

# WORLD TRADE ORGANIZATION

RESTRICTED

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**Working Party on the  
Accession of Kazakhstan**

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## **ACCESSION OF KAZAKHSTAN**

### Additional Questions and Replies

The Ministry of the Economy and Trade of the Republic of Kazakhstan has submitted the following replies to the additional questions submitted by Members. The replies are reproduced hereunder.

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## II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

### 2. Economic Policies

#### (a) Main directions of the ongoing economic policies

As previously noted, we appreciate Kazakhstan's willingness, noted in its response to Question 1 in KAZ/11, to undertake a commitment to additional transparency as its privatization and reform programs proceed.

#### Question 1

We appreciate the information on privatization provided in WT/ACC/KAZ/22 and 30. We would also appreciate updated information on the enterprises that remain unprivatized. What portion of output and trade in the sectors listed in WT/ACC/KAZ/22 and 30 is accounted for by state owned enterprises.

#### Answer:

Pursuant to the paragraph 3.1. of Branch program of raising the efficiency of management of state property and privatization for 2001-2002, adopted by the Resolution of the Government of the Republic of Kazakhstan of 27 June 2001 No.880 (hereinafter referred to as – Branch program), as of 1 January 2001 the block of shares (shares of the participation) of 280 stock companies and economic partnerships were in the Republican ownership, block of shares (shares of the participation) of 760 stock companies and economic partnerships were in the municipal ownership.

Pursuant to 3.2. of the Branch program as of 1 January 2001 the total number of the Republican state enterprises made up 517 enterprises, including 182 enterprises being entitled to economic management, 335 enterprises being entitled to operative management. And as of this date the total number of state public utility enterprises made up 4,625, including enterprises being entitled to economic management - 792 enterprises, and the enterprises being entitled to operative management – 3,833.

At the same time, by the Resolution of the Government of the Republic of Kazakhstan of 17 June 2000 No.912 the List of the Republican state enterprises and institutions, subject to privatization in 2000-2001, is approved.

In addition, with a view of state regulation of the activity of organization and objects, having specific significance for strategic interests of the Republic of Kazakhstan, by the Decree of the President of the Republic of Kazakhstan of 28 July 2000 No.422 (hereinafter referred to as – the Decree No. 422) the List of the objects, not subjecting to privatization and its preliminary stages, is approved.

We also inform, that for execution of the Decree No.422 by the Resolution of the Republic of Kazakhstan of 24 October 2000 No.1587 the following lists were approved:

- objects of state ownership, not subjecting to privatization;
- objects of state ownership, not subjecting to privatization, as well as to its preliminary stages till 2003;
- stock companies, shareholdings of which do not subject to privatization, as well as to its preliminary stages till 2003.

- Pricing policy

## Question 2

**Kazakhstan has stated that state price control only exists for "heat and water".**

**Does Kazakhstan control or influence the price of electricity, natural gas. Or other forms of energy offered to domestic firms?**

**Do any industries or firms have access to electricity, natural gas, or other forms of energy at prices below those applied to sales to other domestic firms? To exports? If so, please describe the differences.**

**We thank Kazakhstan for its commitment, that from the date of accession, the price controls in place and any applied in the future will be applied in a WTO-consistent fashion, taking account the interests of exporting WTO members as provided for in Article III:9 of the GATT 1994, and that Kazakhstan publishes the list of goods and services subject to state price controls in its Official Gazette, and any changes to those controls.**

Answer:

In the Republic of Kazakhstan the prices are regulated only on the products of natural monopoly.

Pursuant to the amendments entered into the Law of the Republic of Kazakhstan "On natural monopolies" (hereinafter referred to as – the Law), which is under the consideration of the Parliament of the Republic of Kazakhstan, the following kinds of activity are referred to the sphere of natural monopolies:

- transportation of oil and (or) oil products via main pipelines;
- production of oil products;
- storage, transportation of gas or gas condensate via main and (or) distribution pipelines, exploitation of gas-distribution equipment and related to it gas-distribution gas-lines;
- power transmission and (or) power distribution;
- power production by heating boiling stations with combined kind of production;
- technical dispatching control services of lines and power consumption;
- services on railway main and access lines;
- air navigation services, ports, airports;
- telecommunication services with the use of local lines network;
- aquacultural and (or) sewer systems services; and
- generally accessible post communication services.

Changes of tariffs on natural monopolies' subjects services are applied no more than once per two quarters.

Consequently, regulation of prices and tariffs on rendering services (goods, works) is applied in respect of all the subjects of the market, carrying out the activity in the sphere of natural monopolies.

Other (alternative) forms of energy supply to consumers, except electrical, heat and gas (gas condensate) were not referred to the natural monopoly and, consequently, do not subject to state regulation by antimonopoly legislation.

The enterprises of the Republic have the opportunity to conclude direct treaties on power supply from power supply enterprises of the Republic and its outside.

### **III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES**

#### **Question 3**

**In response to question 5 in KAZ/22, Kazakhstan states that "international agreements ratified by Kazakhstan have priority over its national legislation...".**

**Does this include the WTO Agreement? Will this agreement have priority over Kazakhstan's national legislation? In what areas will it be legally necessary for Kazakhstan to adopt new laws for the WTO to be applicable?**

#### Answer:

The Republic of Kazakhstan states that as pursuant to the paragraph 3 of the Article 4 of the Constitution of the Republic of Kazakhstan international agreements have the priority before the national legislation then it applies to the WTO Agreements.

Relevant amendments and alterations have been entered and being entered into legislation of the Republic of Kazakhstan with a view of bringing of national legislation into line with the WTO agreements. New laws are adopted as required for regulation of relations in one or other area. So, for example, the work on bringing of the legislation in the area of protection of intellectual property into line with the Agreement on trade aspects of intellectual property rights is being carried out.

Since the last session of working group Kazakhstan carried out significant work on bringing of legislation in the area of foreign trade into line with the WTO rules and principles. For the above period the following laws in the area of foreign trade have been adopted: "On Certification", "On Standardization", "On Subsidies and Compensation Measures", "On selection Achievements Protection", "On Plants Quarantine", "On Antidumping Measures", "On Protection of Domestic Market Measures while importing goods", "Patent Law", "On Trade Marks", "Servicing Marks" and "Country of origin of goods", "On making amendments and alterations into the Decree of the President of the Republic of Kazakhstan in force "On Customs of the Republic of Kazakhstan", "On unfair competition", "On financial leasing", "On making amendments and alterations into some legislative acts on banking secret", "On legal protection of topologies of integral microschemes", "On making amendments and alternation into the law of the Republic of Kazakhstan "On plants quarantine" .

#### **Question 4**

**Can Kazakhstan confirm that sub-central administrative authorities, e.g. local administrative bodies, have no jurisdiction or authority to establish regulations or taxes on goods and services in Kazakhstan independent of the central authorities and that application of these measures are exclusively the responsibilities of the executive and legislative branches of the central government?**

**Can Kazakhstan confirm that, from the date of accession, when apprised of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities will eliminate or nullify measures taken by sub-central authorities in Kazakhstan that are inconsistent, with WTO provisions and will act to enforce WTO provisions without requiring affected parties to petition through the courts?**

Answer:

Local bodies do not have powers for establishing of instructions and taxes on goods and services in Kazakhstan. Imposing of taxes in the Republic is in competence only of the higher legislative body, and establishing of the instructions is in competence of the central executive bodies of the Republic of Kazakhstan.

**Question 5**

**Concerning the new Code of Administrative Violations, which Kazakhstan indicated, in WT/ACC/KAZ/11, would change the existing procedures for judicial review of customs measures:**

**Was the new Code ever promulgated? If so, please describe its provisions as they relate to the right of administrative and judicial appeal in customs measures.**

**Does the Code cover administrative and judicial review of any other issues covered by WTO, e.g., TRIPS, TBT, or SPS?**

Answer:

The Code of the Republic of Kazakhstan "On Administrative Violations" is adopted by the Law of the Republic of Kazakhstan of 30 January 2001 No.155-11 and under the Law of the Republic of Kazakhstan "On Legal Acts" was published in official editions.

Provisions of sections of XII "Violation of the customs regulations and responsibility for these violations. Procedure on cases of violations of customs regulations and their consideration" and XV "Appeal and consideration of decisions, actions or failure to act of the customs bodies of the Republic of Kazakhstan and their officials", withdrawn from the Law of the Republic of Kazakhstan "On Customs in the Republic of Kazakhstan", entered into the Chapter 26 "Administrative violations in the customs transactions" of the Code of the Republic of Kazakhstan "On administrative violations".

The given Code does not establish responsibility for violation of intellectual property rights. Such responsibility is established by Criminal Code of the Republic of Kazakhstan of 16 July 1997 (article 184).

The Code of the Republic of Kazakhstan "On Administrative Violations" establishes the legal and administrative measures with a view of achievement of lawful purposes, determined by the Agreement on technical barriers in trade (paragraph 2.2. of the Agreement TBT): of national security, prevention of fraudulent practice, protection of health and people's security, protection of environment and should not have restrictive influence on trade.

The Article 1 of the Chapter 1 of the Code determines the priority of the requirements of international treaties, ratified in the Republic of Kazakhstan, before the provisions of the Code and the possibility of their direct application (paragraph 2.4. of TBT Agreement).

The Article 317 of the Chapter 21 of the Code stipulates the legal and administrative measures for violations of legislation on standardization, certification and unity of measurements, which also directed at achievement of lawful purposes.

Further the Code stipulates administrative-and-legal measures for violation of legislative and legal acts on the veterinary and quarantine control.



- On Plants Quarantine

Article 294. Violation of rules of transportation, storing and application of plants protection and other preparations.

Violation of transportation rules, storing and application of plants protection, its growth stimulants, mineral fertilizers and other preparations, which have entailed or could entail contamination of environment or because of damage to animal kingdom, entails notification or a penalty on citizens.

Article 307. Violation of rules for the struggle with quarantine pests, plants diseases and weeds.

Violations of regulations on the territory protection from the quarantine objects entails a penalty on the citizens and legal persons.

Article 308. Import and export of materials not subject to quarantine checking and relevant treatment.

Import and export of imported and exported plant materials, not subject to quarantine checking and relevant treatment, from checkpoint on quarantine plants, transportation of these cargo without any licensing documents. Their re-addressing and discrediting without participation of specialists of state phytosanitary service on quarantine plants – entail a penalty on citizens, on legal persons with confiscation quarantinable product or a penalty without confiscation of quarantinable product.

Article 309. Violation of regulations on the fight with pests, plants diseases and weeds.

Violation or non-execution of regulations with pests, plants diseases and weeds, not entailed grave consequences – entails a penalty on the citizens and legal persons.

Article 560. Authorized body on the plants quarantine

Authorized body on the plants quarantine and its local bodies considers the cases of administrative violations, stipulated by the Articles 294, 307, 309 of the given Code (administrative violations, stipulated by the article 308, are considered by the district courts and equated to them ones).

