



The Common Economic Space: the history of creation, institutional framework and the scope of coordinated spheres of activities

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- Employment Law
- Intellectual property and IT technologies

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# 1. General provisions

Common Economic Space (CES) is space, composed of the territories of the Parties (the Republic of Belarus, the Russian Federation, the Republic of Kazakhstan), where the unified economy regulation mechanisms function, based on market principles and harmonized legal norms, where the unified infrastructure exists and where the coordinated tax, monetary, financial, trade and customs policy is implemented, which allows free movement of goods, services, capital and labour force.

Under Clause 3 of the Customs Union and the Common Economic Space Agreement, signed in Moscow on February, 26, 1999, the principal tasks of the Common Economic Space creation are:

- effective functioning of the common (internal) market of goods, services, capital and labour;

- creating conditions for the stable development of the Parties' economy structural reconstruction in order to improve the living standards of their peoples;

  - ensuring the coordination of tax, monetary, financial, trade, customs and tariff policy;

  - development of unified transport, energy and information systems;

- creating a common system of state support for the development of the priority economic sectors, industrial, scientific and technological cooperation.

## 2. History of the CES origin

The Common Economic Space originated in 1996, when by virtue of the Treaty on Extending the integration in economic and humanitarian areas of March 29, 1996, signed by the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation, the parties decided to create a Community of integrated states.

By virtue of Customs Union and Common economic space Agreement of February 26, 1999, signed by the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan and the Russian Federation, the parties undertook obligations to complete the formation of the Customs Union and to create the Common Economic Space on its basis.

The Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan signed the Treaty on the establishment of the Eurasian Economic Community (hereinafter - EurAsEC) on October, 10, 2000. The purpose of EurAsEC, in accordance with Clause 2 of the Treaty, was effective promotion of the formation of the Customs Union and the Common Economic Space by the Contracting Parties.

It was stipulated by the Treaty on the formation of the Common Economic Space, which was signed by the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation and Ukraine on September, 19, 2003, that the parties commence the process of formation of the CES. Ukraine, while signing this Agreement, made a caveat that it will take part in the formation and functioning of the Common economic space within the bounds of the Ukrainian Constitution.

After signing the Treaty on the Common Economic Space, the parties started creating the regulatory and legal framework of the CES. The Plan of Actions on the formation of the Common Economic Space of Belarus, Kazakhstan and the Russian Federation for 2010 – 2011 was validated on December 19, 2009 by the Decree of the Interstate Eurasian Economic Community Council.

The next stage of CES development was signing the Declaration of the Eurasian economic integration on November, 18, 2011. In accordance with the Declaration, the CES is based on the principles of abidance by the universally recognized norms of the international law, including respect for sovereignty and equality of states, the assertion of fundamental human rights and freedoms, the rule of law and market economy. In its practical cooperation the states of the CES are determined to be guided by the rules and regulations of the World Trade Organization. The Declaration reaffirms the importance of joining it of all three states.

In addition, the Declaration stipulates the desire of the Parties to complete the codification of the international treaties, which make up the regulatory and legal framework of the Customs Union and the CES, till January 1, 2015.

A month later, on December, 19, 2011, the decision on bringing into force a package of 17 international treaties that form the CES starting from January, 1, 2012, was approved.

According to the Plan of actions on implementation of the Agreements forming the Common Economic Space, approved by the Decision of the Intergovernmental Council of the Eurasian Economic Community, corresponding measures will be taken, as well as agreements and protocols will be concluded in 2011 – 2020 as for 17 CES basic agreements.

In compliance with the Declaration of the Eurasian economic integration dated November 18, 2011 the states will tend to finish codification of international treaties, which constitute legal and regulatory framework of the Customs Union and the Common Economic Space, till January 1, 2015 and on that basis to create the Eurasian Economic Union. This work will include arrangements on:

- the balanced macroeconomic, budgetary and competitive policy;
- structural reforms of markets for labor, capital, goods and services;
- creation of Eurasian networks in the sphere of energy, transport and telecommunications.

### 3. The Customs Union and the Common Economic Space

Despite the fact that the Common Economic Space and the Customs Union have 3 member states: Belarus, Kazakhstan and the Russian Federation - the differences between these units exist.

It becomes clear from the definition of the Customs Union, provided in Clause 1 of the Treaty on establishment of a single customs territory and formation of the Customs Union as of October, 6, 2007, that the Customs Union is a form of trade and economic integration of the Parties, which provides **a single customs territory**, within which in **the mutual trade in products** originated from a single customs territory, as well as from the third countries and which are in free circulation on this customs territory, customs duties and economic limitations, except for special protective, antidumping and countervailing measures are not applied. Herewith, the Parties apply a single customs tariff and other single measures, regulating the trade in products with third countries.

The key features of the Customs Union is a single customs territory and common principles of commodity circulation on the territory. Thus, the Customs Union is the first step to economic integration of the parties.

The Treaty on the Customs Union and the Common Economic Space of February, 26, 1999 states that "The Parties assume responsibilities to complete the formation of the Customs Union and **to create the Common Economic Space on its basis.**"

The Common Economic Space as the next step of economic integration is created on the basis of the Customs Union, but the CES already stipulates far more issues which the Parties strive to resolve together.

Thus, in accordance with the definition, provided in the Treaty on the Customs Union and the Common Economic Space of February, 26, 1999, the CES is the space, composed of the territories of the Parties, where **one-type mechanisms of economy regulation**, based on market principles and application of harmonized law, function, where a single infrastructure exists and where **coordinated tax, fiscal, monetary, trade and customs policy is implemented to ensure the free movement of goods, services, capital and labour force.**

Thus, within the CES, additional prerequisites for ensuring the free movement of not only goods but also capital and labour force are being created. Mainly for this purpose the parties - members of the CES conduct a common policy, coordinated in the regulatory framework of the CES.

## 4. Institutional framework of the Customs Union and the Common Economic Space

Nowadays the institutional framework of the Customs Union and the CES is composed of:

The Supreme Eurasian Economic Council;

The Eurasian Economic Commission;

The Eurasian Economic Community's Court of Justice (EurAsEC's Court of Justice).

### 4.1. The Supreme Eurasian Economic Council

The Supreme Eurasian Economic Council has become the main integration body since November, 18, 2011 - the date of signing the Eurasian Economic Commission Treaty by the Presidents of Belarus, Russia and Kazakhstan. In the Treaty the Supreme Eurasian Economic Council is defined as the EurAsEC Interstate Council (the Supreme body of the Customs Union) at the level of the Heads of the States and the Heads of the Governments. From the date of signing the EEC Treaty, The Supreme Eurasian Economic Council exercises the powers, vested in the EurAsEC Interstate Council (the Supreme body of the Customs Union) in accordance with the international treaties that form the legal framework of the Customs Union and the CES, as well as in accordance with the decisions of the EurAsEC Interstate Council on the issues of the Customs Union and the CES.

