

PROTOCOL**between the European Union and the Government of the Russian Federation on technical modalities pursuant to the Agreement in the form of an Exchange of Letters between the European Union and the Russian Federation relating to the administration of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union**

SECTION 1

SCOPE AND DEFINITIONS*Article 1*

1. This Protocol is adopted between the European Union and the Government of the Russian Federation (hereinafter referred to as 'the Parties') to implement the Agreement in the form of Exchange of Letters between the Russian Federation and the European Union relating to the administration of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union of 16 December 2011 (hereinafter referred to as 'the Agreement').

2. This Protocol lays down technical modalities of administration of tariff-rate quotas mentioned in paragraph 1 of this Article, including the details of the cooperation between the authorities of the European Union (hereinafter referred to as 'the EU') and the Russian Federation (hereinafter referred to as 'Russia'), and applies to exports from Russia into the EU of covered products.

3. For the purposes of this Protocol:

(a) the term 'covered products' means the goods specified in the Annex to Part V of Russia's Schedule of Concessions and Commitments on Goods in the WTO (hereinafter referred to as 'Russia's Schedule of Commitments');

(b) the term 'tariff quota' means a specified quantity of covered products that can be exported from Russia to the EU within the limits set out in the Annex to Part V of Russia's Schedule of Commitments, during a limited period, benefiting from a decrease of the export duties otherwise applied by Russia; the duties applicable to exports made within the tariff quota shall be those specified in Russia's Schedule of Commitments;

(c) the term 'importer' means a natural or legal person of any Member State of the EU (hereinafter referred to as 'EU Member State') intending to import covered products from Russia into the EU;

(d) the term 'exporter' means a natural or legal person of Russia intending to export covered products from Russia to the EU;

(e) the term 'quota authorisation' means a document issued by the competent authorities of the EU Member State concerned to an importer, confirming the right of such importer to access the tariff quota;

(f) the term 'export licence' means a document issued by the competent authority of Russia to an exporter confirming the right of such exporter to access the tariff quota.

4. The allocation of tariff quotas under this Protocol shall be guided by the principle of fair and equitable allocation of trade opportunities to all participants of trade. In particular, the Parties will seek the preservation of competitive conditions in the market of the products concerned, and the avoidance of speculative trading of tariff quota entitlements.

5. The requirements established in this Protocol are without prejudice to any future requirements that may be introduced or applied in accordance with a legal act applied in the territory of Russia, provided that those future requirements are generally applicable for engaging in trading of goods, including those applied specifically to the covered products, and that they are consistent with Russia's obligations under the Marrakesh Agreement establishing the World Trade Organization (hereinafter referred to as 'the WTO Agreement').

SECTION 2

TARIFF QUOTA PERIOD*Article 2*

1. Russia shall open tariff quotas allocated to the EU for the quantities set out in the Annex to Part V of Russia's Schedule of Commitments on a yearly basis. Such tariff quotas shall be opened for a period of 12 consecutive months corresponding to each calendar year (hereinafter referred to as 'quota period').

2. If this Protocol enters into force later than 31 January of a calendar year, the quota period for that year shall be understood as the period in full calendar months between the date of entry into force of this Protocol and 31 December of the same year.

SECTION 3

CLASSIFICATION*Article 3*

1. The classification of the covered products is based on the tariff and statistical nomenclature applied in Russia. Any amendment to the tariff and statistical nomenclature of Russia concerning covered products or any decision relating to the classification of goods shall not have the effect of nullifying the export duty reduction commitments undertaken by Russia as set out in Annex to Part V of Russia's Schedule of Commitments within the quantitative limits indicated therein.

2. Russia undertakes to make any changes in the tariff and statistical nomenclature applied in its territory concerning covered products, including a complete description of the products concerned, available to the European Commission (hereinafter referred to as the 'Commission') at least 30 days before the date of their entry into force in Russia.

SECTION 4

QUOTA AUTHORISATIONS

Article 4

1. The use of tariff quotas by importers shall be subject to the issuance of a quota authorisation by the competent authorities of the EU Member States. Quota authorisations shall be issued in hard-copy form. Introduction of amendments, including those for technical reasons, into issued quota authorisations is not allowed. In case any amendment needs to be introduced, the quota authorisation shall be withdrawn and a new respectively amended quota authorisation shall be issued.

