ANNEX 28
to the Treaty on the
Eurasian Economic Union

PROTOCOL
on Common Rules for Granting Industrial Subsidies

I. General Provisions

1. This Protocol is developed in accordance with Article 93 of the Treaty on Eurasian Economic Union (hereinafter – Treaty) and establish common rules which regulate granting of subsidies in relation to industrial products, including in rendering and receiving services, which are directly connected with production, sale (including storage, export from the territory of member State and transportation) and (or) consumption of industrial products.

2. The terms, used in this Protocol, shall mean the following:

«administrative territorial entities» – constituent entities of the Russian Federation (including local governments) and regions of the Republic of Belarus and the Republic of Kazakhstan (including the cities of Minsk, Astana and Almaty);

like product» - product, fully identical to a product, which is manufactured, exported from the territory of member State or transported with the use of specific subsidy, or in the absence of such a product - another product which has characteristics close to characteristic of goods, which is manufactured, exported from the territory of member State or transported with the use of a specific subsidy;

«countervailing measure» – measure to neutralize negative effect of specific subsidy of subsidizing member State on the sector of economy of member State, which had submitted the statement on application of such measure;

«competent authority» - government authority of member State which is responsible for investigations;

«material injury to the sector of the national economy» — deterioration of any sector of the national economy, as substantiated by evidence, that occurred as a result of the import of products from the territory of a member State which granted a subsidy during the production, transportation or storage of such products, and expressed in the reduction of production and sales volume of like products in the territory of the Party, decrease of profitability of production of such products, and negative effect on the commodity stock, employment, salary and investment level in this sector;

«domestic product manufacturers» - manufacturers of the like product in member State conducting the investigation;

«sector of the national economy» – all manufacturers of like products in the member State or those whose share in the total production of like products in the member State is not less than 25 percent;

«recipient of the subsidy» - the commodity manufacturer whose is a subsidy beneficiary;

«manufacturer of subsidizing product» – manufacturer of subsidizing products in the member State which has granted a specific subsidy;

«industrial products » – commodities classified in groups of 25 - 97 of the EAEU Foreign Trade Commodity Nomenclature (hereinafter referred to as TN VED), as well as fish and fish products, except for commodities classified under the TN VED subheadings 2905 43 000 0 and 2905 44, headings 3301, 3501 - 3505, subheadings 3809 10 and 3824 60, headings 4101 - 4103, 4301, 5001 00 000 0- 5003 00 000 0, 5101 - 5103, 5201 00 – 5203 00 000 0, 5301, and 5302 (subheading 2905 43 000 0– mannitol; subheading 2905 44 – sorbitol; heading 3301 – essential oils; heading 3501-3505 – albuminoids, modified starches, glues; subheading 3809 10 – finishing agents; subheading 3824 00 – sorbitol, other products; headings 4101 - 4103 – raw hides and skins; heading 4301 – raw fur skins; headings 5001 00 000 0 - 5003 00 000 0 - raw silk and silk waste, headings 5101 - 5103 wool and animal hair; headings 5201 00 – 5203 00 000 0 – raw cotton, cotton waste, cotton, carded or combed; heading 5301 - flax, raw, heading 5302 – hemp, raw.

The above description of the products shall not be exhaustive.

Changes in the list of TN VED EAEU shall be made by the Council of the Commission;

«subsidized products» – industrial products, during the production, transportation, storage or export from the territory of the granting member States of which specific subsidy was used;

«subsidizing member State» – a member State whose subsidizing body grants an industrial subsidy;

«subsidizing body» – one or more government or local government authorities of the member State that make decisions on granting subsidies;

«subsidy»:

a) financial contribution by a subsidizing body of member State (or a body authorized by the member State) as a result of which benefits are created (provided) and which is carried out by:

direct transfer of funds (e.g, in the form of irrevocable loans, loans) or acquisition of shares in the charter capital, or its increase, or an obligation to transfer such funds (e.g. loan guarantees);

full or partial waiver of the collection of payments that would have to flow to the revenue of the member State (for example, tax exemptions, debt relief). In this case the exemption of exported industrial goods from duties and taxes borne by the like product when destined for domestic consumption or reduction of duties and taxes or refund of such duties or taxes in amounts not exceeding those which have been accrued, is not regarded as a subsidy;

provision of industrial goods or services (except industrial goods or services for the maintenance and development of common infrastructure);

purchase of industrial goods;

b) any other form of income or price support which operates (directly or indirectly) to reduce import of industrial goods from territory of any member State or to increase the export of industrial goods to the territory of any member State in the result of which advantage is provided.

«threat of material injury to the sector of the national economy» – inevitable material injury to the sector of the national economy, as substantiated by evidence;

«injury to the sector of the national economy» – material injury to any sector of the national economy, the threat of material injury to any sector of the national economy, or a significant slowdown in the building up of the sector of the national economy.

II. Specific subsidies

3. In order to determine whether a subsidy is specific to an industrial enterprise or industry or group of industrial enterprises or industries (hereinafter - certain enterprises) within the jurisdiction of the subsidizing body, the following principles shall apply:

1) Where the subsidizing body, or a legislative act pursuant to which the subsidizing body operates, explicitly limits access to a subsidy to certain enterprises, such subsidy shall be deemed specific provided that not all industrial enterprises or industries in the territory of the subsidizing body’s country are included in the group of industrial enterprises or industries;

2) Where the subsidizing body, or a legislative act pursuant to which the subsidizing body operates, establishes objective criteria or conditions governing the eligibility for and the amount of subsidies, specificity shall not exist, provided that the eligibility for subsidies is automatic and that such criteria and conditions are strictly adhered to. The criteria and conditions must be clearly spelled out in law, instruction, legislative act or other official documents, so as to be capable of verification;

3) If, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in subparagraphs (1) and (2), there are reasons to believe that the subsidy may in fact be specific, other factors may be considered (account shall be taken of the extent of diversification of economic activities within the jurisdiction of the subsidizing body, as well as of the length of time during which the subsidy program has been in operation). Such factors are:

use of a subsidy by a limited number of certain enterprises,

predominant use of a subsidy by certain enterprises, the granting of disproportionately large subsidy amounts of subsidy to certain enterprises,

and the manner in which discretion has been exercised by the subsidizing body in the decision to grant a subsidy (in this regard, in particular, information on the frequency with which applications for a subsidy are refused or approved and the reasons for such decisions shall be considered) .

4. A subsidy which is limited to certain enterprises, located within a designated geographical region within the jurisdiction of the subsidizing body shall be specific. It is implied that the setting or change of generally applicable by government authority of member State at all levels tax rates shall not be deemed to be a specific subsidy.

5. Any subsidy falling under the provisions of Section III of this Protocol shall be deemed to be specific.

Any determination of specificity pursuant to this Article shall be clearly substantiated on the basis of positive evidence.