The Supreme Eurasian Economic Council is the superior body for the Eurasian Economic Commission.

### 4.2. The Eurasian Economic Commission

The Eurasian Economic Commission is a single permanent governing regulating body of the Customs Union and the CES. The Eurasian Economic Commission was established as a supranational body to manage the integration processes in the formats of the Customs Union and the CES, in accordance with the Eurasian Economic Commission Treaty and is a successor of the Customs Union Commission. This supranational body exercises the powers, vested in the Customs Union Commission. Apart from that, the EEC also performs a number of new functions and powers delegated to it in accordance with international treaties that make up the legal framework of the Customs Union and the CES.

The Customs Union Commission adopted the latest solutions in virtue of its powers on January, 25, 2012, and the EEC has started full-scale functioning since February, 1, 2012.

The EEC carries out activities in the following spheres:

- customs, tax and non-tariff regulation;
- customs administration;
- technical regulation;
- sanitary, veterinary and phytosanitary measures;
- placement and distribution of customs duties;
- putting trading regimes as to third countries;
- statistics of external and internal mutual trade;
- macroeconomic, competitive, monetary and energy policy;
- industrial and agricultural subsidies;
- natural monopolies;
- public procurements;
- mutual service and investments trade;
- transport and shipping operations;



- intellectual property protection;
- labour migration;
- financial markets.

This enumeration is not closed, the EEC can act within its authority in other spheres as well.

In total, more than 170 national powers are handed over under the supervision of the EEC by member states of the Customs Union and the Common Economic Space.

The EEC operates on the basis of the principles of mutual benefit, equality and pays attention to the national interests of the parties, economic feasibility of the decisions being taken, openness, transparency and objectivity.

The main objective of the EEC is to provide conditions for the functioning and development of the Customs Union and the Common Economic Space, as well as the development of integration options in the framework of the Customs Union and the Common Economic Space.

The EEC has a two-level structure and consists of the Council and the Board.

The Council of the Commission is responsible for general regulation of the integration processes in the Customs Union and the Common Economic Space, as well as directs the activities of the Board. The Council of the Commission consists of 3 members (one representative from each member state of the CU and the CES in the rank of Deputy Heads of the Governments) and is a counterpart of the Customs Union Commission.

The Board of the Commission is a permanent professional executive body, formed of the representatives of member states, who obtain the status of international public servants after their appointment. The Board of the Commission is composed of 9 members (3 members from each member state).

On the basis of voting of the Council or the Board members, the commission makes decisions that are binding upon the Parties. The decisions are included into the legal base of the Customs Union and the Common Economic Space, and shall be applied to the territories of the Parties. In addition to the decisions, the Commission may adopt non-binding recommendations.

The decisions of the Council, as opposed to the Customs Union Commission, are adopted by consensus. If no consensus is achieved, the question is referred to the Supreme Eurasian Economic Council at the suggestion of any member of the Commission Council.

The decisions of the Board are adopted by two-thirds majority on matters not related to the competence of the Council. The Council has the authority to cancel or reconsider any decision of the Board.

Each member of the Commission Council and the Commission Board has one vote.

For comparison, the votes between the parties in the Customs Union Commission were allotted as follows:

The Republic of Belarus - 21.5%;

The Republic of Kazakhstan - 21.5%;

The Russian Federation - 57%, herewith, the decisions were taken by two-thirds majority.

Thus, the decision-making mechanism in the EEC excludes the dominance of any of the states, and the Commission is to become a supranational, neutral towards the member states body, which will gradually adopt the national powers.

The EEC may form the structural subdivisions (departments of the Commission).

An important thing in the status of the EEC is its empowerment by the decision of the Supreme Eurasian Economic Council to sign international agreements on behalf of the Parties (governments of the Parties) on the matters within its competence, and also to form its own representative offices in third countries, their unions and international organizations.

Nowadays the EEC headquarters is located in Moscow (Russian Federation). Meanwhile, according to the Decision of the EEC Council dated January 30, 2013 the EEC opens its representative offices in the Republic of Belarus and the Republic Kazakhstan.

The above mentioned Decision of the EEC Council has also approved the statute of the EEC representation in a member state of the Customs Union and the CES.

According to the statute of the EEC representation the main goal of representation is facilitation to the EEC performing its functions. The EEC representation functions listed in the statute are of the auxiliary and organizational nature with regard to the EEC activities.

In compliance with the statute a representation office is not a legal entity, and its maintenance is supported using the funds of the EEC budget.

### **4.3. The Eurasian Economic Community's Court of Justice**

The EurAsEC Court of Justice began its operation on January, 1, 2012. Up to this point the functions of the EurAsEC Court were exercised by the CIS Economic Court on the basis of an agreement between the Commonwealth of Independent States and the Eurasian Economic Community.

Together with resolution of the economic disputes, arising between the EurAsEC member states, the jurisdiction of the Court also includes the consideration, in particular, of cases of the Customs Union and the CES bills conformity with the international treaties constituting the legal framework of the Customs Union and the Common Economic Space, contestation over the decisions, actions (inaction) of the Customs Union and the Common Economic Space bodies. In the framework of the Customs Union and the CES the main task of the Court is to ensure by the member states of the Customs Union the uniform application of international treaties acting in its framework and the decisions taken by its authorities.

In the framework of the Customs Union and the CES, the Court exercises the following powers - at the request of the member states and the Customs Union and the CES bodies:

1) considers the cases of compliance of acts of the Customs Union and the CES bodies with international treaties that form the legal base of the Customs Union and the Common Economic Space;

2) examines the cases of contestation over the decisions, actions (inaction) of the Customs Union and Common Economic Space bodies;

3) gives the interpretation of international treaties that form the legal base of the Customs Union, the acts adopted by its bodies;

4) resolves disputes between the Eurasian Economic Commission and member states of the Customs Union, as well as between member states of the Customs Union on their implementation of the commitments, adopted in the framework of the Customs Union.

In accordance with the Treaty on the recourse to the EurAsEC Court of economic entities in disputes within the Customs Union and on the peculiarities of its proceedings as of December, 9, 2010, the EurAsEC Court is invested with authority to hear cases also by the legal statements of economic entities:

1) about contestation over the decisions of the Customs Union Commission (the Eurasian Economic Commission) or its particular provisions;

2) about contestation over the actions (inaction) of the Customs Union Commission (the Eurasian Economic Commission).

The reason for contestation over acts or actions (inaction) of the Commission is their discrepancy with international agreements concluded in the framework of the Customs Union and the Common Economic Space, which has led to violation of the rights and legitimate interests of business entities, provided by these international treaties, in the sphere of entrepreneur and other economic activities.

On September 5, 2012 the EurAsEC Court delivered the first judgement upon the application of a company residing in the Russian Federation in respect of the appeal against the Decision of the Customs Union Commission.