2. The application by importers for quota authorisations for a given quota period shall be made not earlier than 1 October of the calendar year preceding that of the quota period, and not later than 1 December of the calendar year corresponding to the quota period.

3. Each quota authorisation shall be issued for the amount of goods established by the contract or a pre-contract for the covered products concerned between an importer and an exporter (hereinafter referred to, respectively, as 'the contract' and 'the pre-contract').

Article 5

1. Subject to the submission by the importer of the contract or the pre-contract, and in accordance with the allocation of the tariff quota by the Commission pursuant to paragraph 2 of this Article, the competent authorities of the EU Member States shall issue quota authorisations in respect of all applications for importation from Russia of covered products up to the quantities of the relevant tariff quota.

2. The Commission shall allocate the quota authorisations according to one of the following methods:

- (a) in accordance with the chronological order of receipt by the Commission of notifications from the competent authorities of EU Member States of applications from individual importers; or
- (b) in accordance with the 'traditional' or 'new' categories of importers; in that event, the Commission shall determine

for each quota period the proportion of the total quantity allocated to traditional importers (within a range of 70 percent to 85 percent) and to new importers (within a range of 30 percent to 15 percent), respectively.

3. For the purposes of paragraph 2 of this Article:

- (a) 'traditional importers' shall mean importers who can prove that they have, at the moment of their application for a quota authorisation:
 - (i) obtained and used quota authorisations pursuant to this Section for the covered products, in each of the previous two quota periods; and
 - (ii) imported from Russia into the EU an average of at least 5 000 m³ of the covered products during each of the previous two quota periods;
- (b) 'new importers' shall mean importers other than those referred to in point (a) of this paragraph.

If this Protocol enters into force later than 31 January of a calendar year, for the purposes of point (a) of this paragraph, the required volume of imports from Russia for the first quota period shall be calculated on a pro-rata basis, as follows:

$$M = (5\,000/12) * t$$

where

'M' represents the required volume of imports from Russia for the first quota period;

't' represents the number of full calendar months from the date of entry into force of this Protocol until 31 December of the same year.

4. Should the method referred to in point (b) of paragraph 2 of this Article be applied by the Commission during the first three quota periods following the entry into force of this Protocol, the definition of 'traditional importer' for that purpose shall be those importers who can prove that they have imported from Russia into the EU an average of at least 5 000 m³ of the covered products during a reference period to be determined.

5. The quota authorisations shall be nominal on the quota holder. Such authorisations shall be valid for the whole quota period and for imports throughout the customs territory of the EU.

Article 6

1. A quota authorisation shall conform to any of the forms set out in the Annex to this Protocol.

2. Each quota authorisation shall certify, inter alia, that the quantity of the product in question has been set off against the relevant quantitative limit established for the product concerned in Russia's Schedule of Commitments.

Article 7

1. For every individual quota authorisation issued, the Commission shall immediately inform the competent authority of Russia of the identity of the holder of the quota authorisation, the identity of the exporter and the quota quantity concerned.

2. The Commission shall immediately inform the competent authority of Russia about the withdrawal of any quota authorisation already issued, as well as about any duplicates delivered, and quota authorisations not used and returned by importers. The balance of quota available under the quantitative limit set out in Russia's Schedule of Commitments for the products concerned shall be modified for the corresponding amount.

3. The competent authority of Russia shall keep records of the information transmitted to it pursuant to paragraphs 1 and 2 of this Article. These records shall include in particular the identity of the holder for each quota authorisation and the quantity of goods concerned by the quota authorisation.

SECTION 5

EXPORT LICENCES*Article 8*

1. The use of tariff quotas by exporters shall be subject to the issuance of an export licence by the competent authority of Russia.

2. To apply for an export licence, an exporter shall submit to the competent authority of Russia the documents provided for by the legislation of Russia as set out in paragraph 3 of this Article, and the original, a duplicate or a copy of the quota authorisation granted to the importer pursuant to Article 5 of this Protocol. The amount of goods set out in the contract shall correspond to the amount of goods set out in the quota authorisation submitted by the exporter. Where an exporter provides a copy of the quota authorisation, the licence shall only be issued upon submission of the original or duplicate of that quota authorisation.

