Agreement on the Rules of Licensing in the Area of Foreign Merchandise Trade

The Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of Russia Federation, hereinafter referred to as the Parties,

for the purpose of realization of the Agreement concerning common measures of non-tariff regulation in relation to the third countries dated 25 January, 2008,

taking into consideration the intentions of the Parties to establish united trade regime in relation to the third countries,

have mutually agreed upon:

Article 1

Incidence

The present Agreement determines the order of license issuance and issuance of permits of export and (or) import of the goods included on the united list of goods which are subject to prohibitions and restrictions of import or export by the member countries of the customs union within Eurasian Economic Community in trade with the third countries (hereinafter referred to as the united list).

This Agreement does not have effect on export and (or import) of goods subject to export control, on export and import of arms and arms and military equipment, as well as other military products.

Article 2

Concepts

In the present Agreement the concepts defined in Article 1 of the Agreement concerning common measures of non-tariff regulation in relation to the third countries dated January 25, 2008 as well as the following concepts:

«general license» is the license granted to the foreign trade player on the basis of decision of the Party and giving the right to export and (or) import certain types of licensed goods in quantity specified in license;

«exclusive license» is the license that give to a foreign trade player the right to export and (or) import a certain type of goods;

«one-time license» is the license granted to a foreign trade player on the basis of the foreign trade transaction the subject of which is the licensed goods and giving the right to export and (or) import this product in a specified amount;

«permit» is a licensing document issued by foreign traders on the basis of foreign trade transaction, the object of which are the goods subject to control of export and (or) import in a certain amount;

«applicant» is a foreign trade player submitting to an authorized state body of executive power of the Party the documents for registration of a license or permit;

«performance of a license» is the actual import of the goods on the state customs territories of the Parties from the third countries or export of the goods from the state customs territories of the Parties to the third countries in relation to which customs clearance on the basis of an issued license has been effectuated.

Article 3

Conditions and procedure for issuing licenses

1. Authorized state bodies of executive power of the Parties (hereinafter - the authorized bodies) issue the following types of licenses:

one-time license;

general license;

exclusive license.

The issuance by an authorized body of general and exclusive licenses is carried out in cases stipulated by the resolution of the Commission of the customs union (hereinafter - Commission).

2. Term of validity of one-time license can not exceed 1 year from the date of its implementation. Term of validity of one-time license may be limited by the duration of a foreign trade contract (agreement) or expiration date of a document, which is the basis for issuing a license.

For goods in relation to which quantitative restrictions has been implemented the term of validity ends in the calendar year for which the quota has been implemented.

Term of validity of a general license may not exceed one year from the date of its inception, and for the goods in respect of which quantitative restrictions have been imposed, it ends in a calendar year for which a has been implemented, unless otherwise agreed by the Commission.

Term of validity of an exclusive license shall be established by a resolution of the Commission in each particular case.

3. For registration of a license by an applicant the following documents are to be submitted to the authorized body:

application for a license, filled and formed in accordance with the instructions on the registration of an application for a license to export and (or) import of certain goods and presentation of such a license (hereinafter - application), according to Appendix 1;

electronic copy of the statement in a format approved by the Commission, created using software developed by the Commission and transferred to the foreign trade players free of charge. Foreign trade payer can use its own software, which generates an electronic copy of the application, in strict accordance with the format approved by the Commission;

copy of a foreign trade agreement (contract), appendices and (or) additions to it (for a one-time license), and in the absence of a foreign trade agreement (contract) - a copy of a document confirming the intentions of the parties;

copy of a document of registration in tax authorities;

copy of the license to conduct a licensed activity, if such activity is connected with the turnover of the goods, in respect of which licensing has been introduced for a united customs territory;

other documents, if they are decided upon by the Commission, pursuant to which a licensing of this product has been introduced.

Each sheet of submitted document copies of must be attested by signature and stamp of the applicant, or copies of documents must be stitched up and attested by signature and stamp of the applicant.

Documents submitted by the applicant shall be registered in the authorized body.

