FREE TRADE AGREEMENT BETWEEN UKRAINE, BELARUS, KAZAKHSTAN AND RUSSIAN FEDERATION

Agreement on the Establishment of the Common Economic Zone

The Republic of Belarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, hereinafter – the Parties,

striving to promote the economic and social progress of all peoples, to raise their standards of living;

taking guidance from the desire to strengthen the economies of the peoples and ensure their harmonious development, to consistently effect economic reforms for the continued advancement of multilateral economic cooperation and intensification of integrative processes by reaching mutually beneficial agreements on the establishment of the Single Economic Space (hereinafter – SES);

recognizing the right of the Parties to determine their participation in the process of establishing the SES, with allowance for their readiness for the continued intensification of the integrative processes;

confirming the friendly relations that bind the states and peoples, desiring to ensure their prosperity, relying on the generally recognized principles and rules of international law;

taking into consideration the Statement of the Presidents of the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine of February 23, 2003,

have agreed as follows:

Article 1.

In order to create conditions for the stable and efficient development of the Parties' economies and raise the standards of living of the population, the Parties are launching the process of establishing the SES.

By the Single Economic Space the Parties mean an economic environment that unites the customs territories of the Parties, in which operate the mechanisms of regulating the economies on the basis of uniform principles ensuring the free movement of goods, services, capital and labor, and in which is pursued a single foreign trade, tax, monetary and financial policy conciliated in the degree and in the scope that is necessary to ensure equal competition and to sustain macroeconomic stability.

The Parties shall strive to facilitate:

- the development of trade and investment between the Parties, which would ensure the sustained development of the Parties' economies on the basis of generally recognized principles and rules of international law as well as the rules and principles of the WTO;

- the strengthening of the unity and development of economic potentials, as well as raising the competitiveness of the Parties' economies on foreign markets.

Article 2.

The Parties shall deal with the stage-by-stage tasks of deepening integration by meeting their undertaken commitments and actually achieving the objectives of:

- establishing a free trade area without exclusions and restrictions, which in mutual trade provides for the nonuse of antidumping, compensating and special protective measures on the basis of pursuing a uniform policy in tariff and nontarrif regulation, uniform rules of competition, application of subsidies and other forms of state support;

- unifying the principles of the design and application of technical regulations and standards, sanitary and phytosanitary rules;

- harmonizing macroeconomic policy;

- creating conditions for the free movement of goods, services, capital and labor;

- harmonizing the Parties' legislations to the extent that is necessary for the operation of the SES, of trade and competition policy included;

- designing uniform principles for regulating the activity of natural monopolies (in rail transport, telecommunication mains, transportation of electricity, oil, gas and other areas), uniform competition policy and assurance of nondiscriminatory access to and equal level of tariffs for services provided by natural monopolies.

Article 3.

In compliance with the purposes and objectives referred to in articles 1 and 2 of the present Agreement, the Parties shall take the measures provided for by the Concept on the establishment of the Single Economic Space, which is attached to the present Agreement and is its inseparable part.

In order to implement the present Agreement, the Parties shall design the Main Action Plan for the establishment of the Single Economic Space

Article 4.

Corresponding bodies whose structure is formed with allowance for the level of integration shall coordinate the processes of the establishment and operation of the SES.

The SES bodies shall be created on the basis of combining inter-state elements and principles of delegating a part of the Parties' powers to a single regulating body with the gradual enhancement of the latter's importance.

The Council of the Heads of States (hereinafter – CHS) shall ensure the coordination and management of the establishment and operation of the SES.

The number of votes of each member-state in the CHS shall be distributed by the principle of "one state – one vote." The CHS decisions shall be made by consensus.

The Parties shall set up a single SES regulatory body, to which they shall delegate a part of their powers on the basis of international agreements. Its decisions shall be binding for execution by all the Parties.

In the single regulatory SES body the decisions on all issues shall be made by judicious voting. The number of votes of each of the Parties shall be determined with allowance for its economic potential. The distribution of votes shall be established on the basis of agreement of the Parties.

Any Party shall be entitled to submit to the CHS a proposal for the reconsideration of a decision by the single SES regulatory body.

A separate international agreement shall stipulate a compensation mechanism, if a made decision causes substantial damages to one or several Parties.

Article 5.

The SES shall be established by stages with allowance for the opportunities of the different levels and pace of integration.

The transition from one stage to another shall be made by the Party that performed in full all the actions stipulated in the previous stage of the Main Action Plan for the establishment of the Single Economic Space.

The Parties, as far as they are prepared, shall accede to the international agreements that ensure the establishment and operation of the SES. Each Party shall abide by a concerted consistency in acceding to such international agreements. None of the Parties may hinder the other Party from advancing more rapidly to a higher level of integration.

The difference in the level and pace of integration means that each Party shall independently determine in what areas of development of integration or individual integrative actions it takes part and to what extent.