The following officials have the right to consider the cases of administrative violations and impose administrative sanctions:

- Chief state inspector on plants quarantine of the Republic and its deputy – a penalty on the citizens, on officials and legal persons;
- State inspectors on the quarantine plants of regional and municipal services – a penalty on the citizens, on the officials and legal persons; and
- State inspectors on the plants quarantine of district services and checkpoints – a penalty on the citizens on the officials and legal persons.

- On veterinary

Article 310. Violation of legislation on veterinary.

Violation of legislation on veterinary medicine, committed in the form of:

- refusal to carry out obligatory veterinary-sanitary measures and violations of their terms;
- non-observance of terms and requirements of quarantine and restrictive measures;
- delayed or incomplete carrying out of veterinary-sanitary measures on liquidation of infectious animals;
- spreading of infectious animals
- non-observance of veterinary-sanitary regulations while reproducing animals;
- non-execution of requirements of legal acts of the territorial protection of the Republic from infectious diseases.
- violations of requirements of veterinary-sanitary regulations while transporting (overtaking) of animals;
- non-observance of requirements of veterinary-sanitary regulations and specifications on the markets of (trading organizations), at enterprises for preparation, storing, treatment of cargo under veterinary inspection, in warehouses, quarantine bases, at loading and unloading platforms and in transport means; and
- violation of any other legal acts in veterinary medicine, not entailed spreading of epizootic or any other grave consequences, as well as decisions of local representative and executive bodies on the issues of struggle with epizootic – entail a penalty on the citizens, on the officials and legal persons.

#### Article 311. Violation of regulations of care of dogs and cats

Violation of established regulations of care of dogs and cats in cities and any other settlements by local representative bodies entails warning or a penalty.

Violation of established regulations of care of dogs and cats in the cities and any other cities by the local representative bodies entails a warning or a penalty.

The same actions, entailed inflicting of a damage to health or property of the citizens entail a penalty.

#### Article 559. Authorized body in veterinary inspection

Officials of an authorized body in veterinary inspection consider the cases of administrative violations, stipulated by the Article 310 of the given Code.

The following officials have the right to consider the cases of administrative violations and impose administrative sanctions:

- Chief state veterinary inspector of the Republic of Kazakhstan and its deputies – a penalty on the citizens, officials and legal persons;
- Chief veterinary inspectors at state border and transport, regional chief state inspectors and their deputies, veterinary inspectors of an authorized state body in veterinary medicine – a penalty on the citizens, officials and legal persons; and
- District, city chief state inspectors, rural veterinary inspectors, veterinary doctors of veterinary institutions of executive bodies and departmental veterinary service, vested with the authority, to carry out state veterinary inspection.

Officials of state veterinary inspection bodies may collect a penalty at site:

- at realization sites – for violation of veterinary-sanitary regulations of animals trade (including of poultry, fish and bees), products and animals raw materials;

- at railway, water and air transport, at highway and ground roads, in the routes of overtaking of animals – for violation of veterinary-sanitary regulations of overtaking animals (including poultry, fish and bees), animal products, as well as overtaking regulations; and
- at the state border – for violation of veterinary-sanitary regulations on territory protection of the Republic of Kazakhstan from infectious diseases (including poultry, fish and bees) from foreign states.

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **1. Import Regulation**

###### **(a) Registration requirements for engaging in importing**

**We appreciate Kazakhstan's confirmation, in WT/ACC/KAZ/22, that there is no State monopoly on foreign trade and there are no restrictions on the right of foreign and domestic individuals and enterprises to import and export goods and services except as provided for in WTO agreements; that individuals and firms are not restricted in their ability to import or export based on their registered scope of business, and that the criteria for registration of companies in Kazakhstan are published in the Official Gazette.**

###### **Question 6**

**Please outline the requirements for a firm or individual to conduct international trade in Kazakhstan: e.g., Is it necessary for a firm or individual to be registered as a commercial or legal entity? Are there any investment or other special requirements for foreign firms or individuals to engage in international trade? Can a non-resident foreign firm or individual engage in importation or exportation, e.g., be the importer of record in Kazakhstan?**

###### **Concerning Activity Licensing:**

**Has the list of activities subject to licensing in Annex 7 of WT/ACC/KAZ/3 changed since 1997? If so, please update that information. Please indicate the value in local currency, in U.S. dollars, and in Euros of "20 monthly evaluations", i.e., the standard fee for obtaining an activity license noted in WT/ACC/KAZ/10.**

###### Answer:

For legal persons a certification on state registration, for natural persons a certification on state registration as an individual entrepreneur (a patent) is required.

Regarding the activity on licensing, from the moment of issue of the Law of the Republic of Kazakhstan of 17 April 1995 No.2200 "On Licensing" 31 modifications were made into it.

By three modifications of them some kinds of enterprise activity, subject to obligatory licensing, were withdrawn:

By the Law of the Republic of Kazakhstan of 9 July 1998 No.277-1:

- preparation and processing of the secondary resources and wastes, containing precious metals and precious stones; and
- processing, storing of precious metals, precious stones, manufacture of jewelry, operations with affinated precious metals and precious stones in physical state.

By the Law of the Republic of Kazakhstan of 10 June 1998 No.283-1:

- development of individual means of self-protection;
- production and realization of toxic materials and protection means from them;
- maintenance and exploitation of filling points;
- production of constitutionally approved material-and-graphic subjects, personifying state symbols of the Republic of Kazakhstan; and
- activity public catering entities.

By the Law of the Republic of Kazakhstan of 8 October 1999 No.471:

- production of surveying works while using the mineral wealth.

Law determined the following kinds of activity, subject to obligatory licensing:

Licensing of the activity, connected with the objects of heightened danger and/or having specifically important state significance:

License availability is required for the following kinds of enterprise activity:

- Design, production, repair and realization of arms and ammunitions to it, cryptographic means of information security, special technical means of for conducting of special operative-and-search measures, military equipment, spare parts, completing units and devices to it, if they are not used in other branches, as well as special materials and equipment for their production, including mounting, adjustment, use, storage, repair and servicing.
- Design, production and realization of explosive and pyrotechnical materials and products with their application and etc.
- All kinds of activity on use of space, including creation, production, exploitation, repair and modernizing of space-rocket equipment, use of ground infrastructure for ensuring of its functioning (testing area, command-measuring complex, stand base and others);
- Production and granting of services in post communication sphere and telecommunications, services on retransmitting of television and sound (broadcasting) programs, design, construction, exploitation of All-Republican main, international lines of communications and use of radiofrequency spectrum;
- Kinds of activity, connected with the use of atom energy, including:
  - deployment, design, construction, putting into operation, exploitation, reconstruction, conservation and withdrawal of objects of atom energy use from operation;
  - handling with radioactive wastes;
  - physical protection of nuclear installations and nuclear materials;
  - services on control over nuclear and radiation safety;
  - conducting of radioecological investments and works on radiation rehabilitation;
  - all kinds of activity in nuclear testing ranges;
  - transportation (including transit) nuclear materials and radioactive materials within the framework of the Republic of Kazakhstan; and
  - preparation and certification of the personnel, specialists for the activity, regarding use of atom energy.

- Manufacturing and realization of output, containing radioactive materials in quantity, exceeding standard, permissible for their use means without any ground to apply special protection;
- Production, transfer and electric and thermal power distribution;
- Liquidation (destruction, utilisation, dumping) and processing of released military-and-technical means;
- Design, construction and exploitation of industrial explosive, fire-dangerous and mining productions, power stations, power networks and substations, water development works, main gas and oil pipelines, hoist units, as well as boilers, containers and pipelines, operating under the pressure, and oil and gas drilling operations;
- Design, manufacture, erection and maintenance of chemical, drilling, oil & gas field, geology-prospecting, mining, metallurgic, power generating equipment, explosion-safety electrical engineering equipment, and control systems, alarm protection and signalling, hoist units, as well as boilers, containers and pipelines, operating under the pressure;
- Design, production, repair, trade, acquisition, collecting, exhibiting of civil and service fire-arm and cartridges to it, combat hand small arm and cartridges to it, cold steel arm, civil pyrotechnical substances and products with their application, as well as chemical means of self-defense.
- Production, repair and construction works on gasification of housing and communal-general objects;
- Design, installation, adjustment and technical servicing of security, fire signalling and fire-prevention automatics, production and realization of fire-prevention engineering, equipment and fire-prevention protection means;
- Installation, repair and passenger elevators servicing;
- Manufacturing, production, processing and wholesale realization of agents and disinfecting drugs, desinsecting, deratization, as well as works and services, connected with their use;
- Design, production and realization of x-ray equipment, devices and equipment with the use of radioactive materials and isotopes;
- Passenger and cargo transportation by railway, river, marine, air transport; international passenger and cargo transportation by motor transport; hazardous cargo transportation by all kinds of transport, aviation works;
- Airport activity, related to aircrafts, passengers and cargo in the airports;
- All kinds of activity on technical protection of state secrets of the Republic of Kazakhstan, including design, manufacturing, installation, adjustment, use, storing, repair and servicing of technical means of information security, protected technical means of information processing;
- Production of land surveyor, land and cartographical works and realization of land and cartographic product;
- Manufacturing and realization of medicine (except growing, collection and sale of medical products of animal, plants and herbal origin, not containing drugs and psychotropic substances and herbs, not containing drugs and psychotropic substances);
- Processing of mineral raw materials;
- Design and survey, expert, construction works, production of building materials works, products and constructions;
- Check, production and repair of measurement technique;
- Production of ethyl spirit and alcohol product, storing and realization of ethyl spirit, as well as storage, wholesale and retail realization of alcohol product (except beer);
- Activity carried out within the framework of separate customs procedures, in conformity with customs legislation of the Republic of Kazakhstan, as well as rendering of customs services;

- Production of blank-forms of securities, as well as stamp paper, blank-forms of check books and deposit certificates;
- Activity, connected with attraction of foreign manpower, as well as export of manpower from the Republic of Kazakhstan to abroad;
- Stock material, storing, processing and realization of scrap and non-ferrous and ferrous metals waste by legal persons;
- Judicial-and-expert activity;
- Archeological and restoration works of historical and culture monuments;
- Activity, connected with turnover of drugs, psychotropic substances, precursors: working out, production, processing, transportation, transfer, acquisition, storing, distribution, realization, use, destruction;
- Cultivation, collection, preparation of plants and herbs, containing drugs and psychotropic substances;
- Purchasing of power with a view of resale;
- Acceptance, weighing, drying, purification, storing and shipment of grain;
- Tourist activity;
- Making and repair rolling stock, special containers, applied for transportation of hazardous cargo;
- Installation, repair and exploitation of technical means of road traffic regulation;
- Search-and-rescue, anti-gushing works;
- Production, processing, transportation, acquisition, storing, realization, use, destruction of toxins under the list approved by the Government of the Republic of Kazakhstan; and
- Activity on management of property and cases of insolvent debtors in bankruptcy procedure.