6. Member States has a right to request the Commission for approval of their specific subsidies.

Member States shall not apply countervailing measured against subsidies, which are granted for the term, conditions and size, approved by the Commission.

Member States shall send to the Commission legal acts, which provide the granting of specific subsidies in a manner of mandatory informing in term, established by international agreement within the framework of the EAEU under the provisions of paragraph 7 of this Protocol.

If one member State has the reasons to imply that the granting of specific subsidy by the other member State could cause injury to the sector of economy, such member State can initiate the investigation conducted by the Commission.

If as a result of investigation the injure for the sector of economy has been proved, the Commission shall make a decision that the member State, which has granted such a specific subsidy, must eliminate all conditions that cause the injury, if member States involved in the dispute has not agreed otherwise during the term, established by international agreement within the EAEU, provided by paragraph 7 of this Protocol.

The Commission shall establish reasonable period of time to enforce such a decision.

If member State does not execute the decision, other member States has a right to turn to the Court of the EAEU.

Provisions of this paragraph shall be applied based on transitional provisions under paragraph 1 of Article 105 of this Treaty.

7. Member States shall develop the following by an international agreement within the EAEU:

procedure on voluntary approval by the Commission of specific subsidies and making relevant decisions by the Commission;

procedure for Commission's investigation (including on facts of violation of the conditions, procedure on granting and using specific subsidies, established by this Protocol)

criteria, on the basis of which the Commission shall make a decision on admissibility and inadmissibility of specific subsidies (including based on development of existing and new cooperative relations between member States);

procedure and conditions on requesting information on granted subsidies by the Commission.

Effective date of this international agreement is provided in paragraph 1 of Article 105 of this Treaty.

8. In case a member State, for the purposes of granting a specific subsidy, establishes a requirement to fulfill technological operations with respect to a beneficiary (manufacturer) for production of a certain product, then conduct of such operations in other member States shall be deemed to fulfill such requirement in accordance with a procedure, approved by the Supreme Council.

II. Prohibited subsidies

9. The following subsidies shall be prohibited:

export subsidies - subsidies contingent, whether solely or as one of several other conditions, upon export performance from the territory of member State granting the subsidy to the territory of any other member State;

replacement subsidies - subsidies contingent , whether solely or as one of several other conditions, upon the use of industrial products which is originated from the territory of member State granting the subsidy.

The contingency means, among other, the presence of facts indicating that the granting of subsidy, without having made legally contingent upon exportation of industrial product from the territory of the subsidizing member State or use of industrial products originating from the territory such member State, is related to the actual or anticipated exportation or export earnings (earning upon exportation), or to the requirements to use industrial products originating from the territory of the subsidizing member State.

The mere fact that a subsidy is granted to enterprises which export shall not for that alone be considered to be export subsidy for the industry.

10. Where a specific subsidy results in injury to any sector of the national economy of any member State such subsidy shall be deemed to be a prohibited subsidy. Injury to the sector of the national economy must be proved under the provisions of Section V of this Protocol.

11. Member States shall not maintain or introduce measures, which are applied pursuant to a regulatory legal act or a legal act of the subsidizing body, which must be observed in order to obtain specific subsidies and:

1) which contain requirements on:

Procurement or use of industrial products by business entities originating from the territory of a member State introducing the measure, or from any local source designated by thesubsidizng authority of the member State (whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production);

Limitation of procurements and use of industrial products imported from the territory of any member State by the business entity in an amount related to the volume or value of local industrial products that the business entity exports from the territory of the member State introducing the measure;

2) or which restrict:

the import by a business entity of industrial products from the territory of any member State which are used in its local production or related to this production (including depending on the volume or value of products originating from the territory of a member State introducing the measure and being exported by the business entity to the territory of any member States);

the import by a business entity of industrial products from the territory of any member State which are used in its local production or related to this production by restricting the access of the business entity to currency of any member State in an amount of currency revenue of business entity;

the export of industrial products from the territory of any member State by a business entity or sale of industrial products by any member State (whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of the economic entity's local production..

12. Specific subsidies which may cause serious prejudice to the interests of any member State shall be prohibited. Serious prejudice to the interests of the member State occurs when the granting of specific subsidy results in:

1) displacement of like product from the market of the granting member State or impeding the growth of imports of the like product, which originates from the territory of any member State, to the market of the granting member State;

2) displacement of like product from the market of the third member State or impeding growth in exports of a like product originating from the territory of any member State to the territory of the third member State;

3) significant price undercutting by a product which is manufactured, exported from the territory of the granting member State or transported under a specific subsidy with reference to the price for a like product, which originates from the territory of the other member State, in the same market of any member State, or a considerable price restraint, fall in prices or lost sales in the same market.

13. Serious prejudice to the interests under the paragraph 12 of this Protocol shall be determined pursuant to the provisions of this Section, and shall be proved pursuant to Section V of this Protocol.

14. On the territories of member States the measures, specified in paragraph 11 of this Protocol, shall not be provided, as well as prohibited subsidies, including following (export of products shall mean export of products from the territory of subsidizing member State on the territory of other member State):

1) Programs exempting exporters from mandatory sales to member State of part of foreign currency proceeds or permitting the use of multiple exchange rates through partial national currency depreciation, therefore exporters may benefit from exchange rate difference;

2) Internal transport and freight charges on export shipments provided or imposed by governments on terms more favorable than those for domestic shipments;

3) The provision of goods and services for use in the production of exported commodities, on terms and conditions more favorable than for use in the manufacture of like products to be sold in the domestic market;

4) full or partial exemption from, deferral or reduction of taxes or any other charges paid or payable by economic entities, as related to the export performance or use of products originating from the territory of a member State that grants above benefits. In this case, deferral shall not necessarily imply a prohibited subsidy if a penalty payable for tax evasion is levied. Zero rate of VAT on exporting products shall not mean a prohibited subsidy;

5) The allowance of special deductions, which are related to export performance and reduce the tax base for products in excess of those levied in respect of like products to be sold in the domestic market;

6) The exemption, reduction, deferral of taxes or special deductions applied to calculate the tax base for products and services, which are used in the manufacture of export products, over and above those granted in respect to products and services used in the manufacture of like products to be sold in the domestic market;

7) Collection of customs duties on raw materials used in the manufacture of export products, but at a lower rate than for the same raw materials used in the manufacture of like products for domestic consumption, or refund or rebate of customs duties on raw materials used in the manufacture of export products, in excess of those for the same raw materials used in the manufacture of similar products to be sold in the domestic market;

8) The reduction or refund of import charges levied on imported raw materials that are used in the manufacture of products, if the products manufactured are required to contain domestic raw materials, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production;

9) Charging premiums insufficient to cover long-term operating expenses or losses due to export credit guarantee or insurance programs, guarantee or insurance programs against increases in the cost of exports or foreign exchange risks;

10) Granting export credits at rates lower than those which recipients of such credits would actually have to pay for the comparable credit so employed (the same maturity period and denomination in the same currency, etc.) in the market conditions or the payment of all or part of the costs incurred by exporters or financial institutions in obtaining credits. Export credit practices complying with the interest rate provisions of the Arrangement on Officially Supported Export Credits, developed by OECD member countries, shall not be considered as a subsidy;

11) Reduced tariff rates for electricity or energy sources supplied to enterprises, provided that such subsidies are clearly tied with export performance or the use of domestic products instead of imported ones.

