

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Regional Trade Agreements

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FREE TRADE AGREEMENT BETWEEN THE KYRGYZ REPUBLIC AND THE RUSSIAN FEDERATION

Communication from the Kyrgyz Republic

I. BACKGROUND INFORMATION ON THE AGREEMENT

1. Membership and Dates of Signature, Ratification and Entry into Force.

The Parties to the Agreement are the Government of the Kyrgyz Republic on one side and the Government of the Russian Federation on the other.

The Agreement was signed on 8 October 1992.

On 14 February 1993, the Russian Federation notified the Government of the Kyrgyz Republic on the completion of its internal procedures required for the Agreement to become effective. The Agreement became effective on 24 March 1993 when the similar note was submitted by the Government of the Kyrgyz Republic to the Government of the Russian Federation.

2. Type of Agreement

The Agreement creates a free-trade area. It provides for the elimination of customs duties, taxes and charges having an equivalent effect to customs duties, on substantially all the trade between the Parties.

3. Scope

The Protocol on Exceptions to the Agreement was signed on 26 December 1992. It was replaced by the Protocol on Exceptions from the Free Trade Regime, of 12 July 1994. According to this Protocol goods subject to export tariffs and licensing are excluded from the Free Trade Agreement with Russia.

Although the Protocols call them exceptions, the import and export licensing requirements are permitted under the relevant provisions of GATT 1994. Therefore, according to Article XXIV:8(b), trade in these goods is not excluded from the trade data for the purposes of calculating the trade coverage.

In 1999, for the period from 1 July through 1 December, seasonal duties were introduced by the Kyrgyz Republic for grain (1001) and flour (1101.00).¹ Since these duties are no longer in force, that creates a situation where currently there are no restrictions applied by the Kyrgyz Republic in trade with the Russian Federation. Furthermore, according to the Protocol, of 2 April 1999, on

¹ Effect of these duties on the coverage in trade with the Russian Federation in 1999 is shown in Annex I.

Amendments and Supplements to the Agreement on the Creation of a Commonwealth of Independent States (CIS) Free-Trade Area (FTA), the Parties to the CIS FTA Agreement agreed not to introduce new quantitative and tariff restrictions on imports and/or exports in trade between them. Within twelve months starting from the date of entry into force of the Protocol, the Parties shall enter into bilateral arrangements on phasing out existing restrictions in trade between them. The Russian Federation and the Kyrgyz Republic have not signed such bilateral arrangement yet.

4. Trade Data

Data on intra-trade is represented in Annex II.

II. TRADE PROVISIONS

1. Import Restrictions

1.1 Duties and charges

Currently, the Kyrgyz Republic applies no customs duties, or tariff quotas and charges having an equivalent effect to customs and fiscal duties to imports from the territory of the Russian Federation. According to the changes to the CIS FTA Agreement introduced by the Protocol of 2 April 1999, no restrictions will remain in effect after this Protocol is fully implemented.

1.2 Quantitative restrictions

Currently, there are no quantitative restrictions on imports from the territory of the Russian Federation applied by the Kyrgyz Republic. According to the changes to the CIS FTA Agreement introduced by the Protocol of 2 April 1999, no quantitative restrictions will remain in effect after this Protocol is fully implemented.

2. Export Restrictions

2.1 Duties and charges

Currently, the Kyrgyz Republic applies no customs duties, or tariff quotas and charges having an equivalent effect to customs and fiscal duties to exports to the territory of the Russian Federation. According to the changes to the CIS FTA Agreement introduced by the Protocol of 2 April 1999, no restrictions will remain in effect after this Protocol is fully implemented.

2.2. Quantitative restrictions

Currently, there are no quantitative restrictions on exports to the territory of the Russian Federation applied by the Kyrgyz Republic. According to the changes to the CIS FTA Agreement introduced by the Protocol of 2 April 1999, no quantitative restrictions will remain in effect after this Protocol is fully implemented.

3. Rules of Origin

A country of origin of goods shall be a state where a product was wholly produced or substantially transformed. The substantial transformation criterion can be determined by change in tariff classification at the level of one of the first four digits or by *ad valorem* percentages. The Agreement does not contain provisions on any type of cumulation of origin.

