

Proceeding from the purposes of the present Agreement and in order to design recommendations for the improvement of trade and economic cooperation between the two states, the Parties have agreed to establish a bilateral Commission:

The main objectives of the referred to Commission shall be to:

- consider issues referred to the interpretation and application of the present Agreement, as well as settlement of disputes between the Parties;
- analyze the development of bilateral trade and economic relations;
- design proposals for improving the conditions and trade and economic cooperation between the two countries and for their continued development;
- consider issues of export control, including the list of commodities to be subject to control, the methods and forms of control over exports, facts of violation of requirement to export control, design of proposals for introducing and lifting sanctions;
- consider the execution of the present Agreement and design corresponding recommendations.

The sessions of the Commission shall be held by proposal of one of the Parties, but not less than once a year, alternately in the Republic of Kazakhstan and in Ukraine.

Article 13

The present Agreement shall come into force after the exchange of notes, in which the Parties shall notify each other about their performance of the inter-state procedures required for its commencement, and remain in force until one of the Parties notifies the other Party in writing within six months about its intention to terminate the effect of the Agreement.

Made at the city of Almaty in two valid copies, each in the Ukrainian, Kazakh and Russian languages, all texts being of equal force.

In case of differences among the Parties as to interpretation, application of execution of the present Agreement, the Parties shall take guidance of the text of the Agreement in the Russian language.

For the Government of Ukraine

For the Government of the Republic of Kazakhstan

(signature)

(signature)

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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 Kazakhstan of September 17, 1994

Date of signing: September 17, 1994

Date of ratification: October 2, 1998, Law of Ukraine No.156-XIV

Effective date: October 19, 1998

The Government of Ukraine and the Government of the Republic of Kazakhstan, referred to hereinafter as the Parties, have signed this Protocol on the following:

Article 1

Exclusion from the regime of free trade, as provided for by Article 1 of the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Kazakhstan of September 17, 1994 (hereinafter – the Agreement) shall apply to the commodities listed in annexes No.1 and No.2.

Article 2

1. As to the commodities to which applies the exclusion from the regime of free trade in compliance with Article 1 of this Protocol, the Parties shall grant each other the most favored nation status with regard to the following:

- taxes and charges in compliance with Article 1 of the Agreement, which are collected during the import of the commodities listed in annexes No.1 and No.2, including the methods of collection of such taxes and charges;
- provisions concerning customs declaration of transit, transportation, warehousing, reloading and other similar services;
- methods of payments and remittance of payments;
- issue of import licenses;
- rules concerning the sale, purchase, transportation, distribution and use of commodities on the domestic market.

2. The Provisions of Item 1 of this Article shall not apply to:

- advantages granted by any of the Parties to third countries in order to establish a customs union or free trade area, or as a result of the establishment of such a union or area;
- advantages granted to developing countries in compliance with the legislations of the Parties;
- advantages granted to neighboring countries in order to ease border trade.

Article 3

1. This Protocol shall be an inseparable part of the Agreement and come into force simultaneously with the referred to Agreement.

2. This Protocol shall be in effect throughout the period prior to the conclusion of a new Protocol, as stipulated in Article 1 of the Agreement.

Made at the city of Kyiv on December 29, 1997 in two valid copies, each in the Ukrainian, Kazakh and Russian languages, all texts being authentic.

For the purpose of interpreting the provisions of this Protocol, the text in the Russian language shall be used.

For the Government of Ukraine

For the Government of the Republic of Kazakhstan

(signature)

(signature)

Annex No.1
to the Protocol on the Exclusion
from the Regime of Free Trade

**List
of Commodities Subject to Exclusion from the Regime of Free Trade
during their Export from Ukraine to the Republic of Kazakhstan**

	Name of commodities	CFTC Code 1993
I*	Live cattle: (young stock)	01.02.90100
	Pregnant heifers, cows, steers, oxen, etc.	01.02.90310-01.02.90900
	Live sheep	01.04.10
	Hides:	

Remark: I* - Law of Ukraine No.180/96-VR of May 7, 1995

Annex No.2
to the Protocol on the Exclusion
from the Regime of Free Trade

**List
of Commodities Subject to Exclusion from the Regime of Free Trade
during their Import from Ukraine to the Republic of Kazakhstan**

	Name of commodities	CFTC Code 1993
	Alcoholic and non-alcoholic beverages	group 22. (except 22.01, 22.02 and 22.09)
	Tobacco and industrial substitutes of tobacco	group 24