15. Commission, based on this Protocol, shall not approve prohibited subsidies as admissible subsidies.

Provisions of this paragraph shall be applied based on transitional provisions under the paragraph 1 of Article 105 of this Treaty.

16. Whenever one member State has reason to believe that subsidizing body of another member State grants prohibited subsidies and introduces measures, which have to be adhered in order to receive specific subsidies in accordance with this Protocol, the first

member State the concerned member State may request consultations with such other member State to cancel such prohibited subsidies or measures.

17. If no mutually agreed solution has been reached within two months of the request for consultations received through official diplomatic channels to be used for notifying of consultations as referred in paragraph 16 of this Protocol, then the existing disagreements shall be settled pursuant to Article 93 of this Treaty.

If as a result of dispute settlement procedure it is resolved, that one of member States has granted prohibited subsidy, as referred in paragraphs 9 and 12 of this Protocol, and (or) applies measures referred to in paragraph 11 of this Protocol, then the member State shall, immediately and unconditionally, cancel such prohibited subsidies or measures referred to in clause 3 of this Article, whether such prohibited subsidies or measures result in injury to the national economies of the other member States, and introduce a countervailing measure with regard to such prohibited subsidy pursuant to paragraphs 89-94 of this Protocol.

18. Granting bodies of the member State during a specified transition period have the right to grant subsidies by using measures under the Annex of this Protocol.

III. Permissible subsidies

19. Subsidies other than specific and prohibited in accordance with this Protocol shall be deemed to be permissible subsidies, granting of which do not distort mutual trade between member States.

The member States have the right to grant such subsidies without restrictions, and the provisions of this Protocol concerning the application of countervailing measures, remedies or prohibition on granting subsidies shall not apply to such subsidies.

20. Member States have the right to grant permissible subsidies, provided by this Section, without any approval from the Commission.

Provisions of this paragraph shall be applied based on transitional provisions under the paragraph 1 of Article 105 of this Treaty.

21. Subsidies, provided in Section VII of this Protocol, that are deemed to be specific pursuant to Section II of this Protocol but recognized by the member States as not distorting mutual trade, shall not give grounds for the adoption of countervailing measures pursuant Section VIII of this Protocol.

IV. Procedure on conduct of investigation

22. An investigation to analyze the compliance of subsidies granted in the territory of another member State to the provisions of this Protocol, and also to determine an existence of injury to a sector of the national economy caused by imports of subsidized product from the territory of the member State, which has granted a specific subsidy, or displacement of like product from the market of subsidized member State, shall be conducted by the competent authority upon the written application submitted in accordance with this Protocol by national producers of the like product, registered in the territory of the member State, or on the initiative of the competent authority (hereinafter – application).

23. The application shall be submitted by national producers of like product or by national association of such producers, that comprises producers constituting a sector of the national economy, as well as by representatives of those entities, duly authorized under the national law of the member State, in which an applicant is registered.

24. The application shall contain:

1) the applicant's data;

2) description of the product (stating the country of origin and its code according to the Foreign Trade Commodity Nomenclature of the EAEU);

3) information on the existence, nature and amount of the specific subsidy;

4) information on the producers of subsidized products;

5) information on national producers of like products;

6) information on the evolution of the volume of the subsidized imports to the territory of the member State, to whose competent authority an appropriate application is submitted, for the three calendar years preceding the submission date;

7) information on the evolution of the volume of like products exports exported from the territory of the member State, to whose competent aithority an appropriate application is submitted, to the territory of the other member States;

8) evidence that alleged injury to a sector of the national economy is caused through subsidized imports, or displacement of like product from the market of subsidized member State. Evidence of material injury or threatened material injury to the sector of the national economy through subsidized imports or displacement of like product from the market of subsidized member State shall be based on objective factors, being descriptive of the economic climate of the sector of the national economy and expressible in terms of quantity (including the product's production and sales volume, share in the member State's market, production cost and price, data on capacity utilization, labor productivity, profit margins, production and sales profitability, amount of investment in the sector of the national economy);

9) information on the evolution of the volume of imports of the like product (in terms of quantity and value) to the common customs territory of the EAEU, for the three calendar years preceding the application submission date;

10) information on the evolution of the volume of exports of the like product (in terms of quantity and value) from the common customs territory of the EAEU, for the three calendar years preceding the application submission date;

11) analysis of other factors that could have had a bearing on the sector of the national economy within the period under consideration.

25. To ensure comparability, value indices specified in the application shall be denominated in monetary units adopted for international trade statistics purposes and approved by the Commission.

26. The application accompanied by its non-confidential version (if the application contains any confidential information), shall be submitted to the competent authority and subject to registration on the day of its receipt in this authority.

27. The application shall be rejected on following grounds:

the applicant's failure to comply with requirements established in paragraph 23 this Protocol;

failure to attach to the application materials specified in paragraph 24 of this Protocol;

unreliability of materials submitted by the applicant.

The application shall not be rejected on any other grounds.

28. Before making a decision to initiate an investigation, the competent authority shall notify in written form competent authority of the member State in whose territory the specific subsidy in question is granted, about receipt of application.

29. To decide on initiating an investigation, the competent authority shall, within thirty calendar days after the date of registration of the application review the adequacy and accuracy of the evidence and information contained in this application, pursuant to paragraph 24 of this Protocol. The aforementioned period may be extended, where the competent authority may need to request additional information from the applicant, but in all cases such period shall not exceed forty days.

30. The application may be withdrawn by the applicant prior to or during the investigation.

If the application is withdrawn prior to the investigation, such application shall be deemed not to have been submitted.

If the application is withdrawn during the investigation, the investigation shall be either terminated or continued as may be decided by the competent authority.

31. After an application is accepted for consideration and before the decision to initiate the investigation is made, the competent authority shall suggest holding consultations with the competent authority of the member State, which has granted a specific subsidy with the purpose of clarifying the situation as to the existence, size, use of and the consequences of granting a specific subsidy, and arriving at a mutually agreed solution. Such consultations may continue throughout the period of investigation.