3. At the date of entry into force of this Protocol the documents required in accordance with the legislation of Russia for the purposes of issuing an export licence are:

(a) a duly completed application for an export licence both in writing and electronic format;

(b) a copy of the contract;

(c) a copy of the document proving that the exporter is registered with Russian tax authorities; and

(d) a copy of the document proving that the licensing fee has been paid.

Without prejudice to paragraph 5 of Article 1 of this Protocol, no additional document shall be required from the exporter for the purpose of delivering an export licence.

4. The competent authority of Russia shall accept applications for export licences as of 15 October of the calendar year preceding that of the quota period, until 15 December of the calendar year corresponding to the quota period.

5. Licensing fees mentioned in point (d) of paragraph 3 of this Article shall be those stipulated by the legal acts relating to general export licensing regulation in Russia.

Article 9

1. Provided that an exporter fulfils all applicable requirements set out in Article 8 of this Protocol, the competent authority of Russia shall issue an export licence in respect of the consignments of covered products at the destination of the holder of the quota authorisation.

2. The export licence shall be issued for the amount of goods established by the contract.

3. The export licence shall be nominal on the exporter. It shall also specify the identity of the importer.

4. The export licence shall have no legal value for exportation to custom territories other than that of the EU, nor for exportation to an importer other than the quota authorisation holder.

Article 10

If the decision of the competent authority of Russia on an application for an export licence is positive, it shall issue such export licence in a time period not exceeding 10 working days from the date of the submission of the application.

Article 11

1. The export licences shall expire at the end of the calendar year for which the corresponding tariff quota has been opened.

2. In case the Commission has informed the competent authority of Russia that a quota authorisation has been withdrawn, this authority shall cancel the corresponding export licence already issued, provided that the information was received by such competent authority before customs clearance for export of the goods covered by such export licence. Should the competent authority of Russia be notified of the withdrawal of the quota authorisation only after the customs clearance for export of the goods covered by the corresponding export licence, such export shall be set off against the quantitative limits established for the quota period for which the export licence was issued.

Article 12

1. The exporter shall submit the original or duplicate of the export licence to the competent Russian customs office at the moment of presentation of the goods for customs clearance for export.

2. Successive shipments on account of a same export licence shall be possible up to the quantitative limit of the export licence.

3. Corrections in export licences, including those for technical reasons, are not allowed. If the amendments are necessary, the licence shall be cancelled and a new respectively amended export licence shall be issued. Where the quantity to be actually exported is lower than the quantity set out in the export licence, the export licence can be used without a need to amend it.

Article 13

1. The goods covered by an export licence shall be cleared for export at customs in Russia within the period of validity of the licence. Russia's customs shall clear such goods for exports without delay, in accordance with the customs legislation applied in Russia.

2. The goods cleared for exports at customs in Russia, as provided in paragraph 1 of this Article, can be shipped from Russia, even if the validity period of the export licence for these goods has expired. Such exports shall be set off against the quantitative limits established for the quota period for which the export licence was issued, even if the shipment of goods has taken place after that period.

3. For the purposes of paragraph 2 of this Article, shipment of goods is considered to have taken place on the date of their loading onto the exporting means of transport, as evidenced by their bill of lading or other transport document.

SECTION 6

CARRY-OVER

Article 14

1. When a tariff quota for a product group is not fully used, unused quantities of such tariff quota not exceeding 7 percent

of total quantities of that tariff quota may be carried over to the corresponding tariff quota for the following calendar year. The Commission shall notify the competent authority of Russia if it intends to make use of the provision of this paragraph not earlier than 15 January and no later than 28 February of the calendar year following the year corresponding to the quota period. The competent authority of Russia shall confirm, within 30 days from the date of receipt of the notification, the additional quantities for the tariff quota for the product group(s) concerned resulting from the carry-over.

2. In addition to the share(s) of tariff quota(s) carried over pursuant to paragraph 1 of this Article, up to another 3 percent of the relevant tariff quota(s) may be carried over pursuant to paragraph 1 of this Article, upon agreement between the Parties. The Commission shall notify the competent authority of Russia if it intends to make use of the provision of this paragraph, not earlier than 15 January and no later than 28 February of the calendar year following the year corresponding to the quota period. The competent authority of Russia shall inform the Commission of its decision within 60 days from the date of receipt of the notification from the Commission.