License is to be issued after the applicant has submitted a document confirming payment of state fee (license fee) in order and amount prescribed by legislation of the Party charged for issuing a license.

4. In cases stipulated by the Commission's decision, a statement prior to submission to the authorized body is to be sent by the applicant for approval to the appropriate executive state authority of the Party, defined by the Party on the basis of the Commission's decision.

5. Issuance of a license or refusal to issue it is to be made by an authorized body on the basis of the documents stipulated in paragraph 3 of the present article within 15 working days from the date of submission of the documents.

6. The grounds for refusal to issue a license are:

the presence of incomplete or inaccurate information in the documents submitted by the applicant to get a license;

non-compliance with the requirements stipulated in Articles 3 and 5 of the present Agreement;

termination or suspension of one or more documents that serve as the basis for issuance of a license;

violation of international obligations of the states of the Parties, which may occur as a result of execution of the contract (contract) for realization of which a license is being requested;

quota exhaustion (in the case of registration of a license for goods subject to quotas).

The decision to refuse to grant a license must be justified and submitted to the applicant in writing.

7. Authorized body draws up an original license, which is issued to the applicant. Applicant before the customs clearance of goods is to submit the original license to the relevant customs authority, which in setting license control gives the applicant its copy with the stamp of customs authority on the setting license control.

Absence of license is the ground for refusal of customs clearance of the goods by customs authorities of the states of the Parties.

8. Changes to the issued license are not allowed, including for technical reasons.

9. In the event that amendments to the constituent documents of the applicant, registered as a legal entity (the change of the legal form, name or its location), or altered passport details of the applicant, being a natural person, the applicant is to request the termination of the issued license and registration of a new license with the attachment of the application and the documents confirming mentioned changes

10. Authorized body has the right to decide to terminate or suspend the license in the following cases:

written request of the applicant;

changes in the constituent documents of the applicant, registered as a legal entity (the change of the organizational-legal form, name or its location), or change of the passport information of the applicant, being a natural person;

identification of false information in the documents submitted by an applicant in order to obtain a license;

termination or suspension of one or more documents on whose basis the license was issued;

execution of the agreement (contract) under which the license is issued, violates the international state obligations of Parties;

revocation of license on the licensed activity, if such activity is connected with the turnover of the goods, in respect of which a licensing is introduced;

identifying violations made while issuing a license, which caused the issuance of a license, which in compliance with the established order could not be issued;

non-observance by a licensee of conditions for issuance of a license specified by international legal acts or legal act of the states of the Parties;

non-observance by a licensee of the paragraph 12 of the present article.

A license shall be suspended from the date of the decision of the authorized body concerning this question.

A suspended license may be renewed by the authorized body after removing the causes of the suspension of this license. At the same time the license suspension is not a basis for its extension.

The order of suspension or termination of the license is determined by the Commission.

11. In the event of loss of license the authorized body shall issue upon a written request of the applicant and payment of state taxes (license fee) in the manner and amount as are prescribed by legislation of the states of the Parties a duplicate of the license, made out like the original, containing a record of "duplicate".

The request, which explains the causes and circumstances of loss of the license, is to be drawn up in any form.

The duplicate of the license is to be issued by the authorized body within 5 working days from the date of the request.

12. Holders of general and exclusive licenses on a quarterly basis, before the 15th of the month following the reporting quarter, are to submit to the authorized body a report on the execution of the license.

Holders of one-time licenses are to submit to the authorized body a certificate of performance of the license within 15 days from the date of the expiration of the license.

13. With the removal of the license from control a relevant customs authority of the state of the Party is to provide the applicant on the basis of his written request within 5 working days a certificate on the performance of the license.

The form and the order of issuance of the certificate are determined by the Commission.

Article 4

Conditions and procedure for issuing permits

1. Permits are issued without restriction to all applicants.

2. Execution of the project permit and permit is to be effectuated in accordance with the instructions on the registration of the project permit for export and (or) import of certain goods and presentation of such a permit according to Appendix 2.

