ANNEX 29
to the Treaty on the Eurasian
Economic Union

PROTOCOL
on Agricultural State Support Measures

1. This Protocol has been developed in accordance with Articles 94 and 95 of the Treaty on the Eurasian Economic Union and shall apply to the goods specified in section II of this Protocol (hereinafter “agricultural goods”).

2. The terms used in this Protocol shall have the following meanings:

“administrative-territorial entities” means administrative-territorial entities and regions of the Republic of Belarus and the Republic of Kazakhstan (including the cities of Minsk, Astana and Almaty), constituent entities and municipalities of the Russian Federation;

“state support for agriculture” means financial contribution provided by the government or other state or local authority of a Member State in the interests of manufacturers of agricultural goods, either directly or through their authorised agent;

“subsidising authority” means one or more state or local authorities of the Member State adopting decisions on the provision of state support for agriculture; In accordance with the legislation of a Member State, its subsidising authority may designate or instruct an authorised agent (any organisation) to perform one or more of its functions relating to the provision of measures of state support for agriculture. Actions of such authorised agent (any organisation) shall be regarded as actions of the subsidising authority.

Acts of the head of a Member State aimed at the provision of measures of state support for agriculture shall be regarded as actions of its subsidising authority.

I. Measures of State Support for Agriculture

3. Measures of state support for agriculture shall include:

1) measures not producing distorting effects on mutual trade in agricultural goods between the Member States (hereinafter "measures with no trade-distorting effect");

2) measures producing the most distorting effect on mutual trade in agricultural goods between the Member States (hereinafter "measures with the most trade-distorting effect");

3) measures producing distorting effects on mutual trade in agricultural goods between the Member States (hereinafter "measures with trade-distorting effect").

4. Measures with no trade-distorting effect shall include the measures specified in section III of this Protocol. Measures with no trade-distorting effect may be applied by the Member States without restrictions.

5. Measures with the most trade-distorting effect shall include:

measures of state support for agriculture, the provision of which is associated as the sole or one of several conditions with the results of previous or possible future exportation of agricultural goods from the territory of the Member State providing the measure of state support to the territory of any other Member State;

measures of state support for agriculture, the provision of which is associated as the sole or one of several conditions to the acquisition or use of agricultural goods originating exclusively from the territory of the Member State providing this measure of state support in the manufacture of agricultural goods on the territory of that Member State, regardless of indication of specific goods, their amounts, value, proportion of the amount or value of the output or use of domestic goods, and the level of localisation of production of domestic goods used.

A list of measures with the most trade-distorting effect is specified in Section IV of this Protocol.

6. The Member States shall not apply measures with the most trade-distorting effect.

7. Measures with trade-distorting effect shall include measures that may not be identified as the measures specified in paragraphs 4 and 5 of this Protocol.

8. The level of measures with trade-distorting effect, calculated as a percentage of the amount of state support for agriculture to the total gross value of agricultural goods manufactured, determined as the permitted amount, shall not exceed 10 percent prior to the entry into force of the obligations under the third indent of this paragraph.

The methodology for calculating the permitted level of measures with trade-distorting effect shall be developed by the Member States taking into account the international experience and approved by the Council of the Commission.

Obligations of the Member States regarding measures with trade-distorting effect shall be determined in accordance with the above methodology and approved by the Supreme Council.

The provisions of this paragraph shall be applied taking into account the transitional provisions provided for by Article 106 of the Treaty on the Eurasian Economic Union.

9. Upon accession of a Member State to the World Trade Organisation, obligations of the Member State regarding measures with trade-distorting effect undertaken as a condition for accession to the WTO shall become its obligations within the Union.

10. The amount of state support for agriculture shall be calculated in accordance with Section V of this Protocol taking into account the methodology for calculating the permitted level of measures with trade-distorting effect provided for by paragraph 8 of this Protocol.