## 5. Normative legal base of the Common Economic Space

The legal treaty framework of the Common Economic Space of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation is formed with the following Agreements:

	Name of an agreement	Date of conclusion	Place of conclusion	Ratification Law of the RB
<b>Section I. ECONOMIC POLICY</b>				
1	Agreement on coordinated macroeconomic policy	09.12.2010	Moscow	28.12.2010 № 205-3
2	Agreement on common principles and rules of regulation of the activity of natural monopoly entities	09.12.2010	Moscow	28.12.2010 № 206-3
3	Agreement on common principles and rules of competition	09.12.2010	Moscow	28.12.2010 № 207-3
4	Agreement on common rules of providing industrial subsidies	09.12.2010	Moscow	28.12.2010 № 208-3
5	Agreement on common rules of state support of agriculture	09.12.2010	Moscow	28.12.2010 № 216-3
6	Public procurement Agreement	09.12.2010	Moscow	28.12.2010 № 211-3
7	Agreement on service trade and investments in member states of the CES	09.12.2010	Moscow	28.12.2010 № 209-3
8	Agreement on common principles of regulation in the sphere of intellectual property protection	09.12.2010	Moscow	28.12.2010 № 217-3
<b>Section II. FREE CAPITAL MOVEMENT, MONETARY POLICY</b>				
9	Agreement on creating conditions on the financial markets to secure free capital movement	09.12.2010	Moscow	28.12.2010 № 213-3
10	Agreement on coordinated principles of monetary policy in member states of the Common Economic Space	09.12.2010	Moscow	28.12.2010 № 212-3
<b>Section III. POWER, TRANSPORT, COMMUNICATION</b>				
11	Agreement on the order of organizing, managing, functioning and development of common oil and oil-products markets of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation	09.12.2010	Moscow	28.12.2010 № 221-3
12	Agreement on providing access to natural monopolies services in the sphere of electrical energy industry, including the basics of price formation and tariff policy in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation	19.11.2010	St. Petersburg	28.12.2010 № 214-3
13	Agreement on the rules of access to services of natural monopolies subjects in the sphere of gas transmission via gas transport system, including the basics of price formation and tariff policy	09.12.2010	Moscow	28.12.2010 № 210-3
14	Agreement on the regulation of access to railway service, including the basics of tariff policy	09.12.2010	Moscow	28.12.2010 № 215-3
<b>Section IV. FREE LABOUR MOVEMENT</b>				
15	Agreement on cooperation against illegal migration	19.11.2010	St.	28.12.2010

	from third countries		Petersburg	№ 219-3
16	Agreement on legal status of migrant workers and members of their families	19.11.2010	St. Petersburg	28.12.2010 № 220-3
<b>Section V. TECHNICAL REGULATION</b>				
17	Agreement on common principles and rules of technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation	18.11.2010	St. Petersburg	28.12.2010 № 218-3

In the analysis of the Agreements, that form the legal framework of the CES, and while using them at work, it's necessary to be aware of the fact that despite the entry into legal force of the Agreements themselves, some of the provisions, stipulated in these Agreements come into force later (up to 2017), while others require domestic acts for their implementation.

In addition, the timing schedule of the documents development is validated by the decision of the Eurasian Economic Commission Council of May, 14, 2012 for the purpose of implementation of the Agreements that form the Common Economic Space.

### **5.1. Agreement on coordinated macroeconomic policy**

The Agreement<sup>1</sup> on coordinated macroeconomic policy was signed in Moscow on December, 9, 2010 and ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 205- 3.

The agreement defines the objectives, principles, main directions of coordinated macroeconomic policy, its coordination procedure, enumeration of indicators of economic development and integration cooperation between the parties, as well as the stages of the coordination.

The Agreement stipulates the following basic principles of coordinated macroeconomic policy:

- sustainable economic growth;
- compliance with balanced macroeconomic indicators, established by the Agreement.

These principles are aimed at creating favourable conditions for increasing the internal stability of the economy of the Parties and resistance to external influences, as well as the deepening of integration within the Common Economic Space.

The Agreement provides for the coordination by the parties of interval quantitative meanings of the external parameters, used in the official forecasts of social and economic development of the parties for a three-year period, namely: the price for Brent oil, the pace of development of the world economy and the exchange rate of national currencies to the U.S. dollar and (or) euro.

The Agreement also stipulates that economic policy is formed by the parties within the framework of the quantitative parameters which determine the sustainability of the economic development: annual national budget deficit should not exceed 3 percent of GDP, public debt should not exceed 50 percent of gross domestic product and inflation should not exceed more than 5 percent of the inflation of the CES member state, which has the lowest price rise.

Despite the establishment of the quantitative parameters that determine the sustainability of the economic development and are binding upon the Parties, the Agreement does not provide for liability for their non-observance. In addition, the Agreement stipulates that in the case of exceptional circumstances, and in view of the current situation, the Parties may agree to mitigate the quantitative meanings of macroeconomic indicators that determine the sustainability of the economic development.

Herewith, for conducting macroeconomic policy the mentioned quantitative parameters

<sup>1</sup> Here and hereinafter the terms "Agreement", "Document" mean the Agreement within the Common Economic Space, mentioned in the title of the section, unless otherwise is stated separately

have come into force since January 1, 2013. The Eurasian Economic Commission is in charge of coordination of the macroeconomic policy. Despite the fact that the quantitative parameters have not been applied yet, the Parties have already oriented towards them.

Implementation of the Agreement will provide favorable conditions for the internal economic sustainability of the parties and sustainability to external influence, as well as for the deepening of integration within the Common Economic Space.

## 5.2. Agreement on common principles and rules of regulation of the activity of natural monopoly entities

The Agreement on common principles and rules of regulation of the activity of natural monopoly entities was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 205-3.

Natural monopolies, for the purposes of this Agreement, are defined as the state of the services market, where competitive environment for meeting the demand for a particular type of service is not possible or economically inappropriate due to the technological peculiarities of production and rendering of these services.

The spheres of natural monopolies in the states Parties are divided into 2 groups - Appendix 1 specifies the spheres of natural monopolies, regulation of which is carried out in accordance with the Agreement. The requirements of the national legislation of the Parties re applied to the spheres of natural monopolies, specified in Appendix 2 to the Agreement.

According to Appendix 1, the Agreement is applied to the following spheres of natural monopolies:

	In the Republic of Belarus	In the Republic of Kazakhstan	In the Russian Federation
1	Transport of oil and oil products through main oil-trunk pipelines	Services related to the transport of oil and (or) oil products through main oil-trunk pipelines	Transport of oil and oil products through main oil-trunk pipelines
2	Transmission and distribution of electricity	Services related to the transmission and (or) distribution of electricity	Services related to the transmission of electricity
3		Services related to the technical supervisory control of the net output and consumption of electricity; services related to balancing of the production – consumption of electricity	Services related to operational dispatch management in electric power industry
4	Services, rendered by railway transport, which ensure the public traffic, controlling the movement of trains, transportation by rail	Services of backbone railway network	Transportation by rail

In Appendix 2 of the Agreement in regard to the Republic of Belarus the following spheres of natural monopolies, regulation of which is carried out in accordance with the national legislation of the Republic of Belarus are included:

1. gas transportation through main and distribution pipelines;
2. services of transport terminals, airports; maintenance and operation of airways, air traffic control;
3. public electrical and postal communication services;
4. thermal energy transmission and distribution ;
5. central water supply and water disposal.

