

ANNEX 6
to the Treaty on the
Eurasian Economic Union

PROTOCOL
on Common Customs and Tariff Regulation

I. General Provisions

1. This Protocol has been developed in accordance with Section IX of the Treaty on the Eurasian Economic Union and defines the principles and procedure for application of measures of customs and tariff regulations on the customs territory of the EAEU.

2. The following definitions are used in this Protocol:

“similar goods” - goods which have like characteristics and like component materials by their functional purpose, application, qualitative and technical characteristics of the completely identical goods imported to the customs territory of the EAEU under the tariff rate quota, or (in the absence of completely identical goods) goods which have characteristics similar to the parameters of the goods imported to the customs territory of the EAEU within the tariff rate quota, allowing its use in functions, a similar designation of the goods imported to the customs territory of the EAEU under the tariff rate quota, and can be commercially interchangeable.

“significant suppliers from third countries” - suppliers of goods that have 10 or more percent share of imports of goods to the customs territory of the EAEU;

“volume of tariff rate quota” – quantity of goods in kind or in value for imports under the tariff rate quota;

“preceding period” – a period for which analysis of consumption volume of goods on the customs territory of the EAEU and the production volume of the like products on the customs territory of the EAEU is conducted;

“actual volume of imports” – volume of imports in the absence of any limitations;

“agricultural goods” - goods classified in Group 1 - 24 of Common Nomenclature of Foreign Economic Activity of the Eurasian Economic Union as well as such goods as mannitol, D-glucitol (sorbitol), essential oils, casein, albumin, gelatin, dextrin, modified starches, sorbitol, skins, leather, fur, down and fur materials, raw silk, silk waste, animal hair, raw cotton, cotton waste, hackled cotton fiber, raw flax and raw hemp;

“tariff rate quota” - a measure of control over the importation into the customs territory of the EAEU of certain kinds of agricultural products originating in third countries that provides for application of differentiated rates of the EAEU CET with regard to goods imported within the established volume (in kind and in value) within a fixed period of time and in excess of that volume.

II. Tariff Exemptions

3. Tariff exemptions may be granted in the form of import customs duty exemption for goods being imported (imported) to the customs territory of the EAEU from third countries:

1) Goods imported as a foreign founder's contribution to the charter capital (fund) within deadlines established by charter documents for capital (fund) formation. The procedure of application of tariff exemptions with regard to these goods are established by the Commission.

2) Goods imported within the framework of international cooperation of the in research and exploration of space, including services in spacecraft launch, in accordance with the list approved by the Commission.

3) Products of watercraft of the member States and watercraft chartered by legal entities and (or) individuals of the member States;

4) the currency of the member States, the currency of third countries (except when used for numismatic purposes), and also paper holdings in accordance with the member States' legislation;

5) goods imported as humanitarian aid and (or) for the purpose of eliminating the consequences of accidents, catastrophes and natural calamities;

6) goods, except those that are excisable (excluding automobiles specifically meant for medical use), imported via the third countries, international organizations, governments as charity, and (or) recognized as free aid (assistance), including technical aid (assistance) in accordance with the legislation of the member States.

4. Tariff exemptions in respect of goods being imported (imported) to the customs territory of the EAEU from third countries may also be provided in other cases established by the Treaty on the Eurasian Economic Union, international treaties of the EAEU with third party and acts of the Commission.

III. Conditions and Mechanism of Application of Tariff Rate Quotas

5. The volume of tariff rate quota in respect of certain kinds of agricultural products originating from third countries and imported into the customs territory of the EAEU, is established by the Commission and can not exceed the difference between the volume of consumption and production of the like product on the customs territory of the EAEU.

If the production volume of the like product was equal to the volume of consumption of the product or exceeds it in one of the member States, such difference is not considered when allocating the volumes of tariff rate quota for the customs territory of the EAEU.

6. If the production volume of the like product is equal to the volume of consumption on the customs territory of the EAEU, or exceeds it, tariff rate quotas can not be established.

7. When taking decision on introduction of tariff rate quota the following terms shall be met:

1) tariff rate quota shall be established for a specific period of time (regardless the results of consideration of the issue on distribution of volumes of tariff rate quota among third countries);

2) all interested third countries shall be informed of the allocated volume of tariff rate quota (in case if the decision on distribution of volume of tariff rate quota among third countries is taken);

3) information on the establishment of tariff rate quota, its global volume and duration, including the volume of tariff rate quota allocated for third countries (in case if the decision on distribution of volume of tariff rate quota among third countries is taken), as well as on in-quota import customs duty rates.

8. Allocation of tariff rate quota among participants of foreign trade activity of the member States is based on their equality for obtaining a tariff rate quota and non-discrimination with respect to the form of ownership, place of registration or position on the market.

9. Tariff quota volume is distributed among the member States within the difference between volumes of consumption and production in each member State, which was taken into account in calculation of the volume of tariff rate quota for the customs territory of the EAEU in accordance with paragraphs 5 and 6 of this Protocol.

In this case, the volume of tariff rate quota for the member State, which is a Member of the World Trade Organization, may be established based on the commitments of that member State under the World Trade Organization.

10. Volumes of tariff rate quotas are allocated among third countries by the Commission or by a member State based on the results of consultations with the major suppliers from third countries in accordance with the Commission decision, unless otherwise is stipulated by international treaties within the EAEU, international treaties of the EAEU with third party or decisions of the Supreme Council.

If the distribution of volume of tariff rate quota cannot be exercised on the basis of consultations with all major suppliers from third countries, the decision on the distribution of volumes of tariff rate quotas among third countries shall be taken taking into account the volume of supply of goods from that countries during the preceding period.

As a rule, any three preceding years, for which information on actual volume of imports is available, are considered as the preceding period.

If it is not possible to choose the preceding period, the volume of tariff rate quota is allocated on the basis of assessing the most likely distribution of the actual volume of imports.

11. In supplies of goods during the period of validity of tariff rate quota, conditions and (or) formalities that prevent any third country to fully utilize distributed volume of tariff rate quota, shall not be established.

12. At the request of third country interested in supply of goods, the Commission shall conduct consultations on:

- 1) the need to re-allocate distributed volume of tariff rate quota;
- 2) change in the selected preceding period;
- 3) the need to abolish the conditions, formalities or any other provisions established unilaterally in respect of distributed volume of tariff rate quota or its unrestricted use.

13. In connection with establishment of tariff rate quotas, the Commission shall:

- 1) at the request of third country interested in supply of goods, provide information concerning the method and procedures for allocation of tariff rate quota among participants of foreign trade activity, as well as on the volume of tariff rate quotas, towards which licences are issued;
- 2) publish information on total quantity or value of goods intended for supply within the allocated volume of tariff rate quota, the dates of beginning and end of tariff rate quota and any changes therein.

14. The Commission may not require that licenses shall be used for imports of goods from a particular third country, except for the cases, when the volume of tariff rate quota is allocated among third countries.