Licensing of activity, related to servicing of citizens and legal persons.

The following kinds of activity, related to servicing of citizens and legal persons, subject to licensing:

- Activity of educational institutions, granting secondary, secondary professional and higher education with the right of issue of diplomas on concrete specialities;
- Engagement in medical, treatment and veterinary activity;
- Rendering of legal services, related to detective activity by non-state subjects;
- Lawyer activity;
- Rendering of paid legal services, not connected with lawyer activity;
- Activity of notaries;
- Organization and conducting of lotteries (except state (national), totalizers, casinos);
- Property valuation activity; and
- Carrying out of security activity by legal and physical persons.

Licensing of activity, connected with concentration of financial resources

The following kinds of financial activity and activity, related to concentration of financial resources are subject to compulsory licensing:

- Carrying out of banking operations, as well as other operations, carried out by the banks in conformity with banking legislation, clearing and settlement operations of organizations, audit of banking activity;
- Auditor activity;

- Activity in the branch "life insurance" and in the branch "general insurance", activity on reinsurance, activity of insurance brokers, actuary activity on the insurance market, auditor verification of insurance (reinsurance) organizations;
- Professional activity on securities market, activity of trade organizers with securities and self-regulating organizations of professional participators of securities market;
- Activity on attraction of pension fees;
- Activity on carrying out of pension payments;
- Activity on investment management of pension assets; and
- Activity of investment fund.

Licensing of operations, related to use of currency values

The following kinds of operations, related to use of currency values, are subject to licensing:

- Carrying out of retail trade and granting of services for cash foreign currency;
- Opening of accounts by the residents (including the accounts in the currency of the Republic of Kazakhstan) in foreign banks and any other financial institutions, having corresponding right under legislation of states, in which they are registered;
- Investments of residents abroad (except broker-dealer activity of banks);
- Transfers of residents in favor of non-residents into the payment of ownership rights to real estate;
- Transfers of residents in favor of non-residents for carrying out of settlements on import transactions, providing advanced payment for goods, works and services for more than 120 days, as well as exceeding the term of receipt of currency earnings into payment of export of goods (works, services) by the residents for more than 120 days from the date of export of goods (works, services);
- Granting of loans by the residents to non-residents for the term of more than 120 days; and
- Transfer of foreign currency, received by the resident from non-resident as a loan into an account of third persons.

Standard payment for receiving of a license for carrying out of an activity, noted in the document WT/ACC/KAZ/10, that is the cost in the national currency, in US dollars, and EURO "20 month specified rates" (according to data of National Bank of the Republic of Kazakhstan as of 13 May 2002) is as follows:

– In national currency tenge	15 500
– In US\$	102
– In EURO	111

**(d) Other duties and charges**

**Question 7**

**We appreciate the chart provided in WT/ACC/KAZ/22 listing non-tariff fees and charges applied to imports. Are there any others, e.g., related to intellectual property protection?**

Answer:

Pursuant to the Article 218-2 of the Law of the Republic of Kazakhstan "On Customs in the Republic of Kazakhstan" (further – the Law) the order of submission, consideration of an application and inclusion into the register is determined by the Central Customs Body of the Republic of

Kazakhstan in coordination with authorized state bodies, issues of objects of intellectual and industrial property protection are referred to the competition of them.

The Central Customs Body of the Republic of Kazakhstan keeps the register of goods, covering the objects of intellectual property and ensures its periodical publication.

Charges for inclusion of the objects of the intellectual property in the register of the Central Customs Body are not levied.

Pursuant to the Article 218-3 of the Law the Customs Body of the Republic of Kazakhstan suspends the output of goods, including the objects of intellectual property, included in the register of the Central Customs Body of the Republic of Kazakhstan if the Customs Body of the Republic of Kazakhstan finds out that these goods violate the rights to objects of intellectual property of a Applicant.

While suspending output of goods, including objects of intellectual property, the legal owner within three working day upon receiving of a notification of such suspension is obliged to effect payment at the rate, sufficient for compensation of losses of the Declarant in connection with suspension of goods output. The above rate is specified by the Customs Body of the Republic of Kazakhstan in the order, established by the legislation of the Republic of Kazakhstan.

Pursuant to the Article 218-4 of the Law output of goods, including industrial samples, patents, topology of integral microschemes or disclosed information, is carried out in case of granting by the declarant of support, necessary for protection of interest of legal owner for the term not less than one month. Form and the rate of support is determined by the Customs Body of the Republic of Kazakhstan in the order established by the legislation of the Republic of Kazakhstan.

#### Question 8

**In October 1998, we asked for a specific plan from Kazakhstan on how it plans to bring, its 0.2 per cent customs fee into conformity with Article VIII, including establishment of levels of application, a menu of fees for service, and a timetable with specific dates for implementation.**

**What progress has Kazakhstan made in the interim to bring its *ad valorem* customs processing fee (0.2 per cent of customs value) into line with Article VIII of the GATT?**

Answer:

The Republic of Kazakhstan is obliged by the date of accession to the WTO to bring its customs fees for customs clearance in conformity with the Article VIII of GATT. In connection with that in a new Draft Customs Code a rule, according to which in the basis of customs duties a cost of expenses of customs bodies for customs clearance is stipulated.

**(e) Quantitative import restrictions**

#### Question 9

**Does Kazakhstan still limit alcohol imports to 20 per cent of domestic consumption? If so, this is a violation of Article XI of the GATT, and the practice should be eliminated as soon as possible, but in no case later than by date of accession.**

**We would appreciate an update on the information provided in Annex 3 of WT/ACC/KAZ/3 concerning Kazakhstan's imports subject to import, licensing.**



**As a decision to issue the license is required by various offices and ministries of the Government of Kazakhstan, these licenses should be considered as non-automatic. Please include justification for this restriction in the updated information and information on the specific criteria required by the deciding offices and ministries.**

Answer:

The Republic of Kazakhstan states that a restriction of alcohol import at rate of 20 per cent of home consumption will be withdrawn by the date of accession of Kazakhstan to the WTO.

Regarding the list of good, import of which is carried out according to the licenses, we present a renewed information on it. See the Tables (E. 2.1 and E.2.2.).

Table E.2.1. – List of goods, import of which is carried out according to licenses

Name of good	HS Code	Ministries and agencies of the Republic of Kazakhstan, coordinating decision of license issue
Chemical agent of plants protection	3808 (only preparations for plants protection)	Ministry of agriculture, Ministry of natural resources
Medicines, items of medical purpose, medical technique (except medical technique imported to the Republic as a humanitarian aid)	2936 – 2939, 2941, 3001 – 3004, 3006, 9013, 9018-9022 (except 902111000, 902119100, 9021309000)	Agency of the Republic of Kazakhstan for healthcare
Medicines for veterinary purposes and veterinary technique	2936-2939, 2941, 3001-3006, 9018-9022	Ministry of agriculture
Drugs, psychotropic substances	According to the list, determined by the Government of Republic of Kazakhstan	Committee for struggle with drug, drug trafficking, Ministry of Justice, Agency for healthcare
Precursors	According to the list, determined by the Government of Republic of Kazakhstan	Committee for struggle with drug, drug trafficking, Ministry of Justice, Agency for healthcare, Ministry of natural resources
Poisons	According to the list, determined by the Government of Republic of Kazakhstan	Agency for health, Ministry of natural resources
Encryption means (including encryption technique, parts for encryption technique and program package for encryption), normative and technical documentation to encryption means (including design and operation)	8471 (only encryption technique), 847330 (only for encryption technique) 854390900 (only for encryption technique)	National Security Committee (KNB)
Protection means from fighting toxic substances, parts and accessory to them	According to the list, determined by the Government of Republic of Kazakhstan	Ministry of defense,
Normative and technical documentation to the product of military purpose (design and operation)		Ministry of defense, National Security Committee
Gunpowder, explosive substances, means for explosions and pyrotechnics	360100000 (except hunting gunpowder), 360200000, 360300, 3604	MIA
Industrial wastes	261800000-2620,3915	Ministry of natural resources
Thebaic raw	121190800	Agency for healthcare
Service and civil weapon	According to the list, determined by the Government of Republic of Kazakhstan	MIA

Name of good	HS Code	Ministries and agencies of the Republic of Kazakhstan, coordinating decision of license issue
Nuclear substances, technologies, equipment and facilities, special non-nuclear substances of double use, sources of radioactive radiation, equipment, based on alpha-, beta- or gamma x-radiation	2612, 2844 (only mixed oxide of natural uranium, uranium combinations enriched to 20% on uranium isotope 235 and sources of ionizing radiation, not containing fissionable elements), 380110000 (except nuclear-pure graphite), 810110000, 8103, 810411000, 810600100, 8108, 8109, 8112, 9022	Committee on atomic energetic of the Ministries of power engineering and mineral resources of Republic of Kazakhstan
Compound spirit by-products, except products on the basis of fragrant substances, used during beverages production	210690200	Committee on state control over production and turnover of excise products of the Ministry of state revenues
Wine	2204, 2205, 2206	
Ethyl spirit	2207	
Ethyl spirit undernatured with concentration of spirit less than 80%, alcoholatures, liqueurs and other spirit beverages	2208	
Special technical means designed for conducting of special operative and search measures, protective means of information, other technique of double application (including part to them, applied programs packages, normative and technical documentation to the special technique means) (including design and operation)	830170000, 847130000, 847141900, 847149900, 847150900, 847330100, 851750, 851780900, 851810, 851840, 851850900, 852032, 852033, 852090900, 8521, 8525, 8526, 8527, 854389900, 900219000, 900580000, 9013, 901910900, 9006, 902219000, 902229000 (only special technical means, protection means of information and other technique of double application)	National Security Committee
White spirit	271000210	Ministry of power engineering and mineral resources of Republic of Kazakhstan
Others	271000250	Ministry of power engineering and mineral resources of Republic of Kazakhstan
White distillates others	271000390	Ministry of power engineering and mineral resources of Republic of Kazakhstan
Average distillates for specific procession processes	271000410	Ministry of power engineering and resources of Republic of Kazakhstan
For chemical transformations in the processes	271000450	Ministry of power engineering and mineral resources of Republic of Kazakhstan

Table E 2.2.. – List of goods, import of which is carried out according to licensing of the Government of the Republic of Kazakhstan

Brief name of the good	Code
Armament and military technique, special building up products for their production, works and services in the area of military and technical cooperation	87100000, 8802 (except 880211100, 880212100, 880220100, 880230100, 880240100, 8803 (except 880310100, 880320100, 880330100, 880390910, 880400000, (only of military purpose), 8805 (except 880520100), 890600100, 930100000, 930200, 9305 (only for military weapon), 9306 (except 930610000, 930629400, 930630910 – 930630980, 930690900, 901310000 (only of military purpose), 901320000 (only of military purpose), 901380 (only of military purpose), 9014 (only of military purpose), 8525 (only of military purpose), 8526 (only of military purpose).
Nuclear materials, technology, equipment and installations, special non-nuclear materials, sources of radioactive radiation, including radioactive wastes	2844 (except mixed oxide of natural uranium, uranium combinations, enriching to 20% on uranium isotope 235 and sources of ionising radiation, not containing fissionable elements, 2845, 380110000 (only nuclear pure graphite), 8401, 711041000

#### (h) Customs Valuation

##### Question 10

The response to questions 7 and 23 of WT/ACC/KAZ/22, concerning the status of the draft Amendments to the Customs Code report that the draft Amendments were approved by the Government of Kazakhstan (Resolution of the Government of 16 March 1999, No. 248) and submitted to Majilis of the Parliament for consideration. Has the draft Customs Code been enacted? Is the document provided by Kazakhstan in WT/ACC/KAZ/21 the final text of the Code, or have there been changes?