The Agreement stipulates the principles of regulation of natural monopolies, which also

include the balancing of the interests of consumers and natural monopolies entities; further reduction of spheres of natural monopolies; application of the flexible tariff (price) regulation of natural monopolies entities; reduction of barriers to the access to domestic markets also by providing access to services of natural monopoly entities; mandatory conclusion of contracts with customers for services rendering by natural monopoly entities, etc.

The Agreement specifies that the sphere of national regulation of natural monopolies (included in Appendix 1 and Appendix 2) includes the tariff regulation of natural monopolies services. Furthermore, Clause 5 of the Agreement stipulates that tariff regulation may be achieved by:

1) the establishment of tariffs (prices) for regulated services for natural monopoly entities by a national authority, including their limits on the basis of the methodology, approved by a national authority;

2) the establishment (validation) of the methodology by a national authority, according to which a natural monopoly entity establishes and applies tariffs (prices) all by himself.

Despite the fact that the questions of pricing for the services, rendered by a natural monopoly entity are regulated by national law, the Agreement specifies methods of tariff regulation, as well as aspects that must be considered during the formation of tariffs (prices).

The national authorities are responsible not only for tariff regulation, but also for regulation of the access to the services of natural monopoly entities, including the establishment of the payment (prices, tariffs, fees) for the connection (joining) to the services of natural monopoly entities; and for control of the activities of natural monopoly entities.

The Agreement is backbone, its provisions develops in separate sectoral (industry-specific) agreements, including the agreements on railway transport, common oil market, electrical energy industry.

### **5.3. Agreement on common principles and rules of competition**

The Agreement on common principles and rules of competition was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus on December, 28, 2010 № 207-3.

The purpose of the Agreement is to form a single competition policy by the Parties to ensure the free movement of goods, services and capital, freedom of economic activity and the effective functioning of commodity markets on the common customs territory of the states, harmonization of legislation of the Parties in the sphere of competition policy and exclusion of actions that might have a negative impact on mutual trade between the Parties.

The Agreement is applied to the relations connected with implementation of the competition policy on the territory of the Parties, and on relations with economic entities of the Parties, which have or may have a negative impact on the competition in cross-border markets on the territory of two or more CES member states. The criteria for attribution of a market to a cross-border one are established with Decision of the Supreme Eurasian Economic Council No 29 dated December 19, 2012. According to this Decision a market shall be deemed as a cross-border one, if geographic borders of a goods market cover the territories of two or more member states of the Customs Union and the Common Economic Space. The agreement also specifies conditions, under which the EEC authority spreads on violations by business entities of prohibitions set under the Agreement.

The Agreement establishes common principles and rules of the competition, however provides for that the CES member states are entitled to establish additional requirements and restrictions in their law on common principles and rules of competition.

The following common principles of competition are established and defined in the Agreement: equality in application of the competition law, inadmissibility of anti-competitive actions of the authorities, provision of the effective control of economic concentration, effective administration, effective sanctions for anti-competitive actions, information transparency and effective cooperation.

Common rules of competition, operating on the territory of the Parties, are the prohibition on anti-competitive agreements of economic entities (market entities), the prohibition on abuse of a dominant position by economic entities, the prohibition of unfair competition.

The Agreement establishes the penalties for violation of the rules of competition in the amount of 12 000 to 500 000 Russian rubles. The penalty shall be transferred to the budget of the Party, on whose territory the economic entity (the subject of the market) – violator is registered. Cases concerning the violation of the competition rules that has or may have a negative impact on the competition in cross-border markets on the territory of two or more Parties, are initiated and considered by the Eurasian Economic Commission.

Implementation of the Agreement includes the following steps:

Stage 1. Establishment of the necessary regulatory framework for competition - adoption of corresponding decisions by the Eurasian Economic Commission.

Nowadays in elaboration of the Agreement the following decisions of the EEC Council have been adopted, but have not come into force yet:

- No 96 dated November 23, 2012 «Of the interaction procedure, including information interaction, for the Eurasian Economic Commission and authorized bodies of member states of the Customs Union and the Common Economic Space within the framework of the Agreement on common principles and rules of competition dated December 9, 2010»;

- No 97 dated November 23, 2012 «Of the procedure for consideration of applications (materials) on competition rules violations»;

- No 98 dated November 23, 2012 «Of the procedure for carrying out an investigation of competition rules violations»;

- No 99 dated November 23, 2012 «Of the procedure for consideration of cases on competition rules violations»;

- No 117 dated December 17, 2012 «Of methods for determination of monopolistically high or monopolistically low prices»;

- No 118 dated December 18, 2012 «Of calculation methods and the procedure for imposition of fines, specified in the Agreement on common principles and rules of competition»;

- No 7 dated January 30, 2013 «Of methods for competition status estimation».

Stage 2. Harmonization of the national legislation of the parties (within 18 months from the date of entry into legal force of the Agreement). Within the context of this stage the amendments in the law on monopoly activity and competition development shall be adopted in the Republic of Belarus in terms of bringing it into conformity with the Agreement, transfer of powers to control cross-border violations to the Eurasian Economic Commission and bringing the economic entities of the Republic of Belarus to liability.

Stage 3. Transfer of powers to control cross-border violations to the Eurasian Economic Commission (within 20-24 months from the date of entry into legal force of the Agreement, depending on the violation).

Adoption of the Agreement is to ensure the non-discriminatory access of economic entities of the parties to markets of the CES member states and is to have a positive impact on their business activities, which will allow residents of the Republic of Belarus to compete as an equal with the residents of the Russian Federation and Kazakhstan in those states.

#### **5.4. Agreement on common rules of providing industrial subsidies**

The Agreement on common rules of providing industrial subsidies was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus as of December 28, 2010 № 208-3.

The Agreement stipulates common rights for providing subsidies in terms of production, sales, consumption of goods and order of disputes resolution which arise between a state that provided a subsidy and an affected party.

According to the Agreement the subsidies are divided into three categories: permissible prohibited and specific. The document allows to provide subsidies that do not distort the mutual

trade between the states parties. Furthermore, any subsidies that result in damage to the branches of the national economy of other countries are prohibited (tax and tariff concession, provision of benefits during the production and transportation of goods, other measures, resulting in displacement of similar products from the market, in the fall or rise in prices).

According to the Agreement, the competent authority of the CES member state (in the Republic of Belarus, according to the decree of the Council of Ministers of the Republic of Belarus as of June 17, 2011 № 796, this authority is the Ministry of Economy) may conduct investigations on conformity of the subsidies to the established rules. If the competent authority determines that another state provides a specific subsidy, which damages any branch of the industry of the national economy, it can submit an application (notification) to the country-violator on the introduction of a compensatory measure.