The Agreement does not contain extensive provisions related to determining rules of origin. It referred to a separate agreement to be developed for the detailed provisions regarding the rules of origin. Under the CIS Free-Trade Area Agreement, of 15 April 1994, the country of origin of a commodity in trade between the Parties to the Agreement is determined in accordance with the CIS Rules on Determining Country of Origin of Goods² (hereinafter referred to as the Rules). The CIS countries signed the Rules on 24 September 1993. The country of origin of a product is considered a CIS country where the product was wholly produced or subject to substantial transformation. The Rules provide for a list of goods which are considered wholly produced. Substantial transformation may be manifested through (i) an *ad valorem* portion, (ii) a list of production or technological processes, and (iii) changes of tariff headings. The list of production or technological processes is still being negotiated among the Parties to the Agreement. In cases where there are no criteria specified with respect to a particular product, the general criterion of changes in tariff heading is applied. A product is considered substantially transformed if its tariff classification has changed at any of the first four digits with a list of exceptions. Such exceptions are being developed and may contain a list of production or technological operations which, though cause a change in tariff line, are not considered a sign of substantial transformation, or are considered such only if certain conditions are followed, and also may contain a list of production or technological operations which, though do not cause a change in tariff line, are considered a sign of substantial transformation, provided that certain conditions are followed.

The Rules provide for a possibility of using a cumulative principle of origin while applying the criterion of substantial transformation. The cumulative principle can be used with respect to the CIS countries. However, the Rules do not contain detailed provisions regarding cumulation.

4. Standards

The Parties to the Agreement may unilaterally introduce measures generally accepted in international practice and which are necessary to protect life and health of human, environment, and to protect animal and plant life. The Agreement does not provide for common standards or mutual recognition of certificates. However, in accordance with the Agreement on the Uniform Policy on Standardization, Metrology and Certification executed by the CIS countries, the Parties to the Agreement mutually accept certificates issued by accredited institutions of the Parties.

5. Safeguards

The Parties to the Agreement may unilaterally introduce quantitative restrictions and measures having an equivalent effect to quantitative restrictions or other special restrictions, on the trade of products covered by the Agreement as a safeguard measure in cases:

- of a critical deficit of the balance-of-payment;
- of an acute deficit of this product in the domestic market until the market situation is stabilized.
- where, with a view to carrying out measures for the re-export by either Party to the Agreement to third countries of goods originating from the territory of the other Party on which latter applies tariff and/or non-tariff measures upon exportation from its territory, a written permission of the country of origin and the fulfillment of the condition set thereon are required. Where this requirement is not met, a Party whose interests were violated may unilaterally introduce measures with respect to exports to the territory of the Party that violated this rule.

² The text of the Rules was circulated in document WT/REG82/1.

A Party to the Agreement, which applies the restriction, shall, upon request of the other Party, provide full information on reasons for introductions, forms and estimated terms of applying the measure. There is no specific safeguard provision related to agriculture.

6. Anti-Dumping and Countervailing Measures

The Agreement does not contain any specific provisions concerning anti-dumping and countervailing measures. Nevertheless, the Parties have acknowledged incompatibility of unfair business practice with the objectives of the Agreement (Article 7).

7. Subsidies and State-Aid

The Parties have agreed not to use State-aid in the form of subsidies if such measures have the result of violating the normal economic conditions on the territory of the other Party. There are no provisions in the Agreement regarding the remedies available to counter their effects on intra-trade.

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and Reservations

1.1 General exceptions

The Agreement does not preclude the Parties from using measures necessary to protect the vital interests or to fulfill international agreements related to the following:

- protection of life and health of people, animals and plants;
- protection of public moral and order;
- trade in gold, silver or other precious metals and stones;
- protection of industrial and intellectual property;

1.2 Security exceptions

The Agreement does not preclude the Parties from using measures necessary to protect the vital interests or to fulfill international agreements related to the following:

- information concerning the national security interests;
- trade in arm, ammunition, and military equipment;
- research or production related to the needs of defence;
- supplies of materials and equipment used in the nuclear industry.

2. Accession

Any country may join the Agreement if the Parties agree on it. The Agreement does not provide for conditions of joining, which are to be agreed between the Parties to the Agreement and an acceding country.

3. Dispute Settlement Procedures

Disputes between the Parties shall be settled through negotiations.

4. Relation with Other Trade Agreements

The Agreement does not establish any specific relation with other bilateral, plurilateral and/or multilateral trade agreements. The Preamble of the Agreement makes general references to: the Agreement on Friendship, Collaboration and Mutual Aid between the Russian Federation and the Republic of Kyrgyzstan, signed on 10 June 1992, the multilateral Agreement on Collaboration in the Area of Foreign Economic Activity, of 15 May 1992, the multilateral Agreement on the Coordination of Work on the Issues of Export Control of Raw Materials, Materials, Equipment, Technologies and Services, which can be Used to Create Weapons of Mass Extermination and Rocket Means for Its Delivery, of 26 June 1992.

5. Institutional Framework

The Parties to the Agreement have agreed to form a Joint Kyrgyz-Russian Commission for the implementation of the Agreement and development of recommendations to improve the trade and economic relations between the Parties to the Agreement.