The response to question 24 of WT/ACC/KAZ/22 reports that the Amendments to the Customs Code do not include amendments required to conform to the Agreement on Implementation of Article V of the General Agreement on Tariffs and Trade 1994 (the "Valuation Agreement"). According to the response, right after adoption of the Amendments to the Customs Code, Kazakhstan will effect implementing regulations that incorporate the Interpretative Notes and WTO Valuation Committee decisions. Have the Amendments to the Customs Code have been adopted?

Could Kazakhstan clarify whether the Amendments have the force of law, and report whether the implementing regulations have been drafted and are in force?

If the regulations are completed, we request that a copy be provided for Working Party review. We have additional comments and questions on the text of the draft Customs Code text provided 5 in WT/ACC/KAZ/21 which we will submit separately for written response.

While we have noted some deficiencies, we appreciate the efforts Kazakhstan is making to bring its customs valuation regime into conformity with the Agreement, and we look forward to receiving further information and clarification that may address our questions.

Answer:

In accordance with the Law "On Customs in the Republic of Kazakhstan", customs valuation of importing goods is based on general principles of customs valuation of GATT (article VII of GATT).

With a view of harmonization of standard documents on application of the Article VII of GATT by the corresponding customs body of the Republic of Kazakhstan a standard legal act, regulating the order of application of methods of identifying the customs valuation, control over customs valuation by the officials of the customs body, terms of declaring of customs value and its adjustment is worked out.

Amendments and alterations into the Law of the Republic of Kazakhstan "On customs in the Republic of Kazakhstan" stipulating bringing the rules of the Law in connection with customs valuation into the line with the requirements of the WTO, were adopted by the Law of the Republic of Kazakhstan of 16 June 1999 "On entering amendments and alterations in the Decree of the President of the Republic of Kazakhstan, effective as Law, "On customs in the Republic of Kazakhstan". It should be noted that while elaborating of the Law on the issues of customs valuation and other ones (the country of origin, intellectual property) the expert's opinion of USAID project was considered, proposals of which stipulated bringing the rules of the Law into line with the WTO requirements.

Instructions brought into line with the indicated amendments and alterations into the Law, are approved by the order of the Customs Committee of the Ministry of State Revenues of the Republic of Kazakhstan of 6 February 2001 No. 42 "On customs valuation of goods, imported on the customs territory of the Republic of Kazakhstan", registered in the Ministry of Justice of the Republic of Kazakhstan of 30 March 2001 No. 1443.

**(i) Other customs formalities**

**Question 11**

**Concerning Kazakhstan's requirement for traders to have an import or export "Transaction Passport" which contains a copy of certain information contained on customs documentation normally required for clearance, e.g., price paid for the goods, the name of the purchaser, the date of delivery, etc.**

**We remain concerned that this instrument duplicates documentation already available to customs authorities and constitutes a burden to trade.**

**We reserve on the WTO consistency of this instrument, pending further review.**

**We would appreciate any additional information on whether the "passport" system is still in place and any other relevant information.**

Answer:

Transaction certificate is necessary for carrying out of control over the completeness and timeliness of receipts in foreign and national currency from export. Moreover, transaction certificate is necessary for statistic accounting of export receipts and imported goods.

Currency control by certification of export-import operations enables also to observe payment balance structure of the Republic of Kazakhstan and foreign trade balance.

**(j) Pre-shipment inspection**

**Question 12**

**The response to Question 38 of WT/ACC/KAZ/6/Add.I stated that Kazakhstan's pre-shipment inspection was eliminated on 31 January 1997.**

**Is this information still accurate? Does Kazakhstan still use, or intend to use a pre-shipment inspection firm?**

**If so, please provide relevant laws and regulations and describe the terms of the services provided. Does Kazakhstan consider use of a pre-shipment inspection firm a temporary measure?**

Answer:

From 1996 to 1997 the Program of Pre-shipment Inspection (PPI) was being implemented in the Republic of Kazakhstan. The PPI system was introduced on the territory of the Republic of Kazakhstan by the Resolution of the Government of the Republic of Kazakhstan No. 1301 of 4 October 1996.

In 1997 the PPI in the Republic of Kazakhstan was closed down.

Currently under the Resolution of the Government of the Republic of Kazakhstan of 6 April 2001 No. 453 the Ministry of state revenues of the Republic of Kazakhstan in 11 June of this year held an invited tender for services purchasing on independent examination of customs value of goods imported to the Republic of Kazakhstan.

Independent examination of customs value, in contradiction to the pre-shipment inspection, offers carrying out of price audit (control over the compliance of declared information to their real cost) of imported goods upon their arrival at the Republic of Kazakhstan.

Introduction of independent price audit of imported goods will enable:

- to increase the flow of customs and tax payments to the budget;
- to avoid the wrongful acts on the part of customs officials;
- prevent the outflow of capital from the Republic of Kazakhstan;
- prevent the import of low quality goods;
- to strengthen the administrative structures, carrying out the control over foreign trade by use of updated reliable statistic data on trade operations.

Currently the standard documents for introduction of above system are being worked out.

**(k) Application of internal taxes on imports**

**Question 13**

**WT/ACC/KAZ/29 provides additional information on the development of Kazakhstan's tax system. Unfortunately, it omits information on the critical issues identified by this delegation at the third Working Party and acknowledged by Kazakhstan in WT/ACC/KAZ/22 (June 1999), as to whether imports from other CIS countries are subject to VAT and excise taxes, or if they are still exempted. Also omitted from KAZ/29 is any update on the process of harmonization of excise taxes on domestic and imported goods reported in KAZ/22.**

Answer:

The rules of the Law of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget", considering the availability and rules of international treaties concluded by Kazakhstan with the CIS member-states on principles of indirect tax imposing, do not stipulate for exemption of imported goods from any countries.

Up to the date of signing of the Agreement (entered into force from 1 July 2001) between the Governments of Kazakhstan and Russia on principle of indirect tax imposing in mutual trade (further Agreement), only import from Russia is not levied by indirect taxes. After entering into force of the given Agreement imports from Russia (except natural gas, oil, including stable gas condensate) is imposed by VAT and excises.

Pursuant to the Article 3 of an Agreement Goods, imported to the Customs territory of state of one party, which were exported from the customs territory of state of another party, are levied by indirect taxes in the country of destination in accordance with its national legislation.

**Question 14**

**WT/ACC/KAZ/29 appears to indicate that Kazakhstan now applies VAT to all imports, including those from other CIS, with the exception of Russia.**

**Please indicate which countries whose imports remain exempt from the application of VAT in Kazakhstan.**

**Please provide the legal citation for the current VAT regime and Kazakhstan's plans for bringing its VAT regime into full conformity with WTO?**

Answer:

Currently there are no countries the import of goods from which is subject to exemption from value added tax.

As of today the issues of imposing of VAT are regulated by section III of the Law "On Taxes".

It should be noted that VAT application is completely corresponds to the principles, stipulated by the WTO Agreements

**Question 15**

**WT/ACC/KAZ/29 does not report any progress on removing the elements of discrimination against imports existing in Kazakhstan's application of excise taxes to imports. Please report on efforts to bring Kazakhstan's excise tax regime into conformity with Article III of the GATT? Please update, as necessary, the chart in WT/ACC/KAZ/29 listing excise taxes mid give the current legal citation for their application.**

**As has been indicated in previous meetings, it is imperative that Kazakhstan state categorically when it will complete the adoption of the destination principle in application of domestic taxes (both VAT and excise) to imports from all/all its trading partners, and eliminate the elements of discrimination against imports in the application of its excise taxes.**

Answer:

Kazakhstan has undertaken step on elimination of discrimination in the context of excises imposing on goods of domestic production and imported from abroad.

At the same time, one cannot take into account a number of aspects in connection with which the process of elimination of these differences between excise rates is of a continuous character.

Unification of excises is complicated by the facts that divergence between domestic and imported excise rates changes both in one and other sides: if the rates on imported alcoholic product significantly exceed domestic excises on it then in case of import of oil products imposed rate of excise is lower than domestic. In this situation the differentiated approach of levelling of rates, enabling to protect and support Kazakhstani producers of excise product, is required.

In connection with it, for balancing of interest of Kazakhstani producers of excise product with necessity of fulfilment of WTO requirements on providing of national regime, stage-by-stage process of unification of excise rate (completion is being planed by the end of 2005) is necessary.

In the Appendix (1) to the this document a renewed Table on the list of excise rate on excise goods produced in the Republic of Kazakhstan and imported to the Customs territory of the Republic of Kazakhstan being realized on the territory of the Republic of Kazakhstan and gaming is given.

In the area of tax policy in the Republic of Kazakhstan from 1 July 2001 a system of indirect taxes imposing in trade according to the principle "The country of destination" is introduced.

**(l) Rules of origin**

**Question 16**

**We thank Kazakhstan for the text of the draft Customs Code contained in WT/ACC/KAZ/21. We note, however, that the provisions on rules of origin do not fully meet the provisions of the WTO Agreement. In particular, the provisions of Annex II do not appear to be incorporated.**

**In particular, the requirements of Article 2 (h) and Annex II, paragraph 3 (d), i.e., that for non-preferential and preferential rules of origin, respectively, its customs authority will provide upon the request of an exporter, importer of any person with a justifiable cause an assessment of the origin of the import and outline the terms under which it will be provided, appeal' to be missing from the text.**

**According to the provisions of the WTO Agreement on Rules of Origin specified above, any request for such an assessment would be accepted even before trade in the goods concerned began, and any such assessment would be binding for three years.**

**We believe that Kazakhstan should ensure that these provisions – the requirements of Article 2 (h) and Annex II, paragraph 3 (d), are incorporated in law prior to the date of accession.**

Answer:

The issue by the customs bodies of preliminary decision on the origin of good upon the request of an interested person is stipulated by the Law "On customs" (Article 376-379). The payment fixed by the Government of the Republic of Kazakhstan is stipulated for the issue of preliminary decision (currently 50 Euro). Maximum term for issue of preliminary decision on the country of origin constitutes 30 days since the day of filing of an application by the interested person.