The application on the introduction of a compensatory measure may be voluntarily contented by the party that received the application within the period of its processing or as a result of disputes resolution.

Compensatory measure is formed of the subsidy amount and the interest charged to that amount for the entire period of use. The interest rate of the compensatory measure equals a half of the official bank rate valid for the time of providing a subsidy and established by the Central (National) Bank of the state that provided a subsidy.

Starting from January 1, 2017 the provision of specific subsidies will be possible only if they will be approved by the Eurasian Economic Commission. Until that time the parties should notify each other of all subsidies, planned to be provided from the budgets of all levels, yearly, one month before the beginning of the next year.

## **5.5. Agreement on common rules of state support of agriculture**

The Agreement on common rules of state support of agriculture was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 216-3.

In the agreement the measures of state support of agriculture are divided into measures which have no distorting effect on the mutual trade in agricultural products between the parties, which have such an effect and which have such an effect to the fullest extent.

The Agreement stipulates that measures which have no distorting effect on trade may be applied by the parties without any restrictions. And the measures that have the most distorting effect on trade should not be used. The level of measures that have a distorting effect on trade should not exceed 10%. It is calculated as a percentage of the amount of state support of agriculture to the gross value of the produced agricultural commodities in general and is defined as permitted amount.

Due to the fact that at the time of the Agreement's adoption the level of agricultural support in Belarus was 18% of the gross value of the produced agricultural commodities (in Kazakhstan - 5.4%, in Russia - 6%), an exception to the general rule was made for the Republic of Belarus, and a transitional period until 2016 was granted, during which Belarus shall reduce the permitted amount in the following way:

- in 2011 - 16 percent;
- in 2012 - 15 percent;
- in 2013 - 14 percent;
- in 2014 - 13 percent;
- in 2015 - 12 percent;
- in 2016 - 10 percent.

After joining the World Trade Organization by any of the parties, the level of measures is established within the obligation of this state in the WTO.

According to the Agreement, the Parties shall notify each other in writing of any planned in the next year programs of state support of agriculture.

In case of the violation by one of the Parties of the Agreement provisions on the



application of measures that have distorting effect on trade in excess of the permitted amount, such Party shall immediately cease providing such measures and pay compensation to other Parties in the amount of support measures.

The adoption of this Agreement will significantly complicate the situation of the financial support of the agricultural enterprises of Belarus, which should be reduced by 40% (from 18% to 10% of the gross value of agricultural production) during 6 years.

## **5.6. Public procurement Agreement**

The Public procurement Agreement was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 211-3.

The Agreement establishes the requirements for public procurement, the main ones of which are: regulation of relations in the field of procurement solely in the procurement legislation of the state party, provision of national treatment and most favored nation treatment, ensuring of information transparency and procurement transparency, also by means of web portal creation by each Party, establishment of responsibility for the violation of the national procurement legislation.

The document provides for procurement through open competition and auction, and in cases stipulated by the national law of the Party also by a price offers request (a quotations request), stock trading and a procurement from a single source or a single supplier (executor, contractor).

The Agreement provides for the possibility for the national legislation to set requirements for suppliers and potential suppliers, which, however, should not contradict the provisions of the Agreement. The involvement of potential suppliers in procurements may be restricted in cases, provided for by the national procurement law on the basis of the data, included in the register of unfair suppliers (in this register the information about potential suppliers, who avoided the conclusion of a procurement contract and suppliers who improperly performed their commitments under the purchase agreements, concluded with them, is included).

The Agreement specifies in detail the requirements for the implementation of each procurement method, as well as the information which is to be included in the procurement contract.

The implementation of the Agreement is carried out in three stages:

Stage 1 - until January, 1, 2012 (for the Russian Federation, the Republic of Belarus) - bringing the national legislation into conformity with the Agreement and the implementation of information systems that support the procurement process in an electronic format, introduction of national treatment for the Russian Federation and the Republic of Belarus;

Stage 2 - until July, 1, 2012 (for the Republic of Kazakhstan) - bringing the national legislation into conformity with the Agreement and the implementation of information systems that support the procurement process in an electronic format;

Stage 3 - until January, 1, 2014 - introduction of national treatment for all states Parties.

## **5.7. Agreement on service trade and investments in member states of the CES**

The Agreement on service trade and investments in member states of the CES was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 209-3.

In accordance with this document, each Party provides national treatment to persons of any other Party with regard to participation in privatization and trade in services (except for the opening of banks, postal services, motor transport, inland water transport, pipeline transportation services).

The most favoured nation treatment is granted to start up enterprises and trade in services (except for audio-visual services, air, sea and motor transport services).

The following requirements are established in regards to licensure: mandatory publishing of the names of the bodies, responsible for licenses issuing, mandatory submission of all

licensing requirements in the regulations, the obligations to issue a license or to submit a denial letter within 30 days from the date of receipt of the application.

Each Party is responsible to cancel current restrictions and not to introduce new ones, related to transfers and payments for establishment and operation of enterprises, as well as for trade in services. Exceptions to this rule are specified in Clause 22 of the Agreement, which stipulates that a Party may impose restrictions on payments transfers in cases of deterioration of the balance of payments, a substantial reduction in gold and forex reserves, violent fluctuations of national currency or threat thereof. In addition, these restrictions shall not discriminate the Parties; cause excessive harm to commercial, economic and financial interests of any other Party, and be more burdensome than it's necessary to overcome the circumstances. Moreover, these restrictions shall comply with the Clauses of the Agreement of the International Monetary Fund as of July, 22, 1944 and be gradually eliminated together with the elimination of the circumstances that led to their implementation.

## **5.8. Agreement on common principles of regulation in the sphere of intellectual property protection**

The Agreement on common principles of regulation in the sphere of intellectual property protection was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 211-3.

The agreement provides for the unification of the issues of intellectual property protection within the Common Economic Space and will ensure that domestic entities of scientific, technical, commercial, industrial, social and cultural spheres receive equal access to the markets of member states of the Agreement.

The Agreement provides for the provision of national treatment of intellectual property protection for other individual and juridic persons of the Parties.

In point of copyright and related rights the Agreement refers to other international agreements, in particular to the Berne Convention for the Protection of Literary and Artistic Works in 1971, the Treaty of the World Intellectual Property Organization and to the WIPO Performances and Phonograms Treaty.

According to the Agreement, the Parties introduce a regional principle of exhaustion of the exclusive rights in a trademark, according to which the use of the trademark in relation to goods which have been lawfully introduced into civil circulation on the territories of the CES member states by the rightholder or by other persons with his consent, is not a violation of the exclusive right in a trademark (in the current legislation the principle of exhaustion of the exclusive rights in a trademark is limited to the territory of the Republic of Belarus).