Article 6.

The legal foundation of ensuring the establishment and operation of the SES shall be international agreements and decisions of the SES bodies concluded and made with allowance for the legislations of the Parties and in accordance with generally recognized rules and principles of international law.

Article 7.

Disputes and differences between the Parties as to the interpretation and/or application of the provisions of the present Agreement shall be settled by holding consultations and negotiations.

Article 8.

The present Agreement shall be open to accession by other states that share its purposes and principles on the terms conciliated with all the Parties to the Agreement.

For the acceding state the present Agreement shall come into force from the date of receipt by the depository of the last notification of the Parties about the consent for such accession.

Article 9.

To the present Agreement, by mutual agreement of the Parties, amendments and additions may be introduced and formalized by separate protocols which are an inseparable part of the present Agreement and come into force under the procedure set out in Article 10 of the present Agreement.

Article 10.

The present Agreement shall come into force from the day of receipt by the depositary of the last written notification about the Parties' performance of the inter-state procedures required for the Agreement to become effective.

Article 11.

The present Agreement shall be concluded for an indefinite period. Each Party may secede from the present Agreement by a written notification addressed to the depositary not less than within 12 months from secession. The Republic of Kazakhstan shall be the depository of the present Agreement. The depository shall notify within one month all the Parties to the present Agreement about the secession of any of its Parties.

Made at Yalta on September 19, 2003 in one valid copy in the Russian language. The valid copy shall be in custody in the archives of the Republic of Kazakhstan, which shall sent to each state that signed the present Agreement its certified copy.

For the Republic of Belarus

(signature)

For the Russian Federation

(signature)

For the Republic of Kazakhstan

(signature)

For Ukraine

(signature)

CONCEPT OF ESTABLISHMENT OF THE SINGLE ECONOMIC SPACE

The concept of establishment of the Single Economic Space (hereinafter – Concept) is a program of actions for establishing a single economic environment of the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine (hereinafter – member-states) in order to deepen multilateral economic cooperation.

Under the Single Economic Space (SES) the member-states mean an economic environment that unites their customs territories, in which operate the mechanisms of regulating the economies on the basis of uniform principles ensuring the free movement of goods, services, capital and labor, and in which is pursued a single foreign trade, tax, monetary and financial policy conciliated in the degree and in the scope that is necessary to ensure equal competition and sustain macroeconomic stability.

I. PURPOSES AND OBJECTIVES

The purpose of establishing the SES is to create conditions for the stable and efficient development of the member-states' economies and to raise the standards of living of the population.

The member countries shall strive to facilitate:

• the development of trade and investment between the member-states, which would ensure the sustained development of the Parties' economies on the basis of generally recognized principles and rules of international law;

• the creation of opportunities for the development of entrepreneurship by setting up a harmonized system of regulation and integration of the infrastructure complex;

• the integration and buildup of the member-states' economic potentials in order to raise the competitiveness of the member-states' economies on foreign markets.

The member-states will deal with the stage-by-stage tasks of deepening integration by meeting their undertaken commitments and actually achieving the objectives of:

• establishing a free trade area without exclusions and restrictions, which in mutual trade provides for the nonuse of antidumping, compensating and special protective measures on the basis of pursuing a uniform policy in tariff and nontarrif regulation, uniform rules of competition, application of subsidies and other forms of state support;

• unifying the principles of the design and application of technical regulations and standards, sanitary and phytosanitary rules;

• harmonizing macroeconomic policy;

• creating conditions for the free movement of goods, services, capital and labor;

• harmonizing the member-states' legislations to the extent that is necessary for the operation of the SES, of trade and competition policy included;

• designing uniform principles for regulating the activity of natural monopolies (in rail transport, telecommunication mains, transportation of electricity, oil, gas and other areas), uniform competition policy and assurance of nondiscriminatory access to and equal level of tariffs for the services provided by natural monopolies.

II. MAIN PRINCIPLES

The main principle of operation of the SES is the assurance of free movement of goods, services, capital and labor across the borders of the member-states.

The principle of free movement of goods provides for removing exclusions from the regime of free trade and lifting restrictions in reciprocal trade on the basis of the unification of customs tariffs, common customs tariff set on the basis of the state-members' concerted techniques, measures of nontariff regulation, and application of instruments for regulating the trade in goods with third countries. The mechanisms of applying antidumping, compensating, special and protective measures in reciprocal trade will be replaced by uniform rules in the area of competition and subsidies.

The principle of assuring the free movement of services provides for designing general rules and approaches for the full access to the market of services as well as to the suppliers of services within the SES and the pursuance of a concerted policy as to the access of third countries to the SES market of services and suppliers of services.