Period of validity of preliminary decision on the country of origin under the Law "On customs" constitutes three years. However, it is necessary to note, that in conformity with Rules of definition of the country of origin, approved by the Council of Heads of the CIS Governments of 30 November 2000, period of validity of the certificate of origin constitutes one year. In conformity with the Article 5 of the Law "On customs", these Rules have a priority action regarding the Law "On customs".

With regard for the above, term of validity of the preliminary decision on the country of origin at present makes up one year.

- (m) **Anti-dumping regime**
- (n) **Countervailing duty regime**
- (o) **Safeguard regime**

#### **Question 17**

**We thank Kazakhstan for provided its Antidumping and Countervailing Duty Laws in WT/ACC/KAZ/23, and "On Measures of Protection of Internal Market of Goods" in WT/ACC/KAZ/20. We will provide specific comments in writing.**

## **2. Export Regulation**

#### **Question 18**

**In the response to question 43 of WT/ACC/KAZ/22 Kazakhstan again acknowledges the existence of prohibited subsidies and seeks a transition period within which to bring them into conformity with the Subsidies Agreement or eliminate them. Kazakhstan has previously noted that subsidies for food, light, coal, machinery building and construction materials industries were involved.**

**We suggest that Kazakhstan. As a matter of urgency, specify the subsidies involved, give legal citation for them, and make specific proposal for their elimination. Further delay on this point undermines the credibility of Kazakhstan's statements that it wishes to intensify work towards completion of negotiations for terms of accession.**

**What steps has Kazakhstan taken during the last three years to provide for the eventual elimination of these prohibited subsidies? By what date-certain is Kazakhstan prepared to have eliminated these programs?**

**There is no automatic recourse for acceding countries to the transitional provisions provided for in the Uruguay Round Agreements. In the absence of information on the precise nature of the subsidies and Kazakhstan concrete plans for their alteration or elimination, there can be no consideration of Kazakhstan's request.**

Answer:

Commodity composition of industrial product export in 2001

Commodity	Measurement Unit	Export	
		Quantity	Cost (million US\$)
Coal	Thousand tons	27,244.2	222.5
Oil & gas condensate	Thousand tons	32,400.6	4,267.2
Iron ores	Thousand tons	7,384.7	84.8
Oxide and aluminum hydroxide	Thousand tons	1,249.8	186.7
Ferrous alloys	Thousand tons	822.6	315.1
Ferrous metals rolling Flat metal, including white sheet	Thousand tons	3,176	577.2
Refined copper & Alloys	Thousand tons	399.2	609
Raw zinc	Thousand tons	235.8	157.7
Lead	Thousand tons	131.2	54.7

Industrial Domestic Subsidizing

Commodity	Measurement unit	Export		State subsidies
		Export volume	Amount Million US\$	
Chrome combinations	Thousand tons	30	15.4	Are not imposed by VAT
Yellow phosphorus	Thousand tons	19	15.6	Tax break, privileges on monopolists services
Phosphorite meal	Thousand tons	442	8.8	See "phosphorus"
Phosphoric fertilizers	Thousand tons	12	0.8	The same
Pneumatic tires	Pcs	5,200	0.15	Import duty on restoration of a tire at the rate 30% is introduced
Sulphuric acid	Thousand tons	23	0.15	50% discount on railway tariff
Conveyor belts	Tons	730	2.1	Import duties on cord cloth are decreased

With a view of financial backing of agricultural producers of the Republic, for purchasing of mineral fertilizers from domestic chemical plants the state in 2001 allocated from the budget 305 million tenge, in 2002 – 400 mln tenge, increasing the rates of subsidizing in 2005 to 1.2 billion tenge according to the Program of Agro-Industrial complex.

With a view of raising of competitiveness of the product of OSC "Ispat-Karmet" on export metal rolling transportation by rail, in direction via Aktau Sea Commercial port, 0.8 decreasing rate is established.

### **3. Internal Policies Affecting Foreign Trade in Goods**

#### **(a) Industrial policy**

**Article 7 of the Law on State Support to Direct Investment of 28 February 1997 stipulates that the State Committee of the Republic of Kazakhstan on Investments may grant income tax**

**exemptions aimed at supporting direct investments and developing new industries in particular sectors.**

**Question 19**

**Such specificity engages the obligations of the WTO Agreement on Subsidies and Countervailing Measures.**

**We seek Kazakhstan's commitment that such subsidies will be notified as provided for in Article 25 of the Agreement.**

Answer:

Kazakhstan undertakes commitments to notify of all applied subsidies in conformity with the Article 25 of WTO Agreement "On Subsidies and compensation measures".

**(b) Technical regulations and standards**

**Question 20**

**We appreciate the additional information provided by Kazakhstan on its Standards regime, i.e., in WT/ACC/KAZ/22, 27, and 28, and in the new legislation provided in WT/ACC/KAZ/23.**

**We are reviewing this documentation and will provide specific comments and questions in writing.**

**Has Kazakhstan reviewed its mandatory standards to determine if they meet WTO requirements as technical regulations?**

**Has Kazakhstan taken measures to establish a regime of voluntary standards?**

Answer:

We provide with the following information of the conformity of legislation of the Republic of Kazakhstan with the Articles of WTO Agreement on technical barriers on trade (further Agreement).

"Article 1. Agreements

General terms for standardization and conformity assessment procedures should have the meanings, accepted in UN system and by international organizations, considering their context, aim and purposes of this Agreement".

A notion "technical regulation" is included in the Law of the Republic of Kazakhstan "On standardization" and Technical standard (TS) of the Republic of Kazakhstan 1.0-2000 " State system of standardization (SSS). Key provisions".

"Article 2. Agreements

WTO member countries regarding the imported goods should grant no less favorable treatment with respect to technical regulations than that which is effective on their territory.

While working out technical regulations (standards) it is necessary to be oriented at international standards and with a view of harmonization of national standards with

international ones, it is necessary to be more actively involved in the work of international organizations on standardization;

to perceive as equivalent national standards of other countries if they provide legislative aims, to carry out wide exchange regarding the standards and assessment procedures relatively;

to publish at early stage notifications of supposed introduction of concrete technical regulation (standard) thereby concerned countries might be acquainted with it".

Pursuant to the Law of the Republic of Kazakhstan "On standardization" international and national standards of foreign countries applied in the established order are entered into the category of normative documents, effective in the Republic of Kazakhstan.

Natural and legal persons are granted the right directly to apply international, regional and national standards, technical regulations and other normative documents on standardization of foreign countries in the order established by STATESTANDART.

State standard (SS) of Republic of Kazakhstan 1.9-99 "Order of applying of international, regional and national documents on standardization and certification" is adopted. The Law of the Republic of Kazakhstan "On standardization" determined that an authorized state body (STATESTANDART) organizes a publication of information about standards and conformity assessment procedures, as well as standards and certification procedures and their projects.

#### "Article 3. Agreement

Technical regulations of local governmental and non-governmental bodies should not contradict to the requirements of technical regulations of central governmental bodies".

There are unified legislative and normative documents in the Republic of Kazakhstan. In addition, the law on standardization stipulates that normative documents (state, firm standards, technical conditions) should not contradict to compulsory requirements of technical regulations (standards).

#### "Article 4. Agreement

WTO Member-countries should ensure that their central governmental bodies on standardization recognized and observed the Code of fair practice while working out, adopting and applying standards".

Accession to the above Code is not a compulsory requirement and accession to it is carried out by the countries on voluntarily from accession date to the WTO.

"Article 5. Agreement

Conformity assessment procedures should be identical for goods of import and domestic production including time and volume of an analysis of presented documents and conducting of conformity assessment procedures. While carrying out the conformity assessment procedures to observe confidentiality of goods information, to provide the equivalence of charges for conformity assessment both for import and domestic goods, to provide the procedure of complaints review, related to the conformity assessment".

In state standard of Republic of Kazakhstan (SS) 3.0-94 "Certification state system. Key provisions" requirement of non-discrimination access to involvement in certification state system of all its participants is established, as well as carrying out of compulsory and voluntary certification both domestic and import product according to the unified rules.

In state standard of Republic of Kazakhstan 3.2-94 "Certification state system of Republic of Kazakhstan. Requirements to the bodies on certification and their accreditation order the principle of payments equivalents, imposed for imported and domestic product certification is determined.

"Article 6. Agreement

To take measures on mutual recognition of conformity assessment".

This requirement is fulfilled while preparing Agreements on cooperation in the area of standardization and certification with foreign countries.

"Requirements to accreditation to certification bodies should be unified irrespective of either domestic or foreign".

In state standard of Republic of Kazakhstan 3.0-94 "Certification state system. Key provisions" the requirement to non-discrimination access to involvement in certification state system of all its participants is established.

"Articles 7 and 8. Agreement

WTO member countries should ensure fulfilment of the Articles 5 and 6 regarding the procedures worked out and introduced by local governmental and non-governmental bodies within the limits of their territories".

In the Republic there are unified legislative and normative documents in the area of standardization and certification.

"Article 9. Agreement

To give priority to international conformity assessment systems, which would provide fulfilment of provisions of Articles 5 and 6".

In the Law of the Republic of Kazakhstan "On Certification" it is said that while working out normative documents on certification international technical rules should be applied as a basis.

"Article 10. Agreement

WTO member-countries have to ensure the functioning of information center, which might answer the justified inquiries of other WTO Member countries and provide with documentation, concerning standards and conformity assessment procedures.

The price for publishing document should be unified for all".

In the Article 17 paragraph 4 of the Law of the Republic of Kazakhstan "On Standardization" creation of information centre, responsible for submission of to concerned persons of notifications, corresponding documentation and information concerning standards and certification procedures has been determined.

In the structure of State Standard (RSE "KazINST") there is an information center, function of which is fulfilment of information supply of WTO member countries, within the framework of Agreement on technical barrier in trade.

In State Standard of Republic of Kazakhstan 1.8-98 "State system of standardization (SSS). Order of publication and provision with normative documents and information of State Fund of Standards of the Republic of Kazakhstan" modifications on requirements of unified work evaluation on information supply, including costs for publishing documents (applicable costs unified for all users) is being prepared.

"Article 11. Agreement

WTO member-countries should render a technical assistance to other WTO member-countries especially developing one".

Since the accession date to WTO.

"Article 12. Agreement

Differentiated and more favorable treatment for developing countries on realization of TBT Agreement is stipulated".

The provisions of this Article will be applied to the Republic of Kazakhstan, depending on status of the country (as Kazakhstan is not referred to developing countries).

"Article 13. Agreement

The Article 13 is referred to the activity of the Committee on technical barriers in WTO trade".

Kazakhstan will interact with the above Committee with the accession date to WTO.

"Article 14. Agreement

Stipulates the main provisions of carrying out of consultations and settlement of disputes between the WTO Member-countries".