The Agreement does not change the period of validity of a trademark registration, established in the Republic of Belarus. The period of validity of a trademark initial registration may be renewed infinite number of times by a trademark owner's request, filed during the last year of its validity, each time for a period of not less than 10 years.

According to article 14 of the Agreement the CES member states shall undertake to develop and introduce common procedures, necessary to secure legal protection of trademarks and appellations of origin for goods (geographical indications) in their own territory. The CES member states shall set the developed common means for registration of trademarks and appellations of origin for goods (geographical indications) in a separate agreement. Nowadays the draft agreement is being prepared, it stipulates the common registration for trademarks. The agreement adoption is planned no sooner than until 2014.

In point of patent rights it's provided for that the period of validity of the exclusive right to an invention, utility model, industrial design and a patent, certifying this right is not less than 20 years for inventions, not less than 5 years for utility models and industrial designs.

The document provides for the creation of the institutional Coordinating Council on intellectual property of the Common Economic Space. The Coordinating Council is established for the purpose of performing the functions of coordination and information-technical

cooperation in the field of intellectual property protection between the jurisdictions of the Parties.

In order to meet its obligations under the Agreement, the Republic of Belarus will have to join the Singapore Treaty on the Law of Trademarks of 2006 and the Patent Law Treaty of 2000, as well as to bring its national legislation into conformity with the Agreement.

### **5.9. Agreement on creating conditions on the financial markets for free capital movement**

The Agreement on creating conditions on the financial markets for free capital movement was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 213-3.

The Agreement is aimed at ensuring the free movement of capital, development of mutually beneficial cooperation in the financial sector and harmonization of the legislation of the CES member states in the banking sector, in the foreign exchange market, in the stock market, in the field of insurance.

It is planned to regulate relations between the states - parties to the Agreement in the financial sector through harmonization of the legislation of the parties, exchange of information on management and development of the financial sector between the competent authorities of the parties, coordination of positions on risk management in the financial market in accordance with international standards, creating effective infrastructure for exchange transactions with national currencies of the parties; coordination of common requirements for the protection of rights and interests of insurance services consumers; coordination of common principles for determining the solvency and financial stability of insurance (reinsurance) organizations.

It is planned to bring together the positions of the CES member states on the issues of unification of licensing requirements towards financial market participants, regulatory requirements and the procedure for exercising supervision over the financial market participants.

The corresponding international agreements are supposed to be concluded for the realization of these purposes.

The Agreement is planned to be carried out in two stages:

The first stage involves the exchange of information between the competent authorities of the Parties.

The second stage (until December, 31, 2013) provides for the harmonization of the national legislation of the Parties according to international regulations and standards, including the harmonization of licensing requirements towards financial market participants, regulatory requirements and regulatory regime of the financial market participants, as well as providing possibility for placement of and transactions with financial credit documents of the Parties' issuers throughout the whole territory of the Common economic space, provided that capital issuance is registered by the regulatory authority of the state, where the issuer is registered.

### **5.10. Agreement on coordinated principles of monetary policy**

The Agreement on coordinated principles of monetary policy was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28 № 212-3.

The Agreement defines the principles, according to which the CES member states will carry out monetary (foreign exchange) policy, aimed at enhancing the role of national currencies of the CES member states in foreign trade and investment transactions and providing mutual convertibility of the currencies.

The Agreement provides for the phased harmonization and convergence of approaches to the establishment and conduct of monetary policy, creating institutional and legal environment for the development of integration processes in the monetary sphere, conduct of economic policy aimed at increasing trust in national currencies of member states.

In order to conduct a coherent monetary policy, the Parties take measures on coordinating

the policies of the national currency exchange rate, creating conditions and providing direct mutual price quotations of national currencies of the Parties; avoiding multiplicity of the official exchange rates of national currencies, establishing the exchange rates of national currencies by the Central (National) Banks of the member states on the basis of the exchanging market rate or on the basis of cross-rates of the national currency to the U.S. dollar.

Apart from that the Agreement provides the Parties with the right to introduce exchange restrictions in exceptional cases (if the situation cannot be solved by other measures of economic policy) for a period not more than one year. Exceptional cases among other issues include negative development in the balance of payments and violent fluctuations of the state's exchange rate.

### **5.11. Agreement on the order of organizing, managing, functioning and development of common oil and oil-products markets of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation**

The Agreement on the order of organizing, managing, functioning and development of common oil and oil-products markets of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28 № 221-3.

The purpose of the Agreement is defining basic principles and measures aimed at creating common markets of oil and oil products of the CES state members, as well as development of competition in these markets.

Basic principles of relations between the CES members are provided in Clause 2 of the Agreement, including the principle of non-application of quantitative restrictions and export customs duties (other duties, taxes and charges of equivalent value) in the mutual trade by the Parties.

It should be noted that the procedure of payment for export customs duties on oil and oil products when exporting them outside the single customs territory of the Customs Union is determined by individual, including bilateral agreements between member states of the Common Economic Space.

Clause 3 of the Agreement provides for the implementation of the package of measures on creating common oil and oil-products markets of the CES.

Clause 4 stipulates that within the existing technical possibilities, the Parties of the Agreement provide a guaranteed possibility of transportation of the produced oil and oil-products through the existing transport system on the territory of the CES member states as well as provide national conditions of access to the systems of oil and oil-products transportation for economic entities of the CES member states.

Volumes and directions of transportation of oil, produced on the territory of one of the CES member states, through the territory of another CES member state are determined annually by protocols between the competent authorities of the Parties.

Under the Agreement, the Parties provided for the needing to unify norms and standards for oil and oil-products until July 1, 2013.

## **5.12. Agreement on providing access to natural monopolies services in the sphere of electrical energy industry, including the basics of price formation and tariff policy**

The Agreement on providing access to natural monopolies services in the sphere of electrical energy industry, including the basics of price formation and tariff policy was signed in St. Petersburg on November, 19, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 214-3.

The Agreement specifies the principles of interconnection between the Parties in the implementation of the interstate transfer of electric energy (power).

According to the Agreement, the CES member states within the technical capability, provide an easy access to the services of natural monopolies in electrical energy industry, upon condition of the priority use of these services for the domestic needs of the Parties.

The CES member states ensure the transit of electrical energy under the terms and conditions of the concluded agreements, provided the priority of the internal balance of electrical energy (power) of the national power system, within the existing technical capability, without distinction in origin, destination or its owner.

Within the available technical capability the Parties ensure a non-discriminatory access to the services of natural monopolies in the electricity sector, provided the priority use of these services for internal balances of electric energy (power) of the national power systems of the Parties.

The agreement provides for the application of a single methodology for the interstate transmission of electric energy (power) between the CES member states, establishing the procedure for determining the technical specifications and volumes of interstate transmission of electric energy (power), as well as coordinated approaches to pricing for the services, related to the interstate transmission of electric energy (power).