IV. OTHER

Other provisions of the Agreement refer to the following:

- Internal Taxation: no internal taxes and charges are applied by the Parties, implying directly or indirectly discrimination against the products of the other Party;
- Special restrictions or requirements are applied on a non-discriminatory basis;
- Storage, reloading, warehousing, transportation, payments and transfer of payments: no measures discriminating the products of other Party are applied;
- Re-exportation: each Party to the Agreement undertakes not to re-export goods, originating from the territory of one of the Parties, to third countries unless it gets permission from the other Party. This provision applies with respect to the goods to which the Party, where these goods originate from, applies tariff and/or non-tariff measures upon exportation from its territory;
- Customs tariffs: the Parties have agreed to hold regular consultations for the purposes of rapprochement of the levels of customs duties in trade with third countries;
- The Parties have agreed to use the CIS Goods Nomenclature of Foreign Economic Activity based on the Harmonized Commodity Description and Coding System and the Combined Tariff-Statistical Nomenclature of the European Union;
- Freedom of transit.

The obligation not to allow unfair business practices, including but not limited to certain practices of use by certain enterprises of their dominant position intending to limit competition on the territories of the Parties to the Agreement;

ANNEX I

Trade between the Kyrgyz Republic and Russia
Trade Coverage

	1997		1998		1999	
	Value (thousand US\$)	Coverage in percentage	Value (thousand US\$)	Coverage in percentage	Value (thousand US\$)	Coverage in percentage
IMPORTS						
HS Chap. 1 - 24	30,197.1	100	9,880.0	100	10,316.5	100
HS Chap. 25 - 97	160,602.1	100	194,177.8	100	99,049.6	100
TOTAL	190,799.2	100	204,057.8	100	109,366.1	100
EXPORTS						
HS Chap. 1 - 24	45,837.6	100	48,990.6	100	44,731.7	100
HS Chap. 25 - 97	53,007.3	100	34,688.7	100	25,981.4	100
TOTAL	98,844.9	100	83,679.3	100	70,713.1	100
IMPORTS & EXPORTS						
HS Chap. 1 - 24	76,034.7	100	58,870.6	100	55,048.2	100
HS Chap. 25 - 97	213,609.4	100	228,866.5	100	125,031.0	100
TOTAL	289,644.1	100	287,737.1	100	180,079.2	100

Source: National Statistics Committee.

ANNEX II

Imports into the Kyrgyz Republic from Russia (Thousand of US\$)

H.S. Chapter	Year		
	1997	1998	1999
Total	190,799.2	204,057.8	109,366.1
1	2.9	5.3	2.4
2	19.9	47.6	27.2
3	1,530.4	2,118.3	1,376.7
4	479.9	1,399.4	1,115.2
5	6.6	1.1	5.0
7	174.2	79.0	18.7
8	40.1	11.3	37.9
9	26.8	11.1	12.7
10	32.9	339.7	40.9
11	934.9	678.4	359.9
12	290.1	73.3	11.5
13	-	7.5	-
15	1,754.8	610.3	190.4
16	182.4	527.2	467.7
17	23,033.3	2,048.5	2,762.5
18	409.1	625.9	1,639.5
19	387.4	429.8	646.5
20	80.9	100.1	226.1
21	241.5	483.8	162.3
22	497.7	170.7	1,005.9
23	71.3	97.9	80.7
24	-	13.8	126.8
25	798.5	1,466.0	302.5
26	75.4	5,144.7	870.2
27	48,318.8	53,363.3	27,454.2
28	6,982.3	3,495.8	2,125.5
29	2,034.1	2,361.5	2,100.4
30	2,444.4	3,553.9	2,258.6
31	1,186.7	5,107.3	917.8
32	2,641.4	3,094.8	2,110.7
33	268.1	342.8	179.2
34	866.2	1,297.8	1,580.3
35	48.4	73.0	76.5
36	1,835.7	1,698.7	1,192.5
37	84.4	78.9	26.2
38	2,713.9	1,399.4	1,287.4
39	3,693.5	3,905.3	1,971.2
40	7,621.9	8,142.5	4,783.3
41	211.4	58.5	44.8
42	43.5	19.9	2.9
43	2.5	9.7	1.7
44	8,497.0	8,241.6	3,324.5
47	-	21.3	1.2
48	6,496.2	9,058.0	4,420.5
49	526.6	13,159.1	993.8