3. To obtain a permit the applicant is to submit to the authorized body the project of the permit in 1 hard copy and electronic copy of the project of the permit in a format approved by the Commission, created with software developed by the Commission transmitted to the foreign trade players on a grant basis. Foreign trade players can use their own software, which generates an electronic copy of the application, in strict accordance with the format approved by the Commission.

The demand of other documents, except the project of the permit and its electronic copy to obtain a permit shall not be allowed.

4. The permit is to be issued within 3 working days from the date of filing of the draft resolution.

5. The permit is limited to the calendar year in which the permit was granted.

6. Changes to the granted permit shall not be allowed.

7. Authorized body prepares the original of the permit, which is issued to the applicant or his representative who has written confirmation of authority to receive it. Applicant before the customs clearance of the goods is to present the original permit to the relevant customs authority, which when setting permit on the control is to give the applicant a copy with a stamp of the customs authority on the setting of control.

8. Issued permits are not subject to rewriting in the name of other claimants.

9. In the event of loss of the issued permit the authorized body shall issue upon a written request of the applicant a duplicate of the permit, made out like the original, containing a record of "duplicate". This request is to explain the causes and circumstances of loss of the license. The request is to be drawn up in any form.

10. For the customs clearance of the goods whose export and (or) import are subject to control, the applicant besides the document needed for customs purposes is to submit to customs authorities the original of the permit.

Absence of the permit is the ground for refusal of customs clearance of the goods by customs authorities.

Article 5

General provisions

1. For the consideration of the application, granting a license or renewal of a document confirming the existence of a license, the authorized body charges state tax (license fee) in the manner and amount as are prescribed by legislation of a the state of the Party. The size of the state tax must correspond to the cost of services provided.

2. Licenses and permits are issued for each product that is classified in accordance with the United Goods Nomenclature of foreign economic activity in respect of which introduced licensing or monitoring.

3. Specimen signatures of the officials of the authorized bodies, empowered to sign licenses and permits, as well as the specimen impressions of stamps of the authorized bodies are to be sent to the Commission to notify the customs authorities of the states of the Parties.

4. Documents submitted for registration of a license or permit, as well as documents confirming the execution of a license shall be kept in the authorized bodies 3 years after the expiration of the license or permit or the date of the decision to terminate or suspend the license.

After that date the documents are destroyed in the manner specified by law of the state of the Party, which has issued a license or permit.

5. The authorized bodies carry out the maintenance of databases of issued licenses and permits and submit this information to the Commission in the manner and time frame prescribed by the Commission. The Commission shall submit the data on issued licenses to the customs authorities of states of the Parties.

6. From the date of giving the Commission the relevant powers to impose against third countries, common non-tariff regulation, measures affecting foreign trade in goods and introduced pursuant to the national interest of the states of the Parties, as well as special kinds of prohibitions and restrictions on foreign trade, the Commission shall have the right to make changes in the instruction on the registration of the application for licensing and the registration of licenses for export and (or) import of certain goods and the instruction on the registration of the project of the permit for the export and (or) import of certain goods and the registration of such authorization, in accordance with Appendices 1 and 2 to this Agreement.

Article 6

Disputes settlement

1. Disputes between the Parties concerning the interpretation and (or) the application of the present Agreement shall be settled through negotiations and consultations.

2. If the dispute is not settled by the Parties through consultations and negotiations within 6 months from the date of official written request for their conduct submitted by one of the parties to another, in the absence of another arrangement between the Parties concerning the manner in which it is to be settled any of the Parties any of the Parties brings the matter before the Eurasian Economic Community Court.

Article 7

Changes

By agreement of the Parties amendments to the present Agreement may be introduced, which are to be formalized as separate protocols.

Article 9

Final provisions

The order of entry into force of the present Agreement, accession to and withdrawal from it is defined by the Protocol on the order of entry into force of international agreements aimed at forming the legal basis of the customs union, withdrawal from them and joining them dated October 6, 2007.

Made in Moscow July 9, 2009 in one original in Russian.

The Original of the present Agreement is to be kept by the Commission which being the depositary is to submit to each Party its attested copy.