## **5.13. Agreement on the rules of access to natural monopolies in the sphere of gas transmission via gas transport system, including the basics of price formation and tariff policy**

The Agreement on the rules of access to natural monopolies in the sphere of gas transmission via gas transport system, including the basics of price formation and tariff policy was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 210-3.

The purpose of the Agreement is to establish the rules of access to the services of natural monopoly entities via gas transport system, including the basics of price formation and tariff policy for meeting the needs of the CES member states. It is separately preconditioned that the Agreement is not applied to natural gas, originating in countries that are not the CES members, as well as to the relations in gas transmission outside the territory of CES and from its borders.

The main principles of relations between the CES member states are given in Clause 3 of the Agreement, including the principle of non-use of import and export duties (other duties, taxes and charges of equivalent value) in the mutual trade by the Parties.

Clause 5 of the Agreement provides for that the Parties pass to the market (equal profit) gas prices on the territories of the CES member states not later than January, 1, 2015.

The document establishes a free access of economic entities of other states parties to gas transmission systems, located on the territories of the states parties, for the transmission of gas, meant for the domestic needs of the Parties. In order to get this free access the Parties must fulfill a set of measures, including the passage to market (equal profit) gas prices.

A free access to gas transmission systems is possible only with available technical capabilities, free capacities of gas transmission systems, taking into account the coordinated indicative anticipated gas balance of the Common Economic Space countries. Moreover, the access is also gained on the basis of civil law agreements of economic entities with the

establishment of the volumes, prices and tariffs for gas transmission.

#### **5.14. Agreement on the regulation of access to railway service, including the basics of tariff policy**

The Agreement on the regulation of access to the railway service, including the basics of tariff policy was signed in Moscow on December, 9, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 215-3.

The Agreement aims to balance the interests of natural monopoly entities in the railway sector and users of railway services in the CES.

The Agreement stipulates that starting from January, 1, 2013, during the transportation of goods within the CES, as well as during the transportation of goods into the territory of the CES or from the territory of the CES, the internal tariffs of each member state of the CES are applied.

In order to ensure equal tariff conditions for all manufacturers in the CES, the Agreement establishes an obligation for the parties to unify tariffs on transportation modes (excluding transit) until January, 1, 2013.

In addition, the Agreement establishes the general principles of tariff setting. The method of economically justified costs will be applied as the main method of tariff setting for railway transport. Moreover, the possibility of establishing the minimum and maximum tariffs for transportation of goods by rail by the competent authorities of the Parties will be provided starting from 2013.

Within these maximum allowed parameters, the organizations of railway transport will be free to determine the specific tariff rates, depending on business environment, producible traffic volumes, and will be guided by the methodology, established by the authorized body of the state of the corresponding Party.

Monitoring of changes in the level of tariffs within the price band will be implemented by the Eurasian Economic Commission.

The current system of exceptional tariffs ceases its existence from January, 1, 2013. However, the Agreement provides for the preservation of the ongoing procedure of tariff setting for cargo transportation en route through the territory of the CES. In order to ensure the economic integration in the sphere of railway transport, the Agreement stipulates the obligations of the parties to provide equal access to infrastructure for the carriers of the CES, starting from January, 1, 2015.

For this purpose common rules of access to infrastructure should be developed until 2013, based on the technology of railway transport work, that takes into account the principles of equality of requirements for carriers, set by the national law of the parties; rules of providing the access within the infrastructure capacity, based on the technical and technological capabilities; rules of conducting a single price (tariff) policy in regard to the carriers, etc.

#### **5.15. Agreement on cooperation against illegal migration from third countries**

The Agreement on cooperation against illegal migration from third countries was signed in St. Petersburg on November, 19, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 219-3.

The Agreement has no direct acting norms in regard to combating illegal labour migration, the Agreement specifies only directions and forms of cooperation of the Parties on combating illegal migration from third countries.

The cooperation between the parties is realized by exchange with regulations, bills, experience, information on combating illegal labour migration; in the form of internships, seminars and training courses; preparation of special operations on combating illegal migration, as well as by the conclusion of readmission agreements.

The Ministry of Internal Affairs, the Ministry of Labour and Social Protection, the State Border Committee, the Committee of State Security are appointed to be the authorized bodies in the implementation of the Agreement in the Republic of Belarus by the Resolution of the

Council of Ministers as of March, 31, 2011 № 408.

## **5.16. Agreement on legal status of migrant workers and members of their families**

The Agreement on legal status of migrant workers and members of their families was signed in St. Petersburg on November, 19, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 220-3.

The Agreement establishes a category of citizens, to which it will be applicable. They are citizens of one of the CES countries, who are legally residing and working in another country of the CES.

The document provides the right for an employer to attract migrants to work without a special permit. Migrants will be able to work in the CES member states without set quotas and without any special work permits.

At the same time restrictive regulations are set for migrants' employment in order to ensure national security.

Measures, taken by states for social protection from unemployment, cannot be regarded as discrimination against foreign citizens.

The document provides for the release of a migrant worker and his family members from registration within 30 days from the date of entry into the country, where he is going to be hired. The period of temporary stay of the migrant worker and his family members in the CES member state is determined as equal to the term of the employment contract with an employer.

In case of dismissal upon the expiration of 90 calendar days, the Agreement provides the right for an employee to conclude a new employment contract within 15 days, also with another employer, in accordance with the terms and conditions, provided by the law of the state, in which he is being hired.

National legislation of every Party regulates the issues of deciding on the documents, required for employment, early termination of employment, taxation of income from the employment, social security (social insurance), except the issues of pension coverage.

The Ministry of Internal Affairs, the Ministry of Labour and Social Protection, the Ministry of Education, the Ministry of Healthcare, the Ministry of Taxation are appointed to be the authorized bodies in the implementation of the Agreement in the Republic of Belarus by the Resolution of the Council of Ministers as of March, 31, 2011 № 407.

## **5.17. Agreement on common principles and rules of technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation**

The Agreement on common principles and rules of technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation was signed in St. Petersburg on November, 18, 2010 and was ratified by the Law of the Republic of Belarus as of December, 28, 2010 № 218-3.

The Agreement establishes that the technical regulations of the Customs Union have direct force on the customs territory of the Customs Union (the territory of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation).

The single list of products, to which mandatory requirements are set within the Customs Union (the CES) was approved by the decision of the Customs Union Commission on January, 28, 2011 № 526. This list includes 61 objects of technical regulation. The Parties do not concede to establish in their legislation the mandatory requirements for products that are not included in the single list.

At the present time 31 technical regulations of the Customs Union are adopted in the framework of the Customs Union, but they are introduced in stages.

So, 8 technical regulations of the Customs Union came into force in 2012:

since February, 15, 2012 - the technical regulations on pyrotechnic products security;

since June, 1, 2012 - the technical regulations for personal protective equipment;  
since July, 1, 2012 - 5 technical regulations in the field of security of perfumes, cosmetics, toys, products for children and teenagers, the package and consumer goods industry products;  
from December, 31, 2012 technical regulations on requirements for automobile and aviation gasoline, diesel and marine fuel.