II. Goods Subject to Common Rules of State Support for Agriculture

11. The common rules of state support for agriculture shall apply in respect of the following goods in CN of FEA EAEU:

1) CN of FEA EAEU groups 01 - 24, except for group 03 (fish and crustaceans, molluscs and other aquatic invertebrates), items 1604 (prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs) and 1605 (prepared or preserved crustaceans, molluscs and other aquatic invertebrates);

2) CN of FEA EAEU sub-item 2905 43 000 0 (mannitol);

3) CN of FEA EAEU sub-item 2905 44 (D-glucitol (sorbitol));

4) CN of FEA EAEU item 3301 (essential oils (with or without terpenes), including concretes and absolutes; resinoids; extracted essential oils; concentrates of essential oils in fats, fixed oils, waxes or similar products obtained by enfleurage or maceration; terpenic by-products of

deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils);

5) CN of FEA EAEU items 3501 - 3505 (casein, caseinates and other casein derivatives; casein glues; albumins (including concentrates of two or more whey proteins containing over 80 wt. percent of whey protein based on dry matter), albuminates and other albumin derivatives; gelatin (including rectangular (including square) sheets, surface treated or untreated, coloured or uncoloured) and gelatin derivatives; fish glue; other glues of animal origin (excluding casein glues included in item 3501); peptones and their derivatives; other protein substances and their derivatives not specified or included elsewhere; hide or offal powder, chromed or non-chromed; dextrines and other modified starches (e.g., pregelatinised or esterified starches); glues based on starches or dextrins or other modified starches), except sub-items 3503 00 800 1 (dry fish glue) and 3503 00 800 2 (liquid fish glue));

6) CN of FEA EAEU sub-item 3809 10 (finishing agents, substances to accelerate dyeing or fix dyestuffs and other products and preparations (e.g., dressings and mordants) used in the textile, paper, leather or similar industries, not specified or included elsewhere, based on starchy substances);

7) CN of FEA EAEU sub-item 3824 60 (sorbitol, except sorbitol in sub-item 2905 44);

8) CN of FEA EAEU items 4101 - 4103 (raw hides of cattle (including buffalo) or equine animals (fresh, salted, dried, limed, pickled or otherwise preserved, except for tanned, parchment-dressed or without additional treatment), with or without hair, double or non-double; raw skins of sheep or lambs (fresh, salted, dried, limed, pickled or otherwise preserved, except for tanned, parchment-dressed or without additional treatment), with or without

hair, double or non-double, other than those excluded by Note 1c to this group; other raw hides and skins (fresh, salted, dried, limed, pickled or otherwise preserved, except for tanned, parchment-dressed or without additional treatment), with or without hair, double or non-double, other than those excluded by Note 1b or 1c to this group);

9) CN of FEA EAEU item 4301 (raw furskins (including heads, tails, paws and other pieces or cuttings suitable for the manufacture of fur products), other than raw hides and skins specified in CN of FEA EAEU items 4101, 4102 or 4103);

10) CN of FEA EAEU items 5001 00 000 0 - 5003 00 000 0 (silk cocoons suitable for reeling; raw silk (untwisted); silk waste (including cocoons unsuitable for reeling, waste cocoon filament and loose raw material));

11) CN of FEA EAEU items 5101 - 5103 (wool, not carded or combed; animal hair, fine or coarse, not carded or combed; waste wool, of fine or coarse animal hair, including yarn waste, but excluding garnetted raw materials);

12) CN of FEA EAEU items 5201 00 - 5203 00 000 0 (cotton, not carded or combed; cotton waste (including yarn waste and garnetted raw materials); cotton fibre, carded or combed);

13) CN of FEA EAEU item 5301 (raw flax or linen processed, but not spun; flax tow and waste (including yarn waste and garnetted raw materials));

14) CN of FEA EAEU item 5302 (hemp (cannabis sativa L.), raw or processed, but not spun; hemp tow and waste (including yarn waste and garnetted raw materials)).

