

## **CHAPTER I INITIAL PROVISIONS AND GENERAL DEFINITIONS**

### *Article 1.1 Establishment of a Free Trade Area*

The Parties, consistent with Article V of the GATS, hereby establish a free trade area.

### *Article 1.2 Objectives*

The objective of this Agreement is to establish a framework of principles and rules for trade in services, investments, as well as other issues as a means of promoting the sustainable economic growth and development of the People's Republic of China and the Republic of Belarus, with a view to

- (a) encouraging expansion and diversification of trade between the People's Republic of China and the Republic of Belarus;
- (b) liberalizing and promoting trade in services progressively;
- (c) creating a transparent, liberal and facilitative investment regime;
- (d) promoting fair competition in the People's Republic of China and the Republic of Belarus' markets;
- (e) ensuring adequate and effective protection and enforcement of intellectual property rights;

and to contributing in this way to the harmonious development and expansion of world trade.

### *Article 1.3 Relation to other Agreements*

1. The Parties affirm their existing rights and obligations with respect to each other under other existing agreements to which both Parties are parties.
2. In the case of any inconsistency between the provisions of this Agreement and other agreements referred to in paragraph 1 of this

Article, the Parties shall consult via the Joint Committee to arrive at a mutually satisfactory resolution in accordance with customary rules of interpretation of public international law, unless otherwise provided in this Agreement.

#### *Article 1.4 Geographical Scope*

For the People's Republic of China, this Agreement shall apply to the entire customs territory of the People's Republic of China, including land territory, territorial airspace, internal waters, territorial sea as well as their bed and subsoil, and any area beyond its territorial sea within which it may exercise sovereign rights and/or jurisdiction in accordance with international law and its domestic law.

For the Republic of Belarus, this Agreement shall apply to the territory under the sovereignty of the Republic of Belarus, in respect of which the Republic of Belarus exercises, in accordance with national legislation and international law, sovereign rights or jurisdiction;

#### *Article 1.5 General Definitions*

For the purposes of this Agreement, unless otherwise specified:

“**days**” means calendar days;

“**direct taxes**” comprises all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation;

“**GATS**” means the WTO General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

“**GATT 1994**” means the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

**“Joint Committee”** means the Joint Committee established under Article 10.2 (Joint Committee);

**“juridical person”** means any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

**“juridical person of the other Party”** means a juridical person which is either:

- (a) constituted or otherwise organized under the law of that other Party, and is engaged in substantive business operations in the territory of that Party; or
- (b) in the case of the supply of a service through commercial presence, owned or controlled by:
  - (i) natural persons of that other Party; or
  - (ii) juridical persons of that other Party identified under subparagraph (a);

**“a juridical person”** is:

- (a) **“owned”** by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;
- (b) **“controlled”** by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;
- (c) **“affiliated”** with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

**“measure”** includes any law, regulation, procedure, requirement or practice;

**“natural person of the other Party”** means a natural person who resides in the territory of that other Party, and who under the law of that other Party:

- (a) is a national of that other Party; or
- (b) has the right of permanent residence in that other Party;

**“person”** means either a natural person or a juridical person;

**“WTO”** means the World Trade Organization; and

**“WTO Agreement”** means *the Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994.