3. Carry-over pursuant to paragraphs 1 and 2 of this Article can take place once in the course of a calendar year when the decision(s) on carry over is/are taken. Any adjustments to the quantitative limits resulting from carry over shall only affect the calendar year when the decision on carry over is taken.

SECTION 7

INFORMATION EXCHANGES

Article 15

1. With a view to rendering the monitoring system as effective as possible and to minimise the possibilities for abuse and circumvention of the tariff-quota system on covered products as agreed between Russia and the EU:

- (a) the Commission shall inform the competent authority of Russia not later than the fifth working day of each month of the quota authorisations issued during the preceding month;
- (b) the competent authority of Russia shall inform the Commission not later than the fifth working day of each month of the export licences issued during the preceding month;
- (c) the customs authorities of Russia shall inform the Commission not later than 39 days after the end of each third month of the volumes and values of the covered products exported to the EU during those preceding three months;

(d) the Commission shall inform the competent authority of Russia not later than 39 days after the end of each third month of the volumes and values of the covered products imported to the EU during those preceding three months.

2. Without prejudice to the periodic exchange of information on export licences and quota authorisations pursuant to paragraph 1 of this Article, the Parties agree to exchange available statistical information relating to trade in the covered products at appropriate intervals, taking account of the shortest periods in which the information in question is prepared. Such information shall cover quota authorisations and export licences issued and import and export statistics in respect of the products in question.

3. In the event of any significant discrepancy, taking account of the time factors involved in respect of the information provided pursuant to paragraphs 1 or 2 of this Article, either Party may request consultations which shall be held immediately.

SECTION 8

FORM AND PRODUCTION OF QUOTA AUTHORISATIONS AND COMMON PROVISIONS CONCERNING EXPORTS TO THE EU

Article 16

1. The quota authorisation form shall be completed in the Russian language or in any EU official language. In case the form is completed in an EU official language, when submitted to the competent authority of Russia such quota authorisation shall be accompanied with its translation into Russian language certified with a notary public of Russia in accordance with the legislation of Russia.

2. Each document shall bear a standardised serial number by which it can be identified. This number shall be composed of the following elements:

- (a) two letters identifying the exporting country, as follows: RU;
- (b) two letters identifying the EU Member State that issues the quota authorisation, as follows:

BE = Belgium

BG = Bulgaria

CZ = Czech Republic

DK = Denmark

DE = Germany

EE = Estonia

EL = Greece

ES = Spain

FR = France

IE = Ireland

IT = Italy

CY = Cyprus

LV = Latvia

LT = Lithuania

LU = Luxembourg

HU = Hungary

MT = Malta

NL = Netherlands

AT = Austria

PL = Poland

PT = Portugal

RO = Romania

SI = Slovenia

SK = Slovakia

FI = Finland

SE = Sweden

GB = United Kingdom;

(c) a two-digit number identifying the year in question corresponding to the last two figures in the year, e.g. '12' for year 2012; and

(d) a five-digit number running consecutively from 00001 to 99999 allocated to the intended EU Member State of customs clearance.

Article 17

1. In the event of theft, loss or destruction of a quota authorisation, the importer may apply to the competent authority of the EU Member State concerned for a duplicate. The duplicate of any such quota authorisation so issued shall bear the endorsement 'duplicate'.

2. The duplicate shall bear the date of the original quota authorisation.

SECTION 9

ADMINISTRATIVE COOPERATION

Article 18

The EU and Russia shall cooperate closely in the implementation of the provisions of this Protocol. To this end, contacts and exchanges of views, including on technical matters, shall be facilitated by both Parties.

Article 19

1. With a view to ensuring the effective functioning of this Protocol, the EU and Russia agree to take all necessary steps to prevent, investigate and take any necessary legal and/or administrative action against circumvention, notably by transshipment or re-routing of goods, falsification of documents, false declaration concerning quantities, description or classification of merchandise.

2. In the framework of the cooperation referred to in paragraph 1 of this Article, the Commission and the competent authority of Russia shall exchange any information considered by either Party to be of use in preventing circumvention or infringement of the provisions of this Protocol. This information may include, at the request of either Party, copies of all relevant documentation, where available.

3. Where information available to the Commission or the competent authority of Russia indicates or appears to indicate that the provisions of this Protocol are being circumvented or infringed, the Parties shall cooperate closely and with the appropriate urgency, and may agree to take any measures necessary in order to prevent any such circumvention or infringement.