H.S. Chapter	Year		
	1997	1998	1999
50	-	-	9.4
51	547.3	225.0	406.2
52	77.9	145.0	21.5
53	239.9	90.1	61.5
54	1,289.7	193.9	125.5
55	472.2	275.4	48.6
56	422.4	560.7	254.5
57	52.2	2.1	-
58	27.5	20.7	39.1
59	1,453.4	2,036.7	775.8
60	10.0	2.0	-
61	524.8	151.4	11.9
62	303.1	98.4	59.0
63	167.2	97.5	202.6
64	1,473.6	1,367.6	787.0
65	65.9	15.3	-
66	-	1.1	1.3
68	300.1	556.1	386.0
69	892.3	659.8	582.3
70	903.1	1,224.5	214.3
71	413.6	265.1	8.5
72	4,458.5	7,378.5	3,167.8
73	5,392.8	11,328.3	4,992.5
74	1,109.1	654.0	1,064.4
75	54.4	7.3	11.8
76	2,095.1	745.5	240.9
78	78.8	66.3	21.8
79	54.5	144.4	136.2
80	73.9	100.1	50.9
81	1,483.0	1,432.7	902.3
82	103.7	289.1	73.2
83	943.9	859.0	670.7
84	23,392.7	21,929.4	11,455.9
85	5,957.6	5,577.0	7,290.5
86	158.5	1,896.9	165.5
87	4,398.6	5,978.8	5,639.8
88	524.5	259.1	272.1
90	1,536.6	1,831.9	644.1
91	37.3	19.6	8.4
92	11.7	-	3.5
94	1,450.6	398.2	179.6
95	79.9	12.6	10.0
96	89.0	68.2	12.8

Source: National Statistics Committee.

Exports from the Kyrgyz Republic into Russia
(Thousand of US\$)

H.S. Chapter	Year		
	1997	1998	1999
Total	98,844.9	83,679.3	70,713.1
1	2.3	2.5	3.1
2	6.1	5.0	-
3	-	15.5	-
4	608.2	124.6	68.9
6	12.5	16.2	4.2
7	8,182.8	7,900.0	4,179.4
8	7,697.5	3,863.7	2,866.8
9	37.2	78.6	40.7
10	81.8	61.0	1.8
11	312.4	113.9	-
12	1,831.8	968.6	1,744.9
13	58.4	30.7	10.1
14	105.6	51.3	7.6
15	62.0	44.1	12.8
16	822.8	250.2	10.5
17	1,562.2	388.3	297.6
18	-	-	401.9
19	110.2	38.4	19.3
20	945.4	649.6	703.6
21	979.1	13.2	22.0
22	1,856.1	10.2	5.4
23	-	1.0	71.7
24	20,563.2	34,364.0	34,259.4
25	1,551.5	466.4	264.3
26	787.3	333.5	576.6
27	829.6	681.4	538.0
28	2,849.5	1,247.1	938.1
29	1.7	2.7	-
30	5.9	316.4	214.6
32	308.9	27.0	21.3
33	11.9	60.2	125.5
34	11.0	-	12.9
35	28.8	22.6	-
38	1.2	-	-
39	503.0	213.0	702.8
40	265.9	289.9	37.2
41	256.7	156.2	26.7
42	131.9	22.7	7.2
43	276.3	110.7	8.7
44	53.6	4.1	1.0
48	22.3	69.7	40.5
49	14.3	0.6	8.8
50	24.9	7.4	1.0
51	432.8	631.6	1,048.8
52	3,982.5	2,165.2	6,732.5
53	15.3	29.3	-
54	130.4	7.6	8.9

H.S. Chapter	Year		
	1997	1998	1999
55	212.8	274.5	126.1
56	741.4	282.3	101.0
57	525.4	125.7	3.9
58	36.9	13.3	76.9
59	2,240.8	1,546.6	310.9
60	20.0	6.9	3.2
61	2,727.2	1,389.2	351.6
62	2,929.8	1,627.5	689.3
63	2,011.2	1,315.2	1,354.0
64	656.6	543.4	67.7
65	5.2	17.9	1.3
66	-	2.2	-
67	8.3	12.9	1.0
68	1,239.0	820.0	69.7
69	37.7	-	3.0
70	1,369.5	747.9	70.3
71	221.0	-	-
72	283.8	274.9	9.2
73	1,135.8	691.2	368.1
74	7.8	26.5	123.8
76	79.8	74.1	15.9
81	3,826.5	2,273.3	1,180.6
82	329.1	309.6	308.5
83	117.6	73.8	5.5
84	5,681.7	3,044.7	1,488.2
85	9,501.6	7,030.5	5,339.1
86	176.6	18.3	1.0
87	2,781.0	2,297.9	1,760.5
88	59.0	13.7	56.5
90	366.9	71.9	141.8
91	-	1.3	-
94	872.4	251.6	55.4
95	219.7	74.1	5.0
96	87.4	178.5	166.2
97	-	1.0	280.2

Source: National Statistics Committee.