In 2013 another 13 technical regulations of the Customs Union will come (came) into force:

**from February 15, 2013:**

- 1) technical regulations for safety of low-voltage machinery;
- 2) technical regulations for safety of machines and equipment;
- 3) technical regulations for safety of elevators;
- 4) technical regulations for safety of equipment for work in dangerously explosive media;
- 5) technical regulations for safety of devices functioning on gaseous fuel;
- 6) technical regulations for electromagnetic compatibility of technical means;

**from 1 июля 2013 года:**

- 7) technical regulations for safety of grain;
- 8) technical regulations for fat-and-oil products;
- 9) technical regulations for safety of food products;
- 10) technical regulations for food products in respect of marking thereof;
- 11) technical regulations for juice products from fruits and vegetables;
- 12) technical regulations for safety of individual kinds of specialized food products, including dietary medical and dietary prophylactic food;
- 13) technical regulations for safety requirements for food additives, flavoring agents and technological process aids.

Clause 6 of the Agreement stipulates that international, regional standards may be applied for the assessment (confirmation) of compliance with the technical regulations of the Customs Union, and in their absence (before the adoption of regional standards) - the national (state) standards of the Parties.

Products, in respect of which the technical regulations of the Customs Union is adopted, may be put into the circulation on the customs territory of the Customs Union only if they underwent necessary assessment (confirmation) procedures of compliance, established by the technical regulations of the Customs Union.

Mandatory confirmation of products conformity with the technical regulations of the Customs Union is performed in forms of declaring of conformity or certification. For the development of this rule, the Customs Union Commission approved the Regulation on the use of standard evaluation (confirmation) schemes of compliance with the technical regulations of the Customs Union by the decision of April, 7, 2011 № 621.

The Agreement establishes that state control (supervision) over compliance with the technical regulations of the Customs Union, as well as liability for non-compliance with the technical regulations of the Customs Union and the assessment (confirmation) procedures of conformity with the technical regulations of the Customs Union are established by the national legislation of each Party.

Participation of the Republic of Belarus in this Agreement will help to reduce technical barriers to business entities in the mutual trade of the CES members on a single customs territory, as well as to create favorable conditions for trade in connection with the single technical regulations.

Meanwhile, besides rapprochement between the Customs Union members in the sphere of technical regulation, parties also take measures to eliminate technical barriers with other states, which are not the Customs Union members. On December 17, 2012 the CU members concluded the Agreement on elimination of technical barriers in the mutual trade with member states of the Commonwealth of Independent States, which are not member states of the Customs Union. According to article 1 of the Agreement technical barriers in the trade shall be understood as



differences in requirements of technical regulations, standards and procedures for conformity assessment (confirmation) in the CIS member states and the CU member states. The above mentioned Agreement in detail stipulates the procedure for elimination of technical barriers and conditions which should be observed to perform such procedure. The Agreement shall come into force after the parties have performed national procedures.

## 6. The Common Economic Space

Taking into consideration the fact that the Russian Federation officially became a member of the World Trade Organization (hereinafter – the WTO) on August 22, 2012, the Treaty on the Customs Union functioning in the framework of the multilateral trade system, signed on May 19, 2011 in Minsk, has grown very significant.

Article 1 of the Agreement specifies that starting from the date of any Party joining the WTO provisions of the WTO Agreement, as they are indicated in the Protocol of this Party joining the WTO including obligations undertaken as the condition for the Party's joining the WTO and regarding legal relationships, powers for regulation of which are delegated by the Parties to the CU bodies within the framework of the Customs Union, as well as legal relationships settled by international treaties, which constitute legal treaty framework of the Customs Union, shall become a part of the CU legal system.

From the moment of any Party joining the WTO the rates of the Common customs tariff of the Customs Union shall not exceed import tariff rates, stipulated in the List of concessions and obligations as for the access to a goods market, that is the Appendix to the Protocol of this Party joining the WTO. A number of norms under the Treaty set the procedure for regulation of import duty rates within the framework of the Customs Union in case of their difference with the WTO rates, as well as specify the necessity to harmonize the CU normative base with the WTO acts.

## 7. Conclusion

The main positive aspect of creating the Common economic space for economic entities of the Republic of Belarus is the opportunity to work on the markets of the Russian Federation and the Republic of Kazakhstan on equal terms with their residents. This is provided by the Agreement on common principles and rules of competition, the Agreement on service trade and investments in member states of the CES, the Agreement on common principles of regulation in the sphere of intellectual property protection.

The Agreements of the Parties, signed in section III of the Agreements, which form the legal basis of the CES "Power, transport and communication" stipulate common conditions of activities in natural monopolies in spheres of energy, oil and gas transmission, access to railway transport services.

The reduction of financial backing of agricultural enterprises will be a negative factor for economic entities of the Republic of Belarus and that is likely to entail an increase in the value of agricultural production, and decrease of its competitiveness on the market of the CES members.

The Agreement on legal status of migrant workers and members of their families makes it possible for residents of the Republic of Belarus to attract workers from the Russian Federation and the Republic of Kazakhstan in a facilitated way, as well as citizens of the Republic of Belarus will be able to work freely in the CES countries.

A great advantage of the Common Economic Space is the laws convergence of the parties, which will allow the residents of all CES member states to orientate themselves freely in the legislation of the parties.

Within the Common Economic Space the Agreements do not contain direct norms, the application of which would make the market in the Republic of Belarus more open for third countries non- CES members- . Despite this, it is safe to say that the creation of equal (similar) conditions for the functioning of economic mechanisms in the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan, as well as the establishment of quantitative parameters that determine the stability of the economic development of the CES member states, may improve the investment attractiveness of the Republic of Belarus.

The establishment of competition principles in the Agreements, as well as new rules on state subsidies are positive things to attract foreign investments from countries - members and non-members of the CES. Somehow the application of these rules equates the companies with private capital with the companies with state shares in the statutory fund, which often receive government support.

A positive aspect of the Agreement on the adoption of common principles and rules of technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, which establishes common standards throughout the territory of the CES, is the guarantee for the residents of the Republic of Belarus of their products conformity with the requirements of the CES countries, and thus, the possibility of realization of products without fear of its non-compliance with internal standards of the Russian Federation and Kazakhstan. The existence of common standards for economic entities that are non-residents of the CES is a guarantee that their products, imported into the territory of one state of the CES (the Customs Union) will meet the requirements of another CES state.

On the other hand, in the process of technical standards adoption, it is possible that the requirements for the production of certain goods will be more rigorous, which will entail the necessity to invest in the production facilities upgrade and to increase the costs of production.

It is also necessary to take into consideration that most of the agreements require further measures for their implementation (adoption of internal regulations, coordination of the parties' activities etc.), which are actively carried out now. Meanwhile, the creation of favorable conditions for the activities of the parties greatly depends on the future political situation and the desire of the CES countries leaders to move towards further integration.