32. Holding consultations with the aim of clarifying the situation as to the existence, size, use of and the consequences of granting a specific subsidy shall not prevent the competent authorities from deciding to initiate the investigation and, following the investigation, from preparing a summary of investigation findings, which is to consider compliance of the specific subsidy, granted in the territory of another member State, with

the provisions of this Protocol and (or) injury to a sector of the national economy caused through subsidized imports from the territory of a member State, which has granted the specific subsidy, and from submitting a request for the introduction of countervailing measures to the member State in the territory of which the specific subsidy in question is granted.

33. Within the time limit specified paragraph 29 of this Protocol, the competent body shall decide to initiate or to refuse to carry out an investigation.

If the competent authority decides to refuse to carry out the investigation, it shall, in writing, within ten calendar days after the date of such decision, notify the applicant of the reason for refusal to investigate.

If the competent authority decides to initiate an investigation, it shall notify in writing the competent body of the member State, which has granted the specific subsidy, and other interested persons, known to the former, of the decision. The competent authority shall also ensure, within five business days after the date of the decision to initiate an investigation, publishing a notice of initiation of the investigation. The investigation shall be deemed initiated as of the publication date of the notice of initiation.

34. The competent authority may decide to initiate an investigation, in particular on its own initiative, if it has evidence of violations of this Protocol and (or) evidence of injury to the sector of the national economy through the subsidized imports to the territory of the concerned member State, or shakeout of a like product by a subsidized product from the market of a member State, which has granted a specific subsidy, or a third member State.

If such evidence is not sufficient to carry out an investigation, such an investigation may not be initiated.

35. Once it is decided to initiate an investigation, questionnaires shall be sent by the competent body to known national producers of the like product and producers of the subsidized product subject to investigation to respond thereto for the purpose of the investigation.

For the purpose of this article, a questionnaire shall be deemed received within seven calendar days from the mailing date or date of its delivery directly to a representative of the national producer or the subsidized product producer.

National producers of the like product and producers of the subsidized product subject to investigation, to whom questionnaires have been sent, shall be given thirty calendar days after receipt of such questionnaires to respond to the competent body. The competent body may extend the aforementioned time limit based on a reasoned written request of the national producers of the like product or producers of the subsidized product subject to investigation, but not more than by ten calendar days.

36. To verify the information submitted in the course of the investigation or to obtain any additional investigation-related information, the competent body may carry out investigations in the territory of a member State which has granted a specific subsidy, provided that they have obtained the consent of the respective producer of the subsidized product subject to investigation and notified in good time the representatives of the Government of the member State in question, and unless that member State objects to the investigation in its territory.

To verify the information submitted in the course of the investigation or to obtain any additional investigation-related information, the competent body may send its representatives to the location of national producers of the like product to consult and negotiate with interested parties, get acquainted with sample subsidized products subject to investigation and take other actions necessary to investigate, which are not inconsistent with the existing law of the investigating member State.

37. In the course of the investigation, the competent body may send requests for investigation-related information to the competent bodies of the member State which has granted or is granting a subsidy in question and to interested parties.

38. Interested parties may submit, on or prior to the date specified in the notice of initiation, information (including confidential information) required for the investigation and indicate the source of such information. The competent body shall be entitled to request additional information from interested parties.

39. Evidence and information relevant to the investigation shall be submitted to the competent body in the official language of the investigating member State, and the original documents in a foreign language shall be accompanied by a certified translation.

40. During the investigation, taking into account the need to protect confidential information pursuant this Protocol the competent body shall provide interested parties, at their written request, with opportunities to review the information submitted in writing by any interested member State as evidence relevant to the subject matter of the investigation. The competent body shall provide the participants in the investigation with the opportunity to review other information pertaining to the investigation, that is used by the authority in the investigation, and that is not confidential pursuant to this Protocol.

41. Government (administrative) bodies of the member States that are authorized in customs and government statistics, other government (administrative) bodies of the State Parties and territorial (local) government (administrative) bodies shall assist in carrying out the investigation and, at the competent body's request, provide information required for the investigation, including confidential one.

42. The investigation period shall not exceed six months after the initiation.

The investigation shall be considered complete on the day the competent body, which carried out an investigation, forwards the findings of the investigation to the Government of the relevant member State.

43. Following the investigation, the competent body shall prepare its opinion on compliance of the subsidy granted in the territory of another member State with the provisions of this Protocol.

44. If investigation results ascertained violation of the provisions of this Protocol and (or) injury to the sector of the national economy , then the member State whose competent body has conducted the investigation shall submit to the member State in whose territory a specific subsidy in question is being granted a request for the introduction of countervailing measures.

45. In determination of a sector of the national economy , the territory of a member State whose competent body is carrying out investigation, may be interpreted as divided into two or more competitive markets and national producers within each one of these

markets may be regarded as a separate sector of the national economy, if the producers within such market sell not less than eighty percent of the like product produced thereby and the demand for the like product in this market is not to any substantial degree supplied by national producers of that product located elsewhere in the territory of the investigating member State. In such cases, injury may be found to exist even if a major portion of the sector of the national economy is not injured, provided that there is a concentration of subsidized product sales in one of the competitive markets and provided that the subsidized imports are causing injury to at least eighty percent of national producers of the like product within one of such markets.

46. The amount of a specific subsidy shall be determined based on the benefit conferred on the recipient. When calculating the specific subsidy benefit amount, the competent body shall consider the following:

1) equity participation of the subsidizing body shall not be deemed as conferring a benefit, unless such participation can be regarded as inconsistent with the usual investment practice (including for the risk capital provision) in the territory of the relevant member State;

2) credit provided by a subsidizing body shall not be deemed as granting a specific subsidy, unless there is a difference between the amount that the entity receiving the credit pays on the government credit and the amount that the entity would pay on a comparable commercial credit which the entity could actually obtain in the credit market of the member State. In this case, the benefit shall be the difference between these amounts;

3) credit guarantee by a subsidizing body shall not be deemed as granting a specific subsidy, unless there is a difference between the amount that the entity receiving the guarantee pays on the credit guaranteed by the subsidizing body and the amount that the entity would pay on a comparable commercial credit without the government guarantee. In this case, the benefit shall be the difference between these amounts as adjusted for any difference in commission fees;

4) provision of products or services or purchase of products by a subsidizing body shall not be deemed as granting a specific subsidy, unless products or services are

provided for less than adequate remuneration or purchased for more than adequate remuneration. The remuneration adequacy shall be determined proceeding from current market conditions for the provision or purchase of such products or services in the market of the relevant member State (including price, quality, availability, merchantability, transportation and other sale or purchase conditions).

47. Subsidies shall be calculated per units (tons, cubic meters, pieces, etc.) of a product imported to the member State whose competent body is investigating, or sold in the market of the member State in whose territory a specific subsidy is granted or in the third member State's market.