III. Measures with no Trade-Distorting Effect

12. Measures with no trade-distorting effect implemented in the interests of manufacturers of agricultural goods (hereinafter "the manufacturers") shall meet the following basic criteria:

1) the support shall be provided from the budget (unclaimed revenues), including under state programmes, but not at the expense of consumers' funds. Unclaimed revenues shall refer to the amount of mandatory payments rejected by the Member State permanently or temporarily;

2) the support shall not result in the maintenance of manufacturers' prices.

13. In addition to the criteria specified in paragraph 12 of this Protocol, measures with no trade-distorting effect shall meet the specific criteria and conditions stipulated in paragraphs 14 to 26 of this Protocol.

14. State programmes for the provision of general services shall provide for allocation of budget funding (the use of unclaimed revenues) for the provision of services or benefits to the agriculture or rural population, with the exception of direct payments to persons engaged in the manufacture or processing of agricultural goods.

15. State programmes for the provision of general services may be carried out in the following areas:

1) scientific research, including general research, in connection with environmental programmes and research programmes for specific products;

2) pest and disease control, including general measures to combat pests and diseases, as well as measures relating to a particular product, such as early warning, quarantine and elimination systems;

3) general and special staff training;

4) dissemination of information, consultancy services, including the provision of means to facilitate the transfer of information and results of research to manufacturers and consumers;

5) inspection services, including general inspection services and inspections of individual agricultural goods for the purposes of healthcare, safety, standardisation and quality sorting;

6) services for marketing and promotion of agricultural goods, including market information, consultations and promotion of specific agricultural goods (excluding the cost of non-specific tasks that may be used by sellers to reduce selling prices of agricultural goods or provide direct economic benefits to customers);

7) infrastructure services, including electricity supply, roads and other means of communication, market and port facilities, water supply, dams and drainage systems, infrastructure developments in conjunction with environmental protection programmes. In all cases, the funds shall only be allocated for equipment or construction of capital and public infrastructure facilities intended for general use, with the exception of funds allocated to cover operating costs or lost profits from servicing customers with benefits.

16. State reserves to ensure food security shall be created using funds (unclaimed revenues) budgeted for the purpose of accumulation and storage of food stocks and allocated within the programme provided for by the legislation of the Member State to ensure food security and shall meet the following requirements:

1) the amount and accumulation of state reserves to ensure food security shall comply with the predetermined targets related solely to food security;

2) the process of formation and distribution of reserves shall be financially transparent;

3) food products shall be procured at current market prices; sales from the food reserves shall be conducted at prices not lower than the current domestic market prices for particular products of appropriate quality.

17. Domestic food aid shall be provided to the part of the population in need at the expense of budget funds (unclaimed revenues).

Domestic food aid provided shall meet the following requirements:

the right to receive domestic food aid shall be determined by the legislation of the Member State;

domestic food aid shall be provided in the form of direct food supplies to interested persons or the provision of funds for the purchase of food at market or subsidised prices by these persons;

within the framework of provision of domestic food aid, food products shall be procured at current market prices; the funding and distribution of funds shall be transparent.

18. State support measures implemented in the form of direct payments to manufacturers (the use of unclaimed revenues and payments in kind) shall comply with the criteria specified in paragraph 12 of this Protocol, as well as other criteria applicable to individual types of direct payments specified in paragraphs 19 - 26 of this Protocol. Direct payments, except for those specified in paragraphs 19 - 26 of this Protocol, shall comply with the requirements specified in sub-paragraphs 2 and 3 of paragraph 19 of this Protocol, in addition to the general criteria specified in paragraph 12 of this Protocol.

19. "Unrelated" support of manufacturers' income shall meet the following requirements:

1) eligibility for payments shall be determined by the legislation of the Member State depending on the level of income, status of the manufacturer, the use of production factors or the level of output in a specific fixed base period;

2) the amount payable shall not depend on the type or volume of products (including livestock), domestic or world prices for manufactured products and production factors;

3) manufacture of products shall not be required to receive payments.