The principle of assuring the free movement of capital provides for gradually lifting all restrictions on the movement of capital of the member-states within the SES and for pursuing a concerted policy with regard to the development of the

capital market, provided the macroeconomic stability is ensured.

The principle of assuring the free movement of labor provides for the unhindered movement of natural persons of the member-states within the SES and for formulating a concerted migration policy relative to third countries with allowance for the rules and principles of international law and the WTO.

The principle of pursuing a concerted macroeconomic policy ensures the convergence of macroeconomic indicators, including the evening-up of domestic prices, primarily for energy sources, tariffs and services of natural monopolies.

The principles of pursuing common policy relative to individual sectors provides for concluding sectoral agreements to refine the Agreement on the Establishment of the Single Economic Space.

The SES will be established gradually with allowance for the opportunities of the different levels and pace of integration.

The difference in the pace of integration means that each state independently determines the time of accession to one or another international agreement, which results in the difference of levels of integration when a member-state is at a disparate point of intergrative interaction.

The difference in the level and pace of integration means that each member-state independently determines in what areas of integration or individual integration actions it takes part and to what extent. A state, as far as it is prepared, has the opportunity to accede to the international agreements that ensure the establishment and operation of the SES. In this case the state has to abide by a concerted consistency in acceding to the list of international agreements. For a state to accede to the international agreements effective within the framework of the SES, the consent of all the states parties to these international agreements is required. This rule applies to the operation of the main principles and terms of the SES defined in the present Concept.

The transition from one stage of the SES establishment to another shall be made by those memberstates that performed in full all the actions stipulated in the previous stage of the Main Action Plan for the establishment of the Single Economic Space.

The scope of advantages granted by the member-state to one another shall be determined by the agreements on the establishment of the SES, to which they are a party.

Nonparticipation or partial participation of any member-state in individual areas of the development of integration or individual integrative actions shall not hinder the other member-state from executing the referred to individual areas of the development or integration or individual integrative actions.

A much later time of accession of any member-state to individual areas of the development of integration or individual integrative actions does not change its status as a SES party.

Taking account of the different integration degrees of the SES founding states (the Russian Federation and the Republic of Belarus – as a Union state, the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan – as members of the Eurasian Economic Space), the period of the possible transition to a much higher level of integration will be determined by each member state independently.

The completion of the establishment of a free trade area is a top-priority objective and basic stage of establishment of the SES.

The SES is to be established with allowance for such principles as voluntary membership, mutual economic advantage, absence of discrimination, legal assurance, connexion of goals, responsibility for undertaken commitments, and transparency.

III. MAIN AREAS OF ESTABLISHMENT OF THE SINGLE ECONOMIC SPACE

The SES will be established in stages by raising the level of integration through the synchronization of the member-states' economic transformations, joint actions in the pursuance of a concerted economic policy, harmonization and unification of legislation on economy, trade and other areas with allowance for the generally recognized rules and principles of international law as well as the experience and legislation of the European Union.

The areas of integration and the actions of their execution are determined on the basis of corresponding international agreements and decisions of the SES bodies, which provide for their binding execution by each of the member-states as well as the mechanism of their implementation and liability for failure to execute the concerted decisions.

The establishment of the SES provides for the performance of the following fundamental actions as:

- the establishment for goods a trade regime without exclusions and restrictions by:

- executing a set of measures to complete the development of a free trade area without exclusions and restrictions that foresee the free movement of goods and services under uniform rules of competition and application of subsidies and the pursuance of a concerted policy of tariff and nontariff regulation;

- designing common customs tariffs;

- determining uniform rules of competition policy, regulation of natural monopolies, including the assurance of nondiscriminatory access to and equal level of tariffs for the services provided by natural monopolies, application of subsidies and other forms of state support;

- unifying nontariff regulation on the basis of the WTO standards and rules, setting out a unified procedure for their application with regard to third countries;

- not applying tariff and nontariff restrictions in reciprocal trade;

- unifying the trade regimes of the member-states with regard to third countries;

- simplifying on the domestic customs borders the procedure of customs declaration and customs control and their subsequent annulment at the final stage;

- unification of the principles of design and application of technical regulations and standards, sanitary and phytosanitary rules;

- liberalization of the regimes of access to the market of services, gradual removal of the barriers and restrictions in this area;

- conciliation of terms for the establishment of a favorable climate for the attraction of investments in priority sectors and production;

- pursuance of a uniform policy of protecting intellectual property rights;

- harmonization of taxation principles, including the transition to concerted principles of indirect taxes without exemptions, non-admission of using taxes and charges as instruments for the protection of the domestic market and national commodity producers;

- creation of conditions for the reciprocal exchangeability of national currencies and the transition to settlements in national currencies, consistent liberalization of currency policy, concerted mechanism of setting the exchanges rates of national currencies, development of an effective payment system, enhancement of the degree of liberalization of the movement of capital as the member-state improve their economies;

- creation of a common market of labor with the free movement of the member-states' citizens;

- performance of actions to legally formalize and ensure the establishment of the SES;

- design of a mechanism for taking and ensuring the performance of the ongoing actions.