Since the accession date to WTO.

"Article 15. Agreement

Since the moment of accession to WTO the country has to inform about the course of realization of TBT Agreement and all the modifications."

Kazakhstan will meet this requirement since the accession to the WTO.

**(c) Sanitary and phytosanitary measures**

**We appreciate Kazakhstan's acknowledgement in WT/ACC/KAZ/22, 31, and 32 concerning the deficiencies in its SPS regime in terms of the WTO.**

**Question 21**

**What steps is Kazakhstan taking to remedy this?**

Answer:

Since the moment of filing of an application in 1996 on accession to the WTO, the Republic of Kazakhstan proceeded to the activity on elimination of defects on conformity to the veterinary and quarantine control to the SPS Agreement.

For bringing into line with the requirements of SPS Agreement the following activity is being carried out:

- New Laws of the Republic of Kazakhstan "On veterinary" of 10 July 2002 No. 339 II ZRK and "On plant protection" dated 3 July 2002 No. 331-II ZRK were adopted. Amendments and alterations into the Law of the Republic of Kazakhstan "On plants quarantine", in which the norms and rules of the SPS Agreement are taken into account, entered into force in February of 2002. The list of explanatory themes on SPS in the process of accession to the WTO is attached (Attachment 2).

With a view of harmonization of sanitary and phytosanitary measures, to international standards applied in the Republic of Kazakhstan and SPS Agreement, the Government of the Republic of Kazakhstan has elaborated "The Program on agriculture standardization".

The Program was elaborated in conformity with the Resolution of the Government of the Republic of Kazakhstan of 7 March 2000 No. 367 "On the plan of measures on realization of the Program of actions of the Government of the Republic of Kazakhstan for 2000-2002", by the Resolution of the Government of the Republic of Kazakhstan of 2 October 1998 No. 991 "On the program of improvement of state systems of standardization and certification of the Republic of Kazakhstan for 1998-2000".

The Program is the continuation of the Resolution of the Government of the Republic of Kazakhstan of 4 May 2001 No. 913 "On the Program of development of national systems of standardization and certification of the Republic of Kazakhstan for 2001-2002".

It is the long-term program and it covers the period from 2001 to 2006.

Program is directed on further reforming and improvement of acting in the Republic of state standardization systems, creation of necessary conditions for transition to the international practice of application of standards and systems of quality control, creation in the Republic of recognized in the foreign practice of system of value of products, processes and services conformity.

For realization of the Program annually for the period of 2001-2006 allocation of funds will be envisaged from the republican budget.

**While we appreciate that, after ratification, the provisions of the WTO will supersede existing legislation in Kazakhstan, in practical terms Kazakhstan must be able to operationally implement and enforce the WTO Agreement on SPS from the date of accession.**

#### **Question 22**

**Kazakhstan should revise its legislation and establish its enquiry point now, prior to accession.**

#### Answer:

Republic of Kazakhstan confirms that majority of paragraphs of the WTO Agreement on SPS are taken into account in the drafts of the Laws "On veterinary" and "On entering amendments and alterations into the Law of the Republic of Kazakhstan "On plant quarantine" and will enter into force upon adoption of corresponding laws by the Parliament and President of the Republic of Kazakhstan. Paragraphs not reflected in Laws will be entered into subordinate legislative legal acts.

However, Kazakhstan has not any possibility to bring into force those provisions of SPS Agreement that demand the transition to the international standards, as the realization requires long period of time (five-six years). Realization of the given Program requires investing of significant financial means from the Republican budget.

After accession to the WTO it will be required not less than seven year transitional period to the Republic of Kazakhstan for step-by-step implementation of the Program of agriculture standardization.

#### **(d) Trade-related investment measures**

**We do not believe that WT/ACC/KAZ/25 addresses the issues raised at the last Working Party meeting, or addressed by Kazakhstan in its response to question 57 of WT/ACC/KAZ/22.**

#### **Question 23**

**Kazakhstan has identified TRIMS-inconsistent measures (i.e., the preference for the use of local inputs in foreign investment activities) in the Law on Petroleum and the Law on Subsurface Utilisation. In response to question 54 of WT/ACC/KAZ/11, Kazakhstan stated that, "In 1998, Kazakhstan will amend the Law on Oil and the Law on Subsurface Utilisation to bring them into conformity with GATT Articles III and XI by eliminating from these two laws preferences to Kazakhstan products and equipment."**

**What efforts has Kazakhstan made in the last three years to provide for the elimination of these TRIMS – inconsistent measures? By what date – certain is Kazakhstan prepared to have eliminated these programs?**

**There is no automatic recourse for acceding countries to the transitional provisions provided for in the Uruguay Round Agreements. In the absence of detailed information on the nature of the measures and Kazakhstan's concrete plans for their alteration or elimination, there can be no consideration of a transitional period for their elimination.**



Answer:

Industry is an important branch of an economy of Kazakhstan and provides approximately a quarter of produced gross domestic product. As a consequence of its steady development of industrial production is an indispensable condition of economic growth in Kazakhstan.

Under conditions of high inflation, sharp decrease in effective demand the industry of Kazakhstan appeared to be in deep crisis, caused double-fold reduction of production volumes in 1995 in comparison with 1990. In chemical industry the share of mineral fertilizers production has been sharply decreased, production of caustic soda and chlorine, polypropylene, chemical fibers, synthetic rubber were fully suspended. Production of tires was functioning with many months idle standings.

For the last five years it was possible to stabilize a situation in industry and achieve a growth trajectory. 1998 was an exception when the branch experienced an unfavourable impact of world economic crisis.

Industrial production structure continues to vary in favour of branches, engaged in extraction and primary processing of hydrocarbon mineral raw. So, the share of machine-building varied from 15.9 per cent in 1990. to 3.3 per cent in 2001. At the same time the share of all branches of fuel and energy complex (fuel extraction, oil processing, production of energy and heat) in 1990 made up 10.2 per cent, and in 2001 achieved 51.7 per cent, the share of metallurgical complex made up 15.6 and 22.1 per cent relatively.

Problems of structural composition of industry are connected with incompleteness of technological conversions from extraction of raw to production of product with high degree of readiness to further use and final consumption.

So, there is a lack of productions on deep hydrocarbon raw processing, oil processing is oriented to fuel version, the raw for oil chemical enterprises for synthetic resins, plastics, chemical fibers, goods on their basis is not produced. In textile and sewing industry because of stop and production decline of yarn the enterprises on output of fabrics, knitted and sewing goods were turned out to be without raw materials. There is a similar situation in production of leather, leather goods and shoes.

The problem of renewal of active part of the main funds, qualitative modification of technological level of production, raising of its efficiency has become actual. The main volume of foreign investments is targeted for creation of basic funds of mining industry enterprises (85 per cent), direct investments are insignificant in processing industry.

The key problems of industry are as follows: high level wear of active part of the main funds in all branches of real sector of economy; low competitiveness of goods of processing industry, including consumer goods; raw orientation of the structure of industrial production and export; low level of management and marketing investigations at the enterprises, which are in ownership of Kazakhstani investors; high level of energy expenses per unit of production of the main funds wear; low level of technical development of many enterprises of processing industry; narrow nomenclature of production of consumer goods; unstable financial state of many enterprises of processing industry and power energy.

Industrial policy being worked out for the period to 2010, targeted for further increase in technical and technological potential in fuel-and-energy and mining-and-metallurgical complexes, generating effective demand. It should be accompanied by development of production and services in other branches of economy, including consumer goods, products of heightened goods readiness.

Thus, industrial policy pursues the following main aims:

- creation of capacities on deepened procession of hydrocarbon raw with a view of receiving of assortment of products and goods;
- provision of conditions for reanimation of enterprises of agricultural machine-building, machines, equipment, devices and spare parts for basic branches of economy, transport;
- creation of production competitiveness especially with attraction of subjects of medium and small enterprises, in the branches of light and food industry;
- working out of efficient mechanism of innovation development of real sector of economy, introduction of scientific and technical achievements into production, creation of new high technology and technological productions.

As a result there will be a multiply effect from industry revival, which will lead to creation of new jobs in other branches of economy, which will decrease social tension in the society and extend taxation base as a whole. So, at present in industry of Kazakhstan more than 920,000 people are engaged, which makes up 14 per cent of total size of working in the economy. As a result of pursuing of rational industrial policy in the nearest three-five years it is supposed to increase the number of engaged only in processing industry by 40,000-45,000 people, and for five-seven years – above 100,000 people.

In medium term period it is not real to account for radical structural transformations in industry. Growth of volumes of industrial production will be provided mainly at the expense of oil and gas mining industry and metallurgy. At the same time, these export oriented branches are subjected to strong impact of world economy, financial and economic crises.

In this connection Kazakhstan in conformity with the provisions of TRIMs Agreement supposes to request a ten year transition period for withdrawal of measures, laid in the Laws of the Republic of Kazakhstan "On oil" and "On mineral wealth and mineral wealth use"

**(e) State-trading practices**

**We thank Kazakhstan for its confirmations in response to Questions 58 and 59 in WT/ACC/KAZ/22.**

**Question 24**

**We reserve, however, on whether Kazakhstan has no state trading enterprises to notify under Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article YTI of the GATS.**

Answer:

There is a lack of state trading enterprises in the Republic of Kazakhstan.

**(f) Free zones**

**(g) Free economic zones**

**Question 25**

**Please update information on the existence and operation of free trade and free economic zones, noting specifically (a) legal citation authorizing them; (b) the incentives available and the**

**timeframe for their use; and (c) rules for application of normal, customs requirements for output of the zones sold in the rest of Kazakhstan.**

Answer:

As of today there are no special economic zones (SEC) in the Republic. At the same time by the Decree of the President of the Republic of Kazakhstan of 29 June 2001 No. 645 since 1 January 2002 the special economic zone "Astana – the new city" has been created for the period until 2007.

The issues of creation, legal regulation of SEC functioning are established by the Decree of the President of the Republic of Kazakhstan, effective as Law "On special economic zones in the Republic of Kazakhstan", by the laws of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget", "On customs in the Republic of Kazakhstan", by banking and other legislation of the Republic.

By the Law of the Republic of Kazakhstan of 5 July 2001 "On entering amendments and alterations into some legislative acts of the Republic of Kazakhstan on issues of special economic zone "Astana – the new city" by entering amendments and alterations into the Laws "On taxes and other obligatory payments to the budget", "On customs in the Republic of Kazakhstan" tax privileges and preferences for construction of objects of infrastructure, administrative and housing complexes on the territory created by SEZ.

Tax preferences are provided with regard to:

- Value added tax on turnover upon realization on the territory of being created zone of goods (works, services), completely consumed in the process of construction and putting into operation of objects of infrastructure, housing and administrative complexes (further objects);
- Land tax on land plots on the SEZ territory, where the construction is being carried out or objects have been built at the period of SEZ functioning; and
- Property tax on objects, built at the period of SEZ functioning.