48. In calculating the subsidy amount, indicators of inflation in the member State concerned shall be taken into account if the inflation rate is so high that it can distort the calculated results.

49. Per-unit subsidy amount shall be determined on the basis of the rate of expenses incurred by a member State that has granted a specific subsidy for that purpose.

50. When calculating the subsidy per product unit, the product value shall be determined as the total value of recipient legal entity's sales for the 12 months period, for which necessary data is available, preceding the period in which the subsidy is granted.

51. When calculating the subsidy amount, any reparation fee or other expenses incurred to obtain the subsidy shall be deducted from the total amount of the subsidy.

52. If the subsidy is granted other than with regard to a certain quantity of produced, exported or transported products, the subsidy per product unit shall be determined as the total subsidy amount divided by production, sales or export volume of such a product for the period in which the subsidy is granted, with due account, where necessary, for the share of subsidized imports in the total production, sale or export volume.

53. If the subsidy is granted in connection with the development or acquisition of fixed assets, then the subsidy amount shall be calculated by distributing the subsidy over an average depreciation period of these fixed assets in the reviewed economic sector of the member State which has granted a specific subsidy. Subsidy per unit calculation shall also include subsidies granted for the acquisition of fixed assets before the period covered by the investigation, and the amortization period of which has not yet expired..

54. Where the subsidy amount is to be calculated for different subsidy amounts granted for the same product at different times or for different purposes, weighted average subsidy rates shall be applied taking into account its production, sales and export volume of the product.

55. If the subsidy is granted in the form of tax benefits, the product value shall be determined as the total value of sales of that product over the most recent 12 months in which tax benefits were applied.

56. Subsidies given within the calendar year by different granting authorities and (or) under different programs shall be aggregated.

57. The fact of displacing a like product from the market of the granting member State or a third member State or the fact of impeding growth in exports of the like product to the territory of the granting member State or impeding growth in exports of the like product to the territory of a third member State shall be ascertained, if it is proved that there has been an adverse effect on the market share of the like product in the granting member State or a third member State relative to the subsidized product. This fact shall be ascertained for a period sufficient to prove clear trends in the market development of the product concerned which, under normal circumstances, shall be at least one year.

58. An adverse effect on the market share in the granting member State or a third member State shall include any of the following situations:

1) the subsidized product market share increases;

2) the subsidized product market share remains constant under circumstances in which it would have declined in the absence of the specific subsidy;

3) the subsidized product market share declines, but at a lower rate than in the absence of the specific subsidy.

59. Price undercutting, shall be ascertained through a comparison of prices of the subsidized product in the relevant market with prices of a product whose production, transportation or exit to the territory of any of the member States was not supported by a specific subsidy. The comparison shall be made at the same trade level and at comparable time periods. Any other factors affecting price comparability shall be taken into account. If

the above direct comparison is not possible, the existence of price undercutting may be determined based on average export prices.

60. In the event that two Parties are in dispute, pursuant to Article 93 of this Treaty, with regard to serious prejudice to the interests, as determined pursuant to paragraphs 12, 57-59, 61 and 62 of this Protocol is alleged to have arisen in the market of a third member State, such member State shall provide Parties in dispute with available statistical information relating to the subject matter of the dispute, as to the changes in such member State's market shares of products originating from the territory of the other Parties in dispute, and statistical information on prices of the products involved. In this case, such a member State shall have the right not to conduct a special market and prices analysis and not to provide information that it considers to constitute commercial or state secret.

61. Serious prejudice to the interests cannot be ascertained where any of the following circumstances exist during the relevant period:

1) prohibition or restriction on exports of the product from the territory of the member State that seeks to ascertain serious prejudice or on imports from the territory of the member State that seeks to ascertain serious prejudice into a third member State market;

2) decision made by an authorized body of the member State importing a like product and operating a monopoly of trade or state trading in that product to refocus, for non-commercial reasons, its imports from the member State that seeks to ascertain serious prejudice on another country;

3) natural disasters, strikes, transport disruptions or other force majeure events having serious adverse effects on production, quality, quantity or prices of products intended for export from the affected member State;

4) arrangements limiting exports from the member State that seeks to ascertain serious prejudice;

5) voluntary decrease in the product availability for export from the member State seeking to ascertain serious prejudice (including, inter alia, a situation where economic entities of the affected member State have autonomously refocused the like product exports on new markets);

6) failure to comply with standards and (or) other administrative requirements in the member State importing the product.

62. In the absence of circumstances referred to in paragraph 61 of this Protocol, the existence of serious prejudice should be ascertained on the basis of the information submitted to, or obtained independently by the Court of the EAEU.

63. Injury to a sector of the national economy caused by subsidized imports shall be determined based on examination of the volume of the subsidized imports and the impact of such imports on prices of the like product in the market of a member State whose competent body is conducting the investigation and on the national producers of the like product.

64. Regarding the subsidized imports volume, the competent body shall determine whether there has been an increase in subsidized imports (either in absolute terms or relative to production or consumption of the like product in the member State whose competent body is conducting the investigation).

65. When assessing the impact of subsidized imports on prices of the like product in the market of the investigating member State, the competent body shall ascertain:

1) whether the subsidized imports prices were lower than the like products prices in the market of the investigating member State;

2) whether the effect of subsidized imports was that of depressing prices of the like products in the market of the investigating member State;

3) whether the effect of subsidized imports was that of preventing growth of the like product prices in the market of the investigating member State, which otherwise would have occurred.

66. The analysis of the effect of the subsidized imports on the sector of the national industry shall consist in the assessment of all relevant economic factors having a bearing on the state of that sector, including:

1) actual or potential reduction in output, sales and market share of the like product in the investigating member State, profits, labor productivity, and return on investment or on capacity utilization;

2) factors affecting the like product prices in the investigating member State's market;

3) actual and potential negative effects on cash flows, like product stock, employment level, wages, output growth rates, and possibility to raise investments.

67. The effect of the subsidized imports on the sector of the national economy shall be assessed in relation to the production of the like product in the investigating member State, if available data permit to single out that production on the basis of such criteria as the production process, sales by producers and profit. If it is not possible to single out that production, then the subsidized import effects shall be assessed regarding the narrowest group or range of products which include the like product, and for which the required information is available.

68. Determining injury to the sector of the national economy caused by the subsidized imports shall be based on the analysis of all relevant evidence and information available to the competent body. The competent body shall consider, inter alia, such factors as the dynamics and effects of the like product imports into the common customs territory of the EAEU, and imports from other member State. In this case, no one or several factors of those set during the assessment of the subsidized imports volume and the effects of such imports on the sector of the national economy can be deemed critical for the purposes of estimating injury to the sector of the national economy caused by the subsidized imports. Besides the subsidized imports, the competent body shall also analyze any other known factors which in the same time period are injuring the sector of the national economy, and the injuries caused by those other factors are not to be attributed to the subsidized imports.