20. Financial participation of authorised state government authorities in insurance and income security programmes shall meet the following requirements:

1) eligibility for payments shall depend on the losses in income (taking into account only the income derived from agricultural activities) exceeding 30 percent of the average gross income or the equivalent in the form of net income (excluding any payments received under these or similar programmes) in the previous 3-year period or of the average value for 3 years calculated on the basis of the previous 5-year period, excluding the highest and the lowest annual rates. Any manufacturer that meets this condition shall be entitled to receive payments;

2) the amount of compensation may not exceed 70 percent of the losses in income of a manufacturer for the year in which the manufacturer is eligible to receive the support;

3) the amount payable shall not depend on the type or volume of products (including livestock), domestic or world prices for manufactured products and production factors;

4) upon receipt by a manufacturer of agricultural products of state support within 1 calendar year in accordance with this paragraph and

paragraph 21 of this Protocol, the total amount of compensation may not exceed 100 percent of the total losses of the manufacturer.

21. Support payments in cases of natural and other disasters, exercised either directly or through the financial participation of authorised state government authorities (their authorised organisations) in insurance programmes for crops and animals shall meet the following requirements:

1) eligibility for payments shall arise after the official recognition by authorised state government authorities of the actual occurrence of a natural or other disaster (including disease outbreaks, pest infestation, invasion of locusts, wildfires, droughts, floods and other severe weather events, man-made events, nuclear accidents and military operations on the territory of the Member State, etc.);

2) the amount of payments shall be determined based on the amount of production losses exceeding 30 percent of the average output in the preceding 3-year period or the average output for 3 years calculated on the basis of the previous 5-year period, excluding the highest and the lowest annual rates;

3) the payments shall be made in respect of losses of income, livestock (including payments related to veterinary services for animals), retirement of agricultural land and other production factors caused by the natural or other disaster;

4) the amount of payments shall not exceed the total amount of the loss of the manufacturer caused by the natural or other disaster, regardless of the type or quantity of future products;

5) the amount of payments shall not exceed the level required to prevent or mitigate further losses as specified in sub-paragraph 3 of this paragraph;

6) upon receipt by a manufacturer of state support within 1 calendar year in accordance with this paragraph and paragraph 20 of this Protocol, the total amount of compensation may not exceed 100 percent of the total losses of the manufacturer.

22. Fostering structural changes through programmes encouraging manufacturers to cease their activities shall provide for the following:

1) eligibility for payments shall be based on clearly defined criteria under programmes designed to facilitate the termination of activities by persons engaged in manufacture of marketable agricultural products or their relocation to other sectors of the economy;

2) payments shall depend on termination of manufacture of marketable agricultural products by the recipient of the support in full and on an ongoing basis.

23. Fostering structural changes through programmes to eliminate the use of resources shall provide for the following:

1) eligibility for payments shall be based on clearly defined criteria under programmes aimed at cessation of the use of land or other resources, including livestock, for the manufacture of agricultural goods;

2) payments shall depend on the withdrawal of land from the sphere of manufacturing of marketable agricultural products for at least 3 years and, in the case of livestock, slaughtering thereof with further refuse from breeding;

3) payments shall neither require nor specify any alternative use of land and other resources withdrawn from the sphere of manufacturing of marketable agricultural products;

4) payments shall not depend on the type and amount of output, domestic or world prices for products manufactured with the use of land or other resources remaining for production.

24. Fostering structural changes by encouraging investment shall provide for the following:

1) eligibility for payments shall be based on the clearly defined criteria under state programmes designed to assist financial or physical restructuring activities of the manufacturer due to objectively justified structural losses. Eligibility for such payments may also be based on a clearly specified state programme for the denationalisation of agricultural lands;

2) the amount of payments shall not be based and shall not depend on the type or volume of manufactured products (including livestock), except for the requirement stipulated in sub-paragraph 5 of this paragraph;

3) the amount of payments shall not be based on and shall not depend on domestic or world prices of specific goods;

4) payments shall be provided only for the period required to implement the investments for which the payments are intended;

5) when effecting the payments, it shall not be indicated or instructed to the recipient of support which agricultural goods shall be manufactured by it, except for the requirement not to manufacture a particular product;

6) the payments shall be limited to the amount required for compensation of the structural losses.