Customs preferences - on tax duties and value added tax will be granted with regard to the import: machinery and equipment, designed for construction; goods, completely consumed in the process of construction on the SEZ; goods and equipment, necessary for construction and putting into operation of objects in conformity with project-and-budget documentation.

At the same time it should be noted, that legislation of the Republic with regard to the working SEZ, and will, probably, work in future, doesn't assume any restrictions on the access to these zones for foreigners, excluding the generally accepted for majority of functioning in the world of special economic zones of restriction on the place of registration of persons, whom the privileges are not granted. In particular, regarding the "Astana is the new city" SEZ, the customs privileges and tax privileges on VAT are granted to the legal persons of the Republic of Kazakhstan, as well as non-residents, carrying out the activity through the permanent establishment of natural persons, registered on the territory of Astana, carrying out of enterprise activity without formation of legal person, having the permanent place of residence in Astana.

**(l) Government procurement practices**

**Question 26**

**We note Kazakhstan's commitment to join the WTO Agreement on Government Procurement after accession, and to make alterations in its laws to meet its provisions. We would appreciate updated information on Kazakhstan's efforts in this direction.**

Answer:

The Republic of Kazakhstan will consider the issue on accession of Kazakhstan to the Agreement on Government Procurement after the WTO accession.

**V. TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS**

**Kazakhstan is to be commended for the efforts it has made since 1998 to revise its laws on intellectual property protection in line with the WTO TRIPS Agreement.**

**Question 27**

**We are reviewing the legislation provided in WT/ACC/KAZ/23 and the information in WT/ACC/KAZ/24 and 26, and we will submit comments in writing.**

**We note the absence of information on Copyrights in WT/ACC/KAZ/26 and indicates in WT/ACC/KAZ/24 that there are deficiencies *vis-a-vis* the TRIPS Agreement. What steps is Kazakhstan taking to address the deficiencies from WTO conformity that exist in its Copyright Law?**

Answer:

In 20 December 1996 in Geneva the Republic of Kazakhstan signed the International Treaty of World intellectual property organization (WIPO) on copyright and the International Treaty on executions and phonograms. But for entering them into force their ratification is required.

Also the Republic of Kazakhstan joined the following international Agreements: Strasbourg Agreement on international patent classification (Law of the Republic of Kazakhstan of 16 November 2001 No. 257); Nice Agreement on international classification of goods and services for registration of marks (Law of the Republic of Kazakhstan of 16 November 2001 No. 258); Budapest Agreement on international recognition of microorganisms depositing for patent procedure purposes (Law of the Republic of Kazakhstan of 16 November 2001 No. 259).

**VII. INSTITUTIONAL BASIS FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES**

**1. Bilateral or Plurilateral Agreements Relating to Foreign Trade in Goods and Trade in Services**

**We remain interested in Kazakhstan's adherence at the time of accession to the WTO Agreement on Trade in Civil Aircraft, and adoption of "zero" duties for the importation of aircraft and parts.**

Answer:

Currently Kazakhstan do not schedule to join the WTO Agreement on Trade in Aircraft by the accession date to the WTO.

## APPENDIX 1

On the rates of excises on excisable goods, produced in the Republic of Kazakhstan and imported on the customs territory of the Republic of Kazakhstan, sold on the territory of the Republic of Kazakhstan, and gambling business

Extract from the Resolution of the Government of the Republic of Kazakhstan of 28 January 2000 No. 137

The rates of excises on excisable goods, produced in the Republic of Kazakhstan  
and on the customs territory of the Republic of Kazakhstan,  
sold on the territory of the Republic of Kazakhstan,  
and gambling business

HS-item code	Description	Tax base	The rates of excises on produced goods and gambling business	The rates of excises on imported goods
of 2207 2208**	All kinds of alcohol (except supplied for manufacturing medical and pharmaceutical preparations, at presence at commodity producers of the license of the Republic of Kazakhstan for the right of manufacture of specified production, and also supplied to state medical establishments, within the limits of established quotes)	physical volume	300 tenge/1 litre	3 €/1 litre
	Alcohol, supplied for manufacture of alcoholic production (except for beer), at presence at commodity producers of the license for the given kind of activity	physical volume	30 tenge/1 litre	0.3 €1 litre
	Alcoholic production (except vodka and special vodka; balms; cognacs; liqueurs; fortified juices and fortified beverages with volume of the ethyl alcohol up to 30%)	physical volume	80 tenge/ 1 litre	1.7 €1 litre
	Vodka and special vodka	physical volume	40 tenge/1 litre	1.7 €1 litre
	Balms (except for balms, registered according to the legislation of the Republic of Kazakhstan as a medicine)	physical volume	50 tenge/1 litre	1.7 €1 litre
	Balms, registered according to the legislation of the Republic of Kazakhstan as a medicine)	physical volume	10 tenge/1 litre	0.4 €1 litre
	Cognac	physical volume	20 tenge/1 litre	1.7 €1 litre
	Liqueurs; fortified juices and fortified beverages with volume of the ethyl alcohol from 12 to 30%)	physical volume	70 tenge/1 litre	1.7 €1 litre

HS-item code	Description	Tax base	The rates of excises on produced goods and gambling business	The rates of excises on imported goods
	Light spirits, fortified juices and fortified beverages with volume of the ethyl alcohol from 1.5 to 30%)	physical volume	30 tenge/1 litre	0.4 €1 litre
of 2204 2205 220600	Wines and wine beverages (except sparkling and aerated champagne)	physical volume	10 tenge/1 litre	0.4 €1 litre
	Champagne wines, sparkling and aerated wines	physical volume	20 tenge/1 litre	0.4 €1 litre
	Wine material worked	physical volume	10 tenge/ 1 litre	0.4 € 1 litre
2203 00 **	Beer	physical volume	6 tenge/1 litre	0.2 €1 litre
2402 **	Tobacco products with filter	physical volume	145 tenge /1,000 unit	2 €1,000 unit
	Tobacco products without filter, other products containing tobacco	physical volume	95 tenge/1,000 unit	2 €1,000 unit
of 0301, 0302, 0303, 0304, 0305, 1604**	Caviar of salmonidae fish	on produced goods - cost, on imported goods - customs cost	100%	100%
of 7113, 710239000, 7114, 7116**	Articles of jewelry of gold, silver and platinum	on produced goods - cost, on imported goods - customs cost	10%	10%
271000270 - 271000360**	Gasoline (except for aviation)	physical volume		31 €1 ton
271000610, 271000650, 271000690**	Gas oils	physical volume		0
of 2709 00**	Petroleum oils, including natural gas condensates	physical volume	0	0
8703	Motor cars	customs cost, or engine capacity		10%, but not less than 0.5 €cm <sup>3</sup> (only for automobiles with engine capacity more than 3,000 cm <sup>3</sup> )
of 9303, 9304, 9305**	Firearms and gas firearms (except for got for needs of bodies of state authority)	on produced goods - cost, on imported goods - customs cost	0	0
	Gambling business (except lottery)	Playing table  The game automatic device with money prize  Totalizator cash-desk  Cash-desk of bookmaker office	130-740 Monthly pay -indices (MPI)**  5-25 MPI  80-200 MPI  20-100 MPI	

HS-item code	Description	Tax base	The rates of excises on produced goods and gambling business	The rates of excises on imported goods
	Organization and conducting of lotteries	The declared gain with a minus of the sums, related to the prize-winning fund without inclusion in it of the sum of an excise	10%	

\* Euro is recalculated in tenge at the rate of National Bank of the Republic of Kazakhstan per day determined by the customs legislation for payment of customs payments.

\*\* The nomenclature of the goods is defined by as HS-item code, and by the description of goods.

\*\*\* MPI – average annual 775 tenge (for 2001 year)

Rate of US dollar according to the National Bank rate – average annual 146.7 tenge (for 2001 year).



**APPENDIX 2**

List of Explanatory SPS Topics During Accession to the WTO

Commitments (on the date of accession)	Comments
<p>1. Introduction of new standards, requirements to animals health and food products safety shall conform to the principles of SPS Agreement</p>	<p>Legislative base, regulating the issues of sanitary and phytosanitary measures, applied in the Republic, is at elaboration and making amendments and alterations stage.</p> <p>The new Law of the Republic of Kazakhstan "On veterinary" was adopted on 10 July 2002 No.339-II LRK, in February 2002 amendments and alterations were entered into the "Law of the Republic of Kazakhstan "On plants quarantine", adopted on 11 February 1999 No.344-1.</p> <p>In elaborated Laws the requirements to health of animals and food products safety are reflected in conformity with the main principles of SPS Agreement, in particular: transparency, risk assessment criteria, information availability, equivalence and etc.</p> <p>Existing standards on veterinary and plants quarantine are at the stage of thorough revision and harmonization in conformity with international requirements.</p> <p>If by international agreements, ratified by the Republic of Kazakhstan, other norms, than those which are contained in relevant laws, are established, then under the Article 21 of the Law of the Republic of Kazakhstan "On plants quarantine" and the Article 2 of the Law of the Republic of Kazakhstan "On veterinary" the rules of international agreements, ratified by the Republic of Kazakhstan will be applied.</p>
<p>2. Creation of permanent operating uniform information bureau</p>	<p>Plants quarantine measures and Veterinary measures</p> <p>The Republic of Kazakhstan has a required data base, which is collected from all the regions to Veterinary Department and Plants quarantine Department. Information availability by Departments are provided for all concerned persons (subparagraph 2 of the paragraph 1 of the Article 7 of the Law of the Republic of Kazakhstan "On plants quarantine", a paragraph 12 of the Article 8 of the Law of the Republic of Kazakhstan "On veterinary").</p> <p>In connection with an adoption of the Enactment of the Government of the Republic of Kazakhstan No. 1627 of 30 October 2000 "On issues of formation of information-marketing system (IMS) of the Ministry of Agriculture of the Republic of Kazakhstan", a uniform information centre is being created, providing an operative analytical and marketing information between agricultural commodity producers and state bodies, as well as other participants of agrarian market, including the WTO member countries. Within the framework of IMS of the Ministry of Agriculture of the Republic of Kazakhstan a website (<a href="http://www.minagri.kz">www.minagri.kz</a>) has been created and a regular bulletin "AgroInform" of the Ministry is being published, in which all accepted legal acts, including veterinary science, quarantine and plants protection, are published.</p>