69. In determining the existence of threatened material injury to the sector of the national economy caused by the subsidized imports, the competent body shall consider all available factors, inter alia such as:

1) nature and amount of the subsidy or subsidies and their likely trade effects;

`2) rate of growth of subsidized imports being indicative of the real possibility of further increase;

3) subsidized product producers having sufficient capacity in the member State that has granted the subsidy or an imminent increase therein, which is indicative of the real possibility of further increased subsidized exports;

4) price level for subsidized products, if such prices would likely depress or suppress market prices of the like product in the investigating member State, and increase demand for further subsidized imports; and

5) producer's stocks of the subsidized product.

70. In this case, no one or several factors of those set out in paragraph 69 of this Protocol can be deemed critical for the purposes of determining threatened material injury to the sector of the national economy caused by the subsidized imports.

71. The existing threatened material injury to the sector of the national economy shall be determined where the competent body, in the course of the investigation on having analyzed the factors referred in paragraph 69, arrived at a conclusion that further subsidized exports are imminent and that, unless a countervailing measure is taken, material injury would occur.

72. Parties interested in the investigation may include:

1) a national producer of the like product or an association, the majority of members of which are national producers of the like product;

2) a producer of the subsidized product subject to investigation or an association of producers of the subsidized product subject to investigation, the majority of members of which are producers of such product;

3) a member State and (or) the authorized body of the member State, which has granted the subsidy;

4) public associations of consumers if the product concerned is to be primarily consumed by individuals;

5) consumers of the subsidized product subject to investigation, if they use this product in the production process, and associations thereof.

73. In the course of the investigation, interested persons provided in paragraph 72 of this Protocol shall act on their own behalf or through their representatives, which under the law of the investigating member State, shall be duly authorized.

If in the course of the investigation an interested member State acts through its authorized representative, the competent body shall communicate to the interested member State all the information about the subject matter of the investigation only through such a representative.

74. The information submitted to the competent authority by the interested member State shall be deemed confidential, if such a member State presents reasons proving that the disclosure of such information would provide a competitive advantage to any third member State or would entail adverse effects on a person furnishing such information, or on a person from whom the information was acquired by the furnishing person. Confidential information shall not be disclosed without the permission of the furnishing interested member State, unless otherwise stipulated by the law of the member States.

The competent body may require that interested parties providing confidential information furnish a non-confidential summary. This summary shall contain data sufficient for understanding the essence of the submitted confidential information. Where in response to the competent body's request for furnishing a non-confidential summary an interested member State indicates that such confidential information cannot be so summarized, such an interested member State shall state the reasons why a summary cannot be provided.

If the competent body finds that the reasons presented by the interested member State are not sufficient to consider the furnished information as confidential, or if the interested member State, that failed to submit a non-confidential summary of the confidential information, fails to state the reasons why the confidential information cannot be so summarized, or provides information other than the reasons for the non-summarizing, then the competent body may disregard such information.

75. The competent body shall be held liable for the disclosure of confidential information as provided for by the law of the investigating member State.

V. General exceptions

76. Nothing contained in this Protocol shall be interpreted as:

1) a requirement for any member State to submit any information the disclosure of which it considers to be contrary to its essential security interests; or

2) a barrier for any member State to take actions which it considered to be necessary to protect its essential security interests:

with regard to fissionable materials or the materials from which they are produced;

with regard to the development, production and trade arms, ammunition and implements of war, and other products and materials which are carried out directly or indirectly for the purpose of supplying a military force;

if they are taken in wartime or other emergency circumstances in international relation;

3) a barrier for any Party to take any action as a part of its commitments under the United Nations Charter for the maintenance of international peace in all of the world and international security..

77. Nothing in this Protocol shall be construed to prevent the member States from using specific subsidies that distort trade, if such subsidies are introduced in exceptional circumstances and if their introduction is driven by the need to protect:

1) public morals, public order and safety;

2) human, animal or plant life or health;

3) national treasures of artistic, historic or archaeological value;

4) intellectual property rights;

5) exhaustible natural resources if such measures are made effective concurrently with restrictions on domestic production or consumption

VII . Non-Actionable Specific Subsidies

78. Granting of the following specific subsidy shall not be ground to apply countervailing measures: support of research activities carried out by firms as well as higher educational institutions and research organizations under contracts with firms, provided that such support covers no more than 75% of industrial research costs or 50% of precompetitive development activity, and this subsidy shall cover the following costs:

1) staff costs (researchers, technicians and other supporting staff employed solely in research activities);

2) costs of instruments, equipment, lands and buildings used solely and permanently (except when to be disposed of on a commercial basis) for research activities;

3) costs of consultancy and equivalent services used solely for research activities (including purchased research, technical knowledge, patents, etc.);

4) additional overheads incurred directly as a result of research activities;

5) other current costs (e.g. of materials, supplies, etc.) incurred directly as a result of research activities;

79. For the purposes of this Section the term “industrial research” means planned search or critical research aimed at discovery of new knowledge with the hope that such knowledge will be useful in developing new products, processes or services or in bringing about a significant improvement to existing products, processes or services.

The term “precompetitive development activity” means the translation of industrial research results into a plan, drawing or design of new, modified or improved products, processes or services, whether intended for sale or use (including the creation of the first prototype unsuitable for commercial use). It may further include a concept formulation and design of product, process or service alternatives and initial demonstration or pilot projects, provided that the same cannot be adapted or used for industrial application or commercial exploitation. It does not apply to routine or periodic alterations to existing products, production lines, processes, services, and other ordinary operations even though such alterations may lead to improvements.

80. The allowable non-actionable support level as referred in paragraph 78 of this Protocol is not constituting grounds for measures, , shall be determined in relation to the total expenses incurred for a particular project implementation period.

In the case of programs which encompass industrial research and precompetitive development activity, the allowable non-actionable support level shall not be above the simple average of the allowable levels of non-actionable support applicable to the above two categories; the simple average is to be calculated based on all relevant costs provided in paragraph 78 of this Protocol.

81. Provisions of this Protocol shall not applied to fundamental scientific research, which are carried out by higher educational institutions and research organizations independently. Fundamental scientific research shall mean broaden of general scientific and technical knowledge which is not connected with industrial and commercial aims.