The execution of the Main Action Plan for the establishment of the Single Economic Space will ensure the performance of the above-mentioned actions.

IV. INTERACTION DURING THE NEGOTIATIONS ON ACCESSION TO THE WTO

The establishment and activity of the SES shall be carried out with allowance for the standards and rules of the WTO.

Since the member-states are at different stages of the negotiation process of acceding to this organization, it is necessary to design a mechanism for concerting the positions of holding negotiations on the accession to the WTO with allowance for the different level and pace of the integrative opportunities. This mechanism can foresee the following:

• quarterly consultations to consider the progress of negotiations on accession to the WTO;

• accession of the member-states to the WTO on conciliated terms.

The member-states will independently choose definite mechanisms for conciliating their positions when holding negotiations on accession to the WTO.

When one of the member-states accedes to the WTO earlier than the others, it shall:

• facilitate the accession to the WTO of the other member-states as quickly as possible;

• refrain from putting forward demands to other member-states within the framework of negotiations on accession to the WTO;

V. INSTITUTIONAL FOUNDATIONS OF ESTABLISHMENT OF THE SINGLE ECONOMIC SPACE AND THE DECISION-MAKING PROCEDURE

Corresponding bodies set up on the basis of individual international agreements will coordinate the processes of establishing the SES. The structure of these bodies will be worked out with allowance for the levels of integration.

The SES bodies will be created on the basis of combining inter-state elements and principles of delegating a part of the member-states' powers to a single regulating body with the gradual enhancement of the latter's importance.

The Council of the Heads of States (hereinafter – CHS) shall ensure the coordination and management of the establishment and operation of the SES at the international level.

The number of votes of each member-state in the CHS will be distributed by the principle of "one state – one vote." The CHS decisions will be made by consensus.

The Parties will set up a single SES regulatory body (Commission), to which they shall delegate a part of their powers on the basis of international agreements. Its decisions shall be binding for execution by all the Parties.

The Commission shall begin discharging its functions from the moment of introduction of a common customs tariff or uniform rules of competition, depending on what is introduced the first.

As the integrative processes develop and deepen, the powers of the single regulatory body will grow accordingly.

In the Commission the decisions on all issues will be made by judicious voting. The number of votes of each of the Parties will be determined with allowance for its economic potential. The distribution of votes will be established on the basis of agreement of the member-countries.

The main powers of the CHS shall be to:

• determine the prospects of continued integration with the framework of the SES;

• exercise control over the performance of the Main Action Plan for the establishment of the Single Economic Space;

• ensure the application of and compliance with the main principles and actions decided for the establishment of the SES;

• formulate trade and economic policy with regard to third countries;

• decide on the admission of new members to the SES;

• set assignments for the unification of customs, tariff and competition policy of the SES memberstates and review the Commission's reports;

• make decisions on other fundament questions of operation of the SES.

In order to ensure the proper operation and the development of the SES, the Commission, within its competence, shall:

• ensure the achievement of the purposes and objectives of the SES;

• make decisions and provide conclusions on issues related to the achievement of the goals and objectives of the SES;

• draft statutory acts, methodological material and other documents required for achieving the goals and objectives of the SES.

VI. LEGAL, FINANCIAL AND INFORMATION SUPPORT

The legal foundation of ensuring the establishment and operation of the SES are the international agreements and decisions of the SES bodies concluded and made with allowance for the interests and legislations of the member-states and in accordance with generally recognized rules and principles of international law.

Taking into account the different pace and level of integration, the decisions on the completion of drafting international agreements and other documents of the SES shall be made, if the corresponding draft is conciliated by not less than three member-states which account for not less than two-thirds of the gross domestic product.

The member-states recognize the need for securing the mechanism of executing decisions, introduction of sanctions for failure of their execution, as well as the mechanism of settling disputes concerning each of their concluded international agreement aimed at establishing the SES. These documents shall contain provisions on the inadmissibility of reservations to them.

The SES bodies shall be financed for account of shares of the member-states proportionally to the number of votes of the member-sates in the single regulatory body.

To ensure the operation of the SES, a database will be developed to concentrate updated information of an economic and legal nature.

VII. FINAL PROVISIONS

The SES is opened for accession by other states, provided they undertake commitments under the international agreements that are concluded by and operate in the SES, and comply with the macroeconomic and institutional criteria set by the member-state's agreement and by consent of all the member-states.

Any member-state shall be entitled to secede from the SES, having preliminarily settled its commitments undertaken within the SES.

From the day of secession of a member-state from the SES, the obligations of the other memberstate to this member-state, as implied in the international agreements and decisions of the SES, shall be invalid.