

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Regional Trade Agreements

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FREE TRADE AGREEMENT BETWEEN AZERBAIJAN, ARMENIA, BELARUS, GEORGIA, MOLDOVA, KAZAKHSTAN, THE RUSSIAN FEDERATION, UKRAINE, UZBEKISTAN, TAJIKISTAN AND THE KYRGYZ REPUBLIC

Questions and Replies

This document reproduces questions addressed to the Kyrgyz Republic and the responses submitted. The questions and replies set out below are organized in accordance with document WT/REG82/3.

I. BACKGROUND INFORMATION ON THE AGREEMENT

2. Type of Agreement

1. Has a transitional period for the creation of free-trade area (FTA) been determined? What is its duration?

The Kyrgyz Republic believes that the Agreement has already created a FTA within the meaning of article XXIV:8(b) of GATT 1994. Customs duties, taxes and charges which are of equivalent effect and quantitative restrictions are eliminated on substantially all the trade between the Parties.

3. Scope

2. According to the explanation given in Section 3 of document WT/REG82/3, the common list of exceptions to the free-trade regime was to be agreed by the Parties; however, that was never done. Can the Kyrgyz Republic clarify if and when the above-mentioned "list" will be completed and when the exceptional goods are expected to be scheduled? Can the Kyrgyz Republic also clarify whether there exist any other agreements which stipulate the elimination of duties and other restrictive regulations of commerce?

It was originally planned that a common list of exceptions would be developed. However, according to provisions of Protocol on Amendments and Supplements to the Agreement on Creation of Free Trade Area of 2 April 1999, this plan was replaced by the intention of the Parties to eliminate all the existing restrictions and to establish free trade regime with no restrictions and exceptions. Thus, such "list" will not be developed at all.

A bilateral FTA Agreement between Armenia and the Kyrgyz Republic will be notified to the Committee on Regional Trade Agreements (CRTA).¹ Other bilateral agreements of the Kyrgyz Republic, which stipulate the elimination of duties and other restrictive regulations of commerce, are already notified to the CRTA.

¹ See WT/REG114/N/1.

3. Have the schedules of abolition of the exceptions to the free-trade regime been elaborated in the 12-months period as stipulated in the revised wording of Article 3:2 of the Agreement? Please submit to the Committee a detailed information containing the list of goods subject to exceptions and their tariff numbers. What is the schedule of elimination of the exceptions?

The schedules of abolition of the exceptions to the free-trade regime as stipulated in the revised wording of Article 3:2 of the Agreement have not been elaborated yet. The Kyrgyz Republic applies no exceptions to the free-trade regime in trade with the Parties to the Agreement. See also the last paragraph of Section I.3 of WT/REG82/3.

4. Trade Data

4. Annex I of WT/REG82/3 provides data on the percentage of trade covered by the Agreements between the Kyrgyz Republic and the Russian Federation and Uzbekistan, respectively. Please provide data, in the agricultural and industrial sectors, on the percentage of trade between the Parties, for each Party, which faced zero-duties, less than MFN rates or MFN rates.

All the trade covered by the Agreements faced zero-duties. All the trade excluded from the Agreement faced MFN rates.

II. TRADE PROVISIONS

1. Import Restrictions

5. Does the exclusion of Article 2 of the Free Trade Agreement (in accordance with paragraph 7 of the protocol on Amendment and Supplements to the Agreement, WT/REG82/1, p.18) mean that the Parties lose their rights to a self-dependent and independent determination of a regime of their foreign economic relations with third countries?

Although Article 2 was excluded, similar provision was introduced in Article 20 of the Agreement. According to this Article, Parties maintain their rights to a self-dependent and independent determination of a regime of their foreign economic relations with third countries.

5. Safeguards &

6. Anti-Dumping and Countervailing Measures

6. Please explain whether measures, such as anti-dumping and subsidies, which are stipulated in the CIS FTA but not stipulated in each bilateral regional trade agreement, will be applied or not.

There is nothing in the CIS FTA and in bilateral FTAs which prevents Parties from applying anti-dumping and countervailing measures, stipulated in the CIS FTA but not stipulated in each bilateral regional trade agreement.

7. Subsidies and State-Aid

7. What kinds of subsidies are allowed under Article 9 of the Agreement?

Subsidies, which are not prohibited by Article 9 of the Agreement and other bilateral agreements between the Parties, are allowed.