82. Assistance to disadvantaged regions in the territory of a member State which is to be provided within a general framework of regional development and, being non-specific (under the provisions of Section II of this Protocol) is to be distributed among appropriate regions, provided that:

1) each disadvantaged region must be a clearly identifiable compact administrative and economic zone;

2) such a region shall be considered as disadvantaged on the basis of neutral and objective criteria , indicating that the region's difficulties arise out of more than temporary circumstances (such criteria must be clearly distinctly formulated in laws, regulations or other official document, so as to be verifiable);

3) the criteria, provided in subparagraph 2 of this paragraph, shall include an economic development measurement based on at least one of the following indicators, which are measured for three-year period (such measurement could be complex):

income per capita or household income per capita, or GDP per capita, which shall not be above 85% of the average figure for the territory concerned;

rate of unemployment, which is to be at least 110% of the average figure for the territory concerned, as measured over a three year period; however, such measurement may be a combined one and may be sensible to other factors;

83. A general framework of regional development means that regional subsidy programs are part of an internally consistent and commonly applicable policy of regional development and that regional development subsidies are not to be granted in geographically isolated locations which have no, or virtually no, influence on the region development.

Neutral and objective criteria means criteria that do not offer benefits to certain regions beyond what is necessary to eliminate or diminish regional disparities within the scope of the regional development policy. In this regard, regional subsidy programs shall indicate maximum assistance amounts which can be provided under each subsidized project. Such maximum amounts are to be differentiated according to different levels of development of regions being assisted and expressed in terms of investment costs or job creation costs. To the extent of such maximum amounts, the distribution of assistance is to be distributed widely enough to avoid that a subsidy is predominantly used by, or granted in disproportionately large amounts to, certain enterprises as stipulated in Section II of this Protocol.

84. Granting of the following specific subsidy shall not be ground to apply countervailing measures: assistance in adapting existing production facilities (productive capacity, which is in operation 2 years before adopting new environmental requirements) to new environmental requirements imposed by law and (or) regulations which entail tougher constraints and financial burden on firms, provided that the above assistance:

1) is a one-time, non-recurring measure; and

2) is limited to 20% of the adaptation costs; and

3) does not cover the costs of replacing and operating the subsidized equipment, which are to be fully borne by firms; and

4) is directly linked to and proportionate to a firm's plan of pollution reduction and does not cover production cost savings which can be yielded; and

5) is available to all firms which can switch over to the new equipment and (or) production processes.

VIII. Introduction and Application of Countervailing Measures

85. The competent body of any member State may carry out an investigation of compliance of subsidies granted in the territories of the other member States with the provisions of this Protocol or investigation concerning the other Parties' applying measures referred to in paragraph 11 of this Protocol, in procedure, established by Section V of this Protocol. The competent body initiating the investigation shall inform the member State of the initiated investigation. The competent bodies of the member State may request the necessary information about the progress of the investigation.

86. If as a result of the investigation the competent body ascertains that the subsidizing body of the other member State grants a specific subsidy, and this specific subsidy causes injury to a sector of the national economy of the member State whose competent body is conducting the investigation, then the competent body may submit to such member State a request for the introduction of countervailing measures. The request for introduction of countervailing measures shall provide evidence of the subsidy being incompatible with the provisions of this Protocol.

87. If as a result of the investigation, conducted under the provisions pf paragraph 6 of this Protocol, the Commission confirms the presence of injury to national sector of economy of one of the member States, the competent body of this member State can submit to such member State a request for the introduction of countervailing measures. The request for the introduction of countervailing measures shall provide evidence of the subsidy being incompatible with the subparagraph 3 of paragraph 6 of Article 93.

member States shall not apply countervailing measures against subsidies, approved by the Commission pursuant to paragraph 6.

Provisions of this paragraph shall be applied based on transition periods, provided in Paragraph 1 of Article 105 of this Treaty.

88. The request for application of countervailing measures can be granted by the member State that has received the request, voluntarily within the response time period, no more than 2 months or following dispute resolution.

89. The member State, which has received the request for the application of a countervailing measure and recognized the legality either voluntarily or following dispute resolution pursuant to Article 93 of the Treaty, shall introduce the countervailing measure pursuant to the request within 30 calendar days.

90. A countervailing duty, applied in accordance with paragraph 89 of this Protocol, shall be equal to the amount of the subsidy granted plus interest accrued on that amount for the entire period of using the funds (property) as specified in the granted request.

The industrial subsidy amount shall be calculated under this Protocol.

The interest rate shall equal one and a half times the refinance rate as of the date of granting the subsidy, the rate being set by the Central (National) Bank of the member State whose authority granted the subsidy. The interest rate shall be calculated by applying compound interest with regard to the period from the date of subsidy to the date of execution of the countervailing duty.

Compound interest means accumulating annually on the amount of the interest accrued in the previous year.

91. A countervailing measure shall be deemed to have been executed after the subsidy amount, including the due interest, is collected from the subsidy recipient and paid to the budget of the member State whose authority granted the subsidy.

92. A countervailing measure shall be deemed not to have been executed if it is collected from sources other than those specified in paragraph 91 of this Protocol.

the sources for the countervailing duty collection may be changed by mutual agreement between the claimant and respondent member States, solely to prevent the subsidy recipient's from circumventing the countervailing duty.

93. Execution of the countervailing measure shall constitute sufficient grounds for the countervailing measure request to be deemed as complied with. The concerned member State shall comply with the granted request for countervailing measures within one calendar year after the date of granting the request.

94. If the member State fails to comply with countervailing measure request in time, the requesting member State has the right to apply remedies, which are to be approximately commensurate with the countervailing measure.

For the purposes of this Protocol, the remedies shall mean that the member State introducing a remedy temporarily suspends the discharge of its obligations to the member State against which a remedy is introduced, where such obligations arise from the existing economic and trade agreements between the Parties other than those for the oil and gas industries.

Remedies shall be temporarily and applied by member States till that the measure would be eliminated or changed to comply to provisions of Treaty.

IX. Notifications

95. Member States (competent authorities of member States) no later than December 1 shall notify each other and Commission on all subsidies planned for the next year at the federal/national and regional (municipal)/local levels on annual basis.

member States shall not treat subsidy data as non-public information, except provisions under paragraph 73 of this Protocol.

96. Resources for notification in accordance with paragraph 95 of this Protocol shall be expense sides of draft federal/republic budget and budgets of administrative territorial units.

97. Member States (competent authorities of member States) shall every three months no later than 30th of the month following the reported quarter, notify each other and the Commission according to form on the subsidies granted on federal (republic) and regional (local) levels.

Provisions of this paragraph shall be applied based on transition periods, provided in Paragraph 1 of Article 105 of this Treaty.

98. Member States (competent authorities of member States) shall July 1 of the year following the reporting year, notify each other and the Commission authorities of the States Parties shall notify each other on the prescribed form of subsidies granted for the reporting year on annual basis. The notice shall contain enough information to enable the authority of another member State to assess the amount and compliance of the subsidies granted with the provisions of this Protocol.

99. Forms of notifications on subsidies of member States (competent authorities of member States) provided by this Section, and also procedure of filling out them shall be approved by the Commission after consultation member States.