Article 20

1. Should either Party believe, on the basis of information available, that this Protocol is being circumvented or infringed, it may request consultations which shall be held immediately.

2. On their own initiative or upon request of the other Party, the appropriate authorities of either Party shall carry out appropriate inquiries, or arrange for such inquiries to be carried out, concerning operations which are, or appear to be, in circumvention or infringement of this Protocol. Either Party shall communicate the results of these inquiries to the other Party, including any other pertinent information enabling the cause of the circumvention or infringement to be determined.

Article 21

In order to ensure the correct application of this Protocol, the EU and Russia shall offer each other mutual assistance for the checking of the authenticity and the accuracy of quota authorisations issued.

Article 22

1. Subsequent verification of quota authorisations shall be carried out by way of exception, when the competent authority of Russia has reasonable doubts as to their authenticity. In such cases, the competent authority of Russia shall return the quota authorisation to the Commission giving the reasons of form or substance which justify an inquiry.

2. The results of the subsequent verifications carried out in accordance with paragraph 1 of this Article shall be

communicated to the competent authority of Russia within 10 working days at the latest. The information communicated shall indicate whether the disputed quota authorisation applies to the alleged holder and whether the goods are eligible for export under the arrangements established by this Protocol.

3. Recourse to the verification procedure specified in this Article must not constitute an obstacle to the release of export licences. To this end, and without prejudice to Article 10 of this Protocol, the competent authority of Russia shall issue the corresponding export licence within five working days after receipt of the confirmation of the authenticity of a quota authorisation in accordance with paragraph 2 of this Article.

SECTION 10

TRANSITIONAL ARRANGEMENTS

Article 23

1. Pending the adoption by the EU of the internal measures necessary for the management of the tariff quotas, the competent authority of Russia shall not request the original or a duplicate of the quota authorisation as a condition for the issuance of an export licence under Article 8 of this Protocol.

2. The EU shall make a written notification of the adoption of the internal measures referred to in paragraph 1 of this Article. Upon receipt of such notification by the competent authority of Russia, the transitional arrangement described in paragraph 1 of this Article shall be terminated.

3. In case this Protocol enters into force after 31 January of a calendar year, the tariff quota for that year shall be applied pro-rata. For that purpose, Russia shall open a tariff quota calculated as follows (hereinafter referred to as 'transitional tariff quota'):

$$Q_t = (Q:12) * T_t,$$

where

'Q' represents the tariff quota;

'Q_t' represents the transitional tariff quota;

'T_t' represents the number of full calendar months from the date of entry into force of this Protocol until 31 December of the same year.

4. During the application of the transitional arrangements set out in this Article, the provisions of this Protocol shall apply *mutatis mutandis*.

SECTION 11

CONSULTATIONS*Article 24*

1. Consultations shall be held on any differences between the Parties arising from the application of this Protocol and the Agreement at the request of either Party. Any consultations shall take place in a spirit of cooperation and with a desire to reconcile the differences between the Parties.

2. Where this Protocol provides that consultations shall be held immediately, the Parties undertake to use all reasonable means to ensure that this is achieved.

3. Consultations shall be governed by the following provisions:

- (a) any request for consultations shall be notified in writing to the other Party;
- (b) such request shall set out the reasons for the consultations;
- (c) consultations shall begin within one month from the date of the receipt of such request; and
- (d) consultations shall endeavour to arrive at a mutually agreed solution within one month of their commencement, unless the period is extended by agreement of the Parties.

SECTION 12

DISPUTE SETTLEMENT*Article 25*

1. If a Party considers that the other Party has failed to fulfil its obligations under this Protocol or the Agreement, and consultations pursuant to Article 24 of this Protocol have failed to lead to a mutually agreed solution within the time period established in point (d) of paragraph 3 of that Article, such Party may request the establishment of a conciliation panel pursuant to Article 3 of the Decision of the Cooperation Council established by the Agreement on partnership and cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part, of 24 June 1994, to establish rules of procedure for the settlement of disputes under that Agreement, adopted on 7 April 2004 (hereinafter referred to as the 'Decision of the Cooperation Council on Dispute Settlement').