Commitments (on the date of accession)	Comments	
3. Principle of (transparency) openness: notification and access to documentation	<p>In amended and supplemented Law of the Republic of Kazakhstan "On plants quarantine" the issues of information transparency and availability are taken into account.</p> <p>By subparagraph 2 of the paragraph 1 of the Article 7 of the Law of the Republic of Kazakhstan "On plants quarantine" keeping a register of quarantine objects spreading and granting of information to concerned persons are stipulated.</p> <p>Moreover, in subparagraph 7-1 of the paragraph 1 of the Article 7 of the Law of the Republic of Kazakhstan "On plants quarantine" creation of data base of availability and spreading of quarantine objects in the Republic of Kazakhstan and foreign countries, measures and arrangements on struggle with them is stipulated.</p>	<p>A full information of state veterinary inspection in the Republic is collected in the Veterinary Inspection Department.</p> <p>According to paragraph 12 of the Article 8 of the Law of the Republic of Kazakhstan "On Veterinary" the competence of an authorized state body in the field of veterinary and its territorial sections covers "an organization and ensuring of furnishing concerned persons with information about carried out veterinary measures, established veterinary rules and norms, other legal acts of the Republic of Kazakhstan in the field of veterinary".</p> <p>Moreover, the Republic since 1993 is a member of International epizootic bureau (IEB) and uses, in this connection, the international information in the field of veterinary, as well as provides the members of IEB with information about state of veterinary-and-sanitary situation on the territory of the Republic.</p>
a) an appointment of an agency, responsible for preparation, dispatching of notifications to the WTO and observance of openness on a permanent base;	<p>In conformity with the Law of the Republic of Kazakhstan "On plants quarantine" responsibility for preparation, dispatching of notifications to international organizations and observance of openness obligations is imposed on Protection and Plants Quarantine Department of Ministry of Agriculture of the Republic of Kazakhstan.</p>	<p>Under the Law of the Republic of Kazakhstan "On Veterinary", Veterinary Inspection Department of the Ministry of Agriculture of the Republic of Kazakhstan is a competent Central state body of veterinary management and responsible agency in the Republic for preparation, dispatching of notifications to the international organizations.</p>
b) Elaboration of instructions or articles of law, enacting the publication at early stage of notifications in the press of supposed introduction of a specific measure for acquaintance and submission of comments;	<p>In the Republic of Kazakhstan the given norm is a prerogative of subordinate legal acts. In this connection, the norm, stipulating the publishing at early stage of notifications in the press of supposed introduction of a specific measure for acquaintance and submission of comments, will be reflected in subordinate legal acts on the basis of declared in the Law of the Republic of Kazakhstan "On Veterinary" (the paragraph 12 of the Article 8) and in the Law of the Republic of Kazakhstan "On plants quarantine" (subparagraph 2 of the paragraph 1 of the Article 7) of information openness.</p>	
c) elaboration of provisions, laws or administrative procedures, stipulating submission of copies of documents of supposed measures to the WTO members;	<p>In the Republic of Kazakhstan this norm is a prerogative of subordinate legal acts. In this connection, the norm stipulating the publishing at early stage of notifications in the press of supposed introduction of a specific measure for acquaintance and submission of comments will be reflected in subordinate legal acts on the basis of declared in the Law of the Republic of Kazakhstan "On Veterinary" (the paragraph 12 of the Article 8) and in the Law of the Republic of Kazakhstan "On plants quarantine" (subparagraph 2 of the paragraph 1 of the Article 7) of information openness.</p>	

Commitments (on the date of accession)	Comments	
<p>d) request for provision to the WTO members and the public of reasonable term for submission of comments in conformity with the Law or administrative procedure, as well as introduction of acceptance and consideration of comments without discrimination.</p>	<p>Elaborated draft laws, concerning the interests of a majority of citizens (including "On Veterinary", and "On plants quarantine") are published in the official press for overall discussion with indication of proposals and remarks acceptance terms. Terms are established by developer, usually within a 30 day term.</p> <p>In the Republic of Kazakhstan this norm is a prerogative of subordinate legal acts. In this connection, the norm stipulating publication at early stage of notifications in the press of supposed introduction of a specific measure for acquaintance and submission of comments will be reflected in subordinate legal acts on the basis of declared in draft Law of the Republic of Kazakhstan "On Veterinary" (the paragraph 12 of the Article 8) and in the Law of the Republic of Kazakhstan "On plants quarantine" (subparagraph 2 of the paragraph 1 of the Article 7) of information openness.</p>	
<p>4. The necessity of sanitary and phytosanitary measures of applied only for maintenance of protection of health of people and animals.</p>	<p>Kazakhstan applies phytosanitary measures to an extent, which is required for maintenance of protection of health of people, animals and plants.</p> <p>According to the paragraph 1 of the Article 4 of the Law of the Republic of Kazakhstan "On plants quarantine" one of the principles of state policy in the field of plants quarantine is ensuring of protection of plants resources and plants products against damage and destruction by quarantine objects with a view of maintenance of food and raw safety of the country.</p>	<p>Kazakhstan ensures observance and applying of sanitary measures within the framework of IEB. Under the paragraph 7 of the Article 4 of the Law of the Republic of Kazakhstan "On Veterinary" unjustified restrictions in realization of cargo under inspection of veterinary inspection are not permitted while carrying out veterinary measures with a view of provision of veterinary-and-sanitary favorable situation.</p>
<p>5. Scientific substantiation: provisions, regulating protection of health of people, animals and plants shall be scientifically substantiated.</p>	<p>In the paragraph 3 of the Article 4 of the Law of Republic of Kazakhstan "On plants quarantine" it is stated that the principles of carrying out of state measures for plants quarantine on the territory of the Republic are as follows: objective, scientifically substantiated assessment of possible impact of quarantine objects on vegetative resources and products of vegetative origin and prevention of possible damage caused by them</p>	<p>Any provisions, instructions, offered for animals protection and with a view of safety for health of people undergo an obligatory scientific examination and approbation, in this case, international standards and norms of IEB are taken into consideration.</p> <p>In the paragraph 5 of the Article 4 of the Law of Republic of Kazakhstan "On veterinary" it is stipulated the norm, which says about "elaboration of veterinary rules and norms on the scientific basis with account of assessment of objective epizootic situation and international norms in the field of veterinary".</p>
<p>6. Harmonisation: up to possible limits, member-countries apply international standards and instructions while establishing SPS measures.</p>	<p>In the subparagraph 8 of paragraph 1 of the Article 7 of the Law of Republic of Kazakhstan "On plants quarantine" it is reflected that phytosanitary service elaborates jointly with scientific and research organisations the quarantine measures on the basis of scientific principles of phytosanitary risk assessment with account of requirements of international norms and recommendations and carries out control over their fulfilment by natural and legal persons, regardless of the form of ownership</p>	<p>Jointly with Tasis project the work on bringing into line of the republican veterinary legislation with international standards and norms is being carried out.</p> <p>In case of elaboration of new standards the requirements of International veterinary Code and directives of European Union are taken into account.</p>

Commitments (on the date of accession)	Comments	
7. Principle of equivalence: member countries shall recognise various measures, which ensure the equivalent protection level.	Principle of equivalence is reflected in the Law of Republic of Kazakhstan "On plants quarantine" in the paragraph 2 of the Article 13, where it is stated that quarantine measures of other countries are to be recognised if they ensure the proper level of phytosanitary protection, applied in the Republic.	Kazakhstan, being the IEB member carries out consultations in case of difference of approaches of veterinary and sanitary measures.  Principle of equivalency will be reflected in legal act "Veterinary and sanitary requirements in case of export, import and transit of cargo under state veterinary inspection"
8. Risk assessment: elaboration of scientific proof and carrying out of risk assessment with a view of provision of scientific substantiation and application of measures only to an extent, which is necessary for protection of life and health of people, animals or plants.	Pursuant to the paragraph 3 of the Article 4 of the Law of Republic of Kazakhstan "On plants quarantine" the principles of carrying out of state measures on plants quarantine on the territory of the Republic of Kazakhstan are as follows: "objective, scientifically substantiated assessment of possible impact of quarantine objects on vegetative resources and products of vegetative origin and prevention of possible damage caused by them	In veterinary practice of the Republic there are own procedures of diagnostics, treatment and specific preventive measures of infectious diseases of animals, which are quite reliable on the territory of the Republic. While carrying out such procedures the risk assessment is applied, which includes elements of observation, scientifically substantiated proof, assessment policy, possible risk management, introduction of measures, liquidation, which meets the requirements of International veterinary Code (paragraph 5 of the Article 4 of the Law of Republic of Kazakhstan "On veterinary"
9. Regional conditions: sanitary or phytosanitary measures shall provide regional peculiarities both the country of origin and place of its destination.	Subparagraph 5 of paragraph 1 of the Article 7 of the Law of Republic of Kazakhstan "On plants quarantine" says that an authorised state body "carries out quarantine examination, laboratory expertise and phytosanitary certification of imported and exported sub-quarantine products with account of phytosanitary characteristics of the territory and country of its origin and place of destination."	In paragraph 3 of the Article 20 of the Law of Republic of Kazakhstan "On veterinary" it is stipulated that import, export and transit of cargo under inspection of state veterinary inspection are carried out in conformity with epizootic situation assessment of appropriate territories.

Commitments (on the date of accession)	Comments	
<p>10. Non-discrimination principle: measures shall not be applied at will or to be of arbitrarily discrimination character and differ for member-countries, either with regard to domestic or foreign suppliers</p>	<p>In the Republic of Kazakhstan in the field of plants quarantine the same regime is applied to all the foreign suppliers as to domestic ones.</p> <p>In case of granting of import quarantine license, certifying the conformity of imported or transit products to necessary phytosanitary requirements in the Republic of Kazakhstan, the same criteria are applied as to the domestic suppliers (Article 20 of the Law of Republic of Kazakhstan "On plants quarantine").</p>	<p>In the Republic of Kazakhstan in the field of veterinary the same regime is applied to all the foreign suppliers as to domestic ones.</p> <p>In case of issue of veterinary certificate, certifying the conformity of imported or transit products to necessary sanitary requirements the same criteria are applied as to the domestic suppliers.</p> <p>In case of unfavourable situation in any country with regard to animals' diseases of the list A and B of IEB in the Republic of Kazakhstan restrictions on import, export and transit of products under inspection are applied. Such information is obtained by the Republic since 1993 from the International epizootic bureau.</p> <p>Discrimination with regard to domestic or foreign supplier is not admitted. The main condition is a favourable situation on the territory, where the product was prepared, conformity of veterinary documents and availability of import or transit license of the country-importer.</p> <p>Also in the paragraph 7 of the Article 4 of the Law of Republic of Kazakhstan "On veterinary" the paragraph on "non-admittance of unreasonable restrictions in realisation of cargoes under inspection of state veterinary inspection while carrying out of veterinary measures with a view of ensuring of veterinary-sanitary favourable situation.</p>
<p>11. Procedure of control, inspection and licensing: procedures, including the rules for receiving of license for use of additives or for permission of admitted deviation from the impurity standards for products, drinks and forages shall correspond to the Provisions of SPS Agreement.</p>	<p>Currently this norm is prevailed within the framework of intergovernmental agreements of the Republic of Kazakhstan.</p> <p>Together with it, the legal base of the Republic of Kazakhstan regarding the procedure of control, inspection and licensing is being brought into line with international standards. This norm will be fulfilled upon bringing them into line.</p>	