100. The notifications on subsidies shall contain the following information:

1) title of program, brief description or title of subsidy (e.g. “Development of Small Business);

2) period covered by the notification;

3) policy objective and (or) purpose of the subsidy (data on objective of granting subsidy contains in legal acts pursuant to which the subsidy are granted);

4) legislation under which the subsidy is granted (legal acts, under which it is granted, and brief description of this act);

5) form of the subsidy (grant, loan, tax preferences and e.g);

6) to whom (producer, exporter) and how the subsidy is provided (with the assistance of which methods the subsidy has been), as well as mechanism and conditions of granting of subsidies;

7) total amount of the subsidy (annual or total amount - subsidies per unit);

8) duration of the subsidy and (or) other time-limits, attached to it;

9) statistical data permitting an assessment of the trade effects of a subsidy;

101. It is required that, if possible the information, provided in paragraph 100 of this Protocol, shall contain statistical data on production, consumption, import and export of subsidizing goods and sectors:

1) for the last 3 years, on which there are statistical data;

2) for the year which preceding granting of subsidy.

APPENDIX
to the Protocol on Common Rules for
Granting Industrial Subsidies

List of measures,
for which the Provisions of the Protocol on Common Rules for Granting Industrial Subsidies shall not be applied

Measure	Transitional period
I. Republic of Belarus	
Measures of investment agreements, concluded in accordance with Decree of the President of the Republic of Belarus of 4 April 2009 No. 175 "On measures for the development of automobiles production" and Decision of the Commission of Customs Union of 27 November 2009 No. 130 "On Unified customs and tariff regulation of Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation"*	before 31 December 2020 if unless otherwise provided by the Protocol of accession of the Republic of Belarus to the World Trade Organization
II. Republic of Kazakhstan	
1. Subsidizing of interest rates on loans of export oriented production in accordance with Resolution of the Government of the Republic of Kazakhstan of 13 April 2010	Before 1 July 2016 on loans, provided by credit institutions before 1 July 2011

Measure	Transitional period
No. 301 «On Approval of Program «Business Road Map 2020»	
2. Customs duty and tax exemption of the goods that are recognized to be of Kazakhstan origin according to the criteria of sufficient processing when exported from the customs free warehouse to the customs territory of the Customs Union, pursuant to the Code of the Republic of Kazakhstan of June 30, 2010 on Customs Procedures in the Republic of Kazakhstan; Law of the Republic of Kazakhstan No 99-1 of December 10, 2008 on Taxes and Mandatory Payments to the Budget (Tax Code); Resolution of the Government of the Republic of Kazakhstan No. 1647 of October 22, 2009 on Approval of Rules for Determining the Country of Origin, Preparing and Issuing an Examiner's Statement of Origin of Goods, and Registering, Certifying and Issuing a Certificate of Origin; Treaty between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation of June 18, 2010 on	before 1 January 2017

Measure	Transitional period
Free Warehouses and Customs Free Warehousing Procedure	
3. Customs duty and tax exemption of the goods that are recognized to be of Kazakhstan origin according to the criteria of sufficient processing during the export from special economic zones into the customs territory of the Customs Union pursuant to the Treaty between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation of June 18, 2010 on the Issues of Free (Special) Economic Zones in the Customs Territory of the Customs Union and Customs Procedure of a Free Customs Zone; Law of the Republic of Kazakhstan on Special Economic Zones in the Republic of Kazakhstan of July 6, 2007; the Code of the Republic of Kazakhstan of June 30, 2010 on Customs Procedures in the Republic of Kazakhstan; Resolution of the Government of the Republic of Kazakhstan No.1647 of October 22, 2009 on Approval of Rules for Determining the Country of Origin, Preparing and Issuing an Examiner's	before 1 January 2017

Measure	Transitional period
Statement of Origin of Goods, and Registering, Certifying and Issuing a Certificate of Origin	
4. Measures of investment agreements, concluded in accordance with Order of Ministry of Industry and New Technologies of 11 June 2010 No. 113 “On Certain Issues of Conclusion, Terms and Standard Form of Agreement on Industrial Assembly of Motor Vehicles with Judicial Entities – Residents of the Republic of Kazakhstan” and Decision of the Commission of Customs Union of 27 November 2009 No. 130 “On Unified customs and tariff regulation of Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation”*	before 31 December 2020, unless otherwise provided by the Protocol of accession of the Republic of Kazakhstan to the World Trade Organization
5. Local content in subsurface contracts, between the Government of the Republic of Kazakhstan and subsurface user, concluded before 1 January 2015, in accordance with Law of the Republic of Kazakhstan of 24 June 2010 No. 291-IV “On subsoil and subsoil use ”	Before 1 January 2023, unless otherwise provided by the Protocol of accession of the Republic of Kazakhstan to the World Trade Organization
6. Local content in the procurement of National Wealth Fund (NWF) “Samruk-	before 1 January 2016, unless otherwise provided by the

Measure	Transitional period
Kazyna” and organizations fifty or more percent of shares of which directly or indirectly owned by the "Samruk-Kazyna", and also companies, which directly and indirectly owned by Government (state share is 50 % and more) in accordance with Law of the Republic of Kazakhstan of 1 February 2012 No. 550-IV «On National Welfare Fund “Samruk-Kazyna” and Regulation of Government od the Republic of Kazakhstan of 28 May 2009 No. 787 “On Approval of Model Rules of Procurement of Goods, Works and Services, Which Made by National Managing Holding, National Holdings, National Companies and Organizations, fifty and more percent of shares of which directly or indirectly owned by National Managing Holding, National Holdings, National Company.	Protocol of accession of the Republic of Kazakhstan to the World Trade Organization
III. Russian Federation	
1. Measures on investment agreements concluded before February 28, 2011, which include provisions established by Decree of the President of the Russian Federation No. 135 of February 5, 1998 “On Additional Measures of Investment Attraction for	Transitional period corresponds to the terms of agreements, which established during their signing and could be prolonged on terms, provided in the Protocol of 16 December 2011 of accession of

Measure	Transitional period
National Automotive Industry Development", Resolution of the Russian Federation Government No. 166 of March 29, 2005 "On Making Amendments in the Customs Tariff of the Russian Federation in Relation to Auto Components, Imported for Industrial Assembly" and Decision of the Commission of Customs Union of 27 November 2009 No. 130 "On Unified customs and tariff regulation of Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation"*	the Russian Federation to the Marrakesh Agreement on Establishment of the World Trade Organization of 15 April 1994, but not exceeds two calendar years
2. Measures applied in accordance with Federal Law No. 16-FZ of January 10, 2006 "On Special Economic Zone in the Kaliningrad Region and on Making Amendments in Certain Legal Acts of the Russian Federation"	Before 1 April 2016

*Applied based on approved by the Supreme Council conditions for application of term "industrial assembly of motor vehicles" on the territories of member States.