25. Payments under environmental protection programmes shall be made taking into account the following:

1) eligibility for the payments shall be conditioned by the manufacturer's participation in a state programme for the protection or conservation of the environment and shall depend on the fulfilment of specific conditions provided for by the state programme, including conditions related to production methods or materials required;

2) the amount of payments shall be limited to the extra costs or losses of income related to the implementation of the state programme.

26. Payments under regional support programmes shall be carried out taking into account the following:

1) the right to the payment shall be granted to manufacturers operating in disadvantaged regions. A disadvantaged region shall refer to an administrative and (or) economic territory as determined by the legislation of the Member State;

2) the amount payable shall not be based on and shall not depend on the type or output of agricultural goods (including livestock), but shall be related to the reduction in the output of such goods;

3) the amount of payments shall not be based on and shall not depend on domestic or world prices of specific goods;

4) the payments shall be provided only to manufacturers in the regions eligible for the support and shall be available to all manufacturers operating in such regions;

5) payments related to production factors shall be carried out on a regressive scale in excess of the threshold level for this production factor;

6) the amount of payments shall be limited to the extra costs or losses of income related to the manufacture of agricultural goods on the specified territory.

IV. Measures with the Most Trade-Distorting Effect

27. The following measures shall be recognised as measures with the most trade-distorting effect:

1) effecting direct payments (including payments in kind) to specific manufacturers, a group or association of manufacturers of agricultural goods, depending on the results of export of such goods;

2) sale or offer for export to the territory of another Member State of non-commercial stocks of agricultural goods at prices lower than the prices for similar goods offered to purchasers in the domestic market of the Member State;

3) effecting payments for export to the territory of another Member State of agricultural goods funded with support from the government, at the expense of state funds and other funds, including payments financed from the proceeds of levies on agricultural product or agricultural product used as the basis for the manufacture of product exported to the territory of another Member State;

4) provision of state support to reduce the cost of marketing and promotion of agricultural goods for export to the territory of another Member State (except for prevalent services for the promotion of export and consultancy services), including the costs of handling, improving product quality and other processing costs, as well as costs associated with international shipments;

5) setting domestic tariffs for transportation of agricultural goods intended for export to the territory of another Member State on more favourable terms than determined for the transportation of agricultural goods intended for domestic consumption;

6) provision of state support for agriculture depending on the inclusion of agricultural goods in the list of products intended for export to the territory of another Member State.

V. Calculation of the Volume of State Support for Agriculture

28. When calculating the volume of state support for agriculture, the following shall be taken into account:

1) direct transfer of funds;

2) provision of performance guarantees (e.g., loan guarantees);

3) acquisition by the state of goods, services, securities, companies (property complexes) or a part thereof, stakes in the authorised capital of a company (including the acquisition of shares), other property, intellectual property rights, etc., at prices exceeding the market prices;

4) full or partial waiver of the collection of payments due to the state budget and the budgets of administrative-territorial entities (such as debt relief for payments due to the budget, etc.);

5) preferential or free provision of goods or services;

6) price support combining measures aimed at maintaining the level of market prices.

29. In case of a direct transfer of funds, the amount of state support for the agriculture shall correspond to the amount of funds provided free of charge (e.g., in the form of grants, compensations, etc.). If funds are provided on a repayment basis on more favourable terms than those in the available market (the market of bank loans, bonds, etc.), the amount of the support shall be determined as the difference between the amount that would be required to pay for the use of these funds if received in the market and the actual amount paid.

30. The amount of state support for agriculture under a provided performance guarantee shall be determined as the difference between the amount that would be payable on the basis of the tariff for the insurance risk

for a default of the corresponding obligations on the available insurance market and the amount payable for the provision of the guarantee to the subsidising authority.