2. Where recourse is made to a conciliation panel under paragraph 1 of this Article, the provisions of the Decision of the Cooperation Council on Dispute Settlement shall apply, with the exception of Article 2 of that Decision regarding consultations. It is understood that whenever that Decision

refers to disputes regarding the Agreement on partnership and cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part, of 24 June 1994 (hereinafter referred to as 'the Partnership and Cooperation Agreement'), it shall be read as referring to disputes regarding this Protocol or the Agreement.

3. The conciliation panel established in accordance with paragraph 1 of this Article shall not have competence to consider the compatibility of a measure of a Party, examined by that conciliation panel, with the provisions of the Partnership and Cooperation Agreement or the WTO Agreement.

4. If the indicative list of conciliators foreseen in paragraph 1 of Article 4 of the Decision of the Cooperation Council on Dispute Settlement has not been established by the time a Party requests the establishment of a conciliation panel pursuant to Article 3 of that Decision for an alleged violation of this Protocol or the Agreement, and if a Party fails to appoint a conciliator or the Parties fail to reach an agreement on the chairperson of the conciliation panel within the respective timeframes established for this purpose in Article 4 of that Decision, any Party may ask the WTO Director-General to nominate the conciliators that remain to be appointed. The WTO Director-General, after consulting with the Parties, will inform both parties of the nominated conciliator(s) no later than 20 days after the date of receipt of such a request.

5. The relevant dispute settlement provisions of any agreement between the EU and Russia subsequent to the Partnership and Cooperation Agreement (hereinafter referred to as the 'New Agreement'), shall apply to disputes regarding the alleged violation of obligations under this Protocol or the Agreement. It is understood that whenever the New Agreement refers to disputes regarding the New Agreement, it shall be read as referring to disputes relating to this Protocol or the Agreement.

SECTION 13

ENTRY INTO FORCE*Article 26*

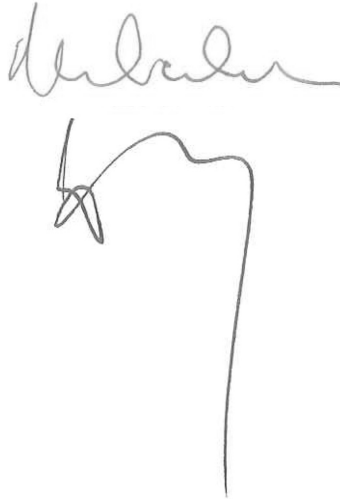
1. This Protocol shall be approved by the Parties in accordance with their respective internal procedures.

2. This Protocol shall enter into force 30 days after the date on which the Parties exchange written notifications certifying that they have completed their respective internal procedures or on such other date as the Parties may agree, but not earlier than the date of the accession of Russia to the World Trade Organization.

3. Pending its entry into force, this Protocol shall be applied provisionally from the date of the accession of Russia to the World Trade Organization.

Done in Geneva on 16 December 2011, in duplicate, each in the English and Russian languages, both texts being equally authentic.

For the European Union

A handwritten signature in cursive script, appearing to be 'D. Delors', followed by a large, stylized flourish that extends downwards and to the right.

*For the Government
of the Russian Federation*

A handwritten signature in cursive script, appearing to be 'Sergey Lavrov'.

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ANNEX

EUROPEAN UNION / Европейский союз		QUOTA AUTHORISATION / Разрешение на квоту	
HOLDER'S COPY / Копия держателя	1. Importer (name, full address, country, VAT No) / Импортёр (наименование, адрес полностью, страна местонахождения, ИНН)	2. Issue No / Номер выдачи	
		3. Exporter (name, full address, VAT No) / Экспортёр (наименование, адрес полностью, ИНН)	
		4. Authority responsible for issue (name, address and telephone No) / Орган, ответственный за выдачу (наименование, адрес и номер телефона)	
	5. Declarant/representative, as applicable (name and full address) / Декларант/представитель соответственно (наименование и адрес полностью)	6. Last day of validity / Последний день срока действия	
	7. Description of goods / Описание товаров	8. CN code/Код ТН ВЭД	
		9. Quantity in m ³ / Количество в м ³	
	10. Additional remarks / Дополнительная информация		
	11. Competent authority's endorsement / Подтверждение компетентного органа		
	Date / Дата:		
	Place / Место:		
	(Signature) / (Подпись):	(Stamp) / (Место печати):	