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Committee on Regional Trade Agreements

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FREE TRADE AGREEMENT BETWEEN ARMENIA AND UKRAINE

The following communication, dated 17 June 2004, is being circulated at the request of the Delegation of Armenia.

AGREEMENT
BETWEEN THE GOVERNMENT OF REPUBLIC OF ARMENIA
AND THE GOVERNMENT OF UKRAINE ON FREE TRADE

The Government of Republic of Armenia and *the Government of Ukraine*, hereafter referred to as the Contracting Parties,

Striving to develop trade and economic cooperation between Republic of Armenia and Ukraine based upon equality and mutual benefits,

Based upon the sovereign right of each state to conduct its independent foreign economic policy,

Aiming at fostering economic activities, providing full employment, increasing productivity and rational use of resources,

Striving to promote harmonious development and growth of world trade, elimination of barriers in its development,

Reaffirming the intention of the Republic of Armenia and Ukraine to become Contracting Parties to the General Agreement on Tariffs and Trade (GATT) sharing goals and principles of GATT and taking into account the results of agreements and understandings reached under Uruguay round of multilateral trade negotiations,

HAVE AGREED as follows:

Article 1

1. Contracting Parties shall not apply customs duties, taxes and charges having equivalent impact on exportation and importation of goods originating from the customs territory of one of Contracting Parties and destined for the customs territory of the other Contracting Party. Exceptions to this trade regime on the basis of the agreed nomenclature shall be formalized by separate documents, which shall be an integral part of this Agreement, if Contracting Parties consider this necessary.

2. For the purposes of this Agreement, and for its effective term, goods originating from the territories of Contracting Parties shall be deemed to be the goods determined according to the Rules of

Establishing the Country of Origin for Goods of September 24, 1993, approved by the Resolution of the Council of the Heads of Governments of the Independent States.

Article 2

Each Contracting Party shall not:

- directly or indirectly impose any internal taxes or charges on commodities co Agreement, in excess of corresponding taxes and charges imposed on similar of domestic production or of third country origin;

- apply rules to warehousing, reloading, storage, and transportation of goods that originating from the territory of the other Contracting Party, as well as to payments and payment transfers, other than those applied in similar situations regarding goods of domestic production or of third country origin.

Article 3

Contracting Parties in their mutual trade shall refrain from discriminatory measures, introduction of quantitative restrictions or similar measures for exportation and/or importation of goods within the framework of this Agreement.

Parties may introduce unilaterally quantitative or other special restrictions only within reasonable limits, and for a strictly defined time period.

These restrictions shall be of exceptional nature and may only be applied in cases provided for by the GATT agreements.

A Contracting Party which applies quantitative restrictions under this Article shall provide the other Contracting Party, if possible, in advance with full information on the main reasons for introduction, forms and expected terms of application of the abovementioned restrictions, whereupon the consultations shall be set.

Article 4

Contracting Parties shall on a regular basis exchange information on laws and other regulations related to economic activity, including trade, investment, taxation, banking and insurance and other financial services, on transport and customs issues, including customs statistics.

Contracting Parties shall inform each other without delay on any changes in the national legislation, which may influence implementation of this Agreement.

Authorized bodies of the Contracting Parties shall coordinate the way to exchange such information.

Article 5

Contracting Parties shall consider incompatible with the purposes of this Agreement any unfair business practices and shall not allow in particular, but not exclusively the following methods thereof:

- agreements between enterprises, decisions made by the associations of enterprises, and general methods of business practices aimed at hindering or limiting competition or disrupting the competitive environment in the territories of the Contracting Parties;

- actions by means of which one or a few enterprises use their dominant position, limiting competition within the entire territory of the Contracting Parties or a significant part thereof.

Article 6

For the purposes of applying measures of tariff and non-tariff regulation in the bilateral economic relationships, statistical information exchange, and for carrying out customs procedures, the Contracting Parties will use the unified, nine-digit Commodity Nomenclature of Foreign Economic Activities (CN FEA), based upon the Harmonized Commodity Description and Coding System and Combined Tariffs and Statistics Nomenclature of the EEC. For their own needs Contracting Parties may expend this Commodity Nomenclature beyond the nine digits if necessary.

Introduction of the reference Commodity Nomenclature is carried on a mutually agreed basis through the existing representations in the relevant international organizations.

Article 7

1. Contracting Parties agree that the adherence to the principle of freedom of transit is the major condition for achieving goals of this Agreement and a substantial element in the process of their integration into the system of international division of labour and cooperation.

Thereupon each Contracting Party shall provide unimpeded transit through its territory for goods originating from the customs territory of the other Contracting Party or third countries and destined for the customs territory of the other Contracting Party or any third country, and shall supply exporters, importers, and carriers with all facilities and services available and necessary for ensuring transit on terms not worse than those granted to national exporters, importers, or exporters, importers or carriers of any other third state.

2. Procedure and terms of passing of goods through the territory of countries are regulated in accordance with the international rules for shipping operations.

Article 8

This Agreement shall not impede the right of any of the Contracting Parties to take generally accepted in the international practice measures which it considers necessary for protecting its vital interests or which are undoubtedly necessary for compliance with international agreements to which it is or intends to become a party, if these measures relate to:

- information affecting the interests of national defence;

- trade in arms, munitions and military equipment;

- research or production related to the defence needs;

- supply of materials and equipment used in nuclear industry;

- protection of public morality and public order;

- protection of industrial and intellectual property;

- gold, silver, and other precious metals and stones;

- protection of human, animal and plant life.

Article 9

With the goal of pursuing coordinated policy of export control in relation to the third countries Contracting Parties shall conduct regular consultations and take mutually agreed measures for creation of effective system of export control.

Article 10

Provisions of this Agreement shall replace the provisions of any bilateral agreements concluded earlier by the Contracting Parties insofar as the latter are incompatible or identical with the former.

Article 11

Disputes between Contracting Parties related to interpretation or application of provisions of this Agreement shall be resolved by means of negotiations.

Contracting Parties shall endeavour to avoid conflicting situations in mutual trade.

Each Contracting Party shall assure in its territory effective means to recognise and enforce arbitration awards.

Article 12

To achieve the goals of this Agreement and to elaborate recommendations for developing trade and economic cooperation between the two countries, Contracting Parties have agreed to establish a joint Armenian-Ukrainian commission.

Article 13

This Agreement becomes effective upon exchange of notice of completion by the Contracting Parties of all required intra-state procedures and shall remain in force within twelve months from the date, when one of the Contracting Parties notifies the other Contracting Party in writing of its desire to terminate this Agreement.

Provisions of this Agreement after its termination shall apply to the contracts among the enterprises and organizations of both countries, concluded, but not implemented during the period when the Agreement is in force.

Done in the City of Kyiv, on October 7, 1994 in two originals, each in Armenian, Russian, and Ukrainian, of which every text is equally authentic.

For the purpose of interpretation of the provisions of this Agreement the text in Russian shall have prevalence.

The Agreement comes into force on December 18, 1996.