Budgetary costs of performance guarantees shall be included into the state support in the amount of excess of the level calculated in accordance with the first indent of this paragraph.

The Member States shall include in the notices provided for in Section VI of this Protocol information allowing to assess the level of state support for the provision of state performance guarantees.

31. In case of acquisition by the state of goods, services, securities, companies (property complexes) or a part thereof, stakes in the authorised capital of a company (including the acquisition of shares), other property, intellectual property rights, etc., at prices exceeding the market prices, the amount of the state support for agriculture shall be calculated as the difference between the amount actually paid for the assets acquired and the amount that would be required to pay for these assets at prices prevailing in the market.

State expenditures for the acquisition of shares, increasing its equity in the authorised capital of the company, etc., meeting the conditions of normal investment practices, shall not be included in state support measures.

32. In case of a full or partial waiver of collection of payments due to the budgets of the Member States and administrative-territorial entities, the amount of state support for agriculture shall correspond to the amount of outstanding financial obligations of the manufacturer to the budget, including liabilities that might arise in the absence of such support. The amount of state support for agriculture in case of deferred fulfilment of an obligation shall be determined as the amount payable in the form of interest for the use of

borrowed funds equal to the amount of deferred liabilities, but obtained in the available credit market.

33. In case of preferential or free of charge provision of goods or services, the amount of state support for agriculture shall be calculated as the difference between the market value and the amount actually paid for the acquisition (provision) of the goods or services.

34. The amount of price support combining measures aimed at maintaining the level of market prices shall be calculated as the product of the amount of a particular type of agricultural goods in respect of which the price regulation was implemented or measures to control prices were applied by the difference between the domestic regulated price and the reference world price adjusted to the quality and the degree of processing of the goods (e.g., basic milk fat). Budget expenditures aimed at maintaining prices (for example, the costs of purchasing and storage of goods) shall not be included in the calculation of the amount of the price support.

VI. Notices of State Support for Agriculture

35. The Member States shall notify each other and the Commission in writing of all programmes of state support for agriculture planned in the current year, at the federal or national levels, as well as at the level of administrative-territorial entities, including information on the amount and procedure for the provision of the state support for agriculture. The notice shall contain sufficient information for the authorised authorities of the Member State and the Commission to assess the amount of state support for agriculture provided by the Member States and its compliance with this Protocol. The Member States shall not subsume to a classified information

category the information on the state support for agriculture provided. The Member States shall send the notices to each other and to the Commission annually, not later than on May 1.

36. The Member States shall send to each other and to the Commission the notices specified in paragraph 35 of this Protocol, containing information on the expenditures in the federal or republican budgets broken down by sections, subsections and types of functional and departmental classifications of expenditures, as well as rules on the procedure and scope of the provision of state support for agriculture. Budget expenditures of administrative-territorial entities of the Member States shall be reflected in the notices in any other way.

37. A list of sources of information on the volumes and areas of state support for agriculture, at the federal or national levels, as well as at the level of administrative-territorial entities, shall be submitted by a Member State or an authorised authority of a Member State at the request of another Member State or the Commission.

38. Authorised authorities of the Member States shall send to each other and to the Commission notices indicating the state support for agriculture provided during the reporting year on the territory of their states before December 1 of the year following the reporting year.

39. The form of notices of the programmes of state support for agriculture planned for the current year and of the state support for agriculture provided in the reporting year shall be developed by the Commission in cooperation with the Member States and approved by the Commission.

VII. Liabilities of the Member States

40. In case of violation of the provisions of paragraphs 6 and 8 of this Protocol by a Member State, the Member State shall, within a reasonable time, cease the provision of measures with the most trade-distorting effect or measures with trade-distorting effect provided in excess of the permitted amount, and shall pay to other Member States a compensation equal to the amount of measures with the most trade-distorting effect or the amount of measures with trade-distorting effect exceeding the permitted amount. The procedure for payment of the compensation shall be determined by the Council of the Commission. In case of a failure by a Member State to pay the above compensation, other Member States shall be entitled to introduce response measures.