8. What forms of state support are permitted under Article 12 of the Agreement?

No forms of state support under Article 12 of the Agreement are specified. The purpose of this Article is not to restrict certain forms of state support, but rather to declare the wishes of the Parties to encourage businesses in different member countries cooperating in joint production of goods.

9. Other

9. Have priority types of services - with respect to which the issues of liberalization of importation and exportation are to be immediately solved - been singled out (Article 17 of the Agreement)?

Priority types of services with respect to which the issues of liberalization of importation and exportation are to be immediately solved under Article 17 of the Agreement have not been singled out yet. According to the terms of reference for the examination of this Agreement, the CRTA examines the participation of the Kyrgyz Republic in the CIS Free Trade Area Agreement in light of the relevant provisions of the GATT 1994. GATT 1994 does not cover trade in services.

III. GENERAL PROVISIONS OF THE AGREEMENT

4. Relation with other trade agreements

10. What could be the implications in cases on contradiction between the provisions and objectives of the examined Agreement and the commitments under other international agreements.

The Kyrgyz Republic believes that the provisions and objectives of the Agreement being examined do not contradict with its commitments under other international agreements.

11. The current situation is that the Kyrgyz Republic is Party to a FTA with ten other countries and also to other bilateral agreements with some of them and that those agreements seem to exist in parallel. Are there any proposals for terminating or consolidating any of those parallel agreements?

There are no proposals for terminating or consolidating any of the agreements. Existence of the plurilateral and bilateral agreements with the same countries does not contradict to the provisions of GATT 1994.

12. Of the five regional trade agreements, only the Regional Trade Agreement between Kyrgyzstan and Kazakhstan explains that it is based on the CIS FTA, while the four remaining regional trade agreements seemingly have no relation with the others. Can the Kyrgyz Republic explain the relationship between the four remaining agreements and the CIS FTA?

CIS FTA and bilateral FTAs of the Kyrgyz Republic with Kazakhstan, Moldova, Russian Federation, Ukraine and Uzbekistan are separate legal documents and each Agreement shall be judged on its own merit.

IV. OTHER

13. Could the Kyrgyz Republic clarify the meaning of the second sentence of Article 1 of the Agreement on Re-export of Goods and Procedure of Granting Permissions for Re-export (Annex II, WT/REG82/1, p.15): "With respect to export of these goods planned for re-export, the Parties of the customs territory from which these goods originate shall apply measures of tariff and/or non-tariff regulation or shall grant foreign economic privileges during their exports from customs territory".

For a more exact translation, the first and second sentences of Article 1 of the Agreement (Annex II, WT/REG82/1, p.15) should be combined and should read as follows: "The subject of this Agreement is re-export of goods with respect to exports of which Parties from customs territory of which these goods originate apply measures of tariff and/or non-tariff regulation or grant foreign economic privileges upon their exports from its customs territory".²

This Agreement regulates issues related to re-exportation of goods originating in the customs territory of a Party to the Agreement by a business entity of another Party and which was previously imported to the territory of the latter. Re-export permissions are required only for goods for export of which the country of origin applies tariff/non-tariff measures or grants privileges depending on which territory the goods are destined - for example, when a product is subject to export duty in the country of origin but exempted from the duty if exported and destined to the territory of a Party to the Agreement. If a business entity of latter wishes to re-export this product to a territory of a country exports to which are subject to duty by the country of origin, it shall acquire permission from the latter. Therefore, it is intended to restrict unauthorized avoidance of export duties charged by the country of origin.

14. Are business entities required to reimburse a part of the difference between the transaction value of the re-export and the transaction value of the export of goods from the country of origin, as it is stipulated in Article 4 of the Agreement on Re-export of Goods and Procedure of Granting Permissions for Re-export (WT/REG82/1, p.16) ?

As a condition for issuance of permission for re-exportation to a third country, a country of origin may require business entities to reimburse a part of the difference between the transaction value of the re-export and the transaction value of the export of goods from the country of origin. The purpose of the reimbursement is to compensate payments (restrictions) which otherwise would have been charged by country of origin if goods were exported from the territory of latter directly to the third country.

15. The Agreement on Re-export of Goods and Procedure of Granting Permissions for Re-export has been concluded for a period of five year. Has it been prolonged?

According to Article 11, the Agreement on Re-export of Goods and Procedure of Granting Permissions for Re-export automatically prolonged for following five years starting from 22 November 1999.

² See WT/REG82/1/Corr.1.