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Working Party on the Accession of Kazakhstan

ACCESSION OF KAZAKHSTAN

SEPTEMBER CYCLE OF MEETINGS - "TRANSPARENCY REPORTS"

23-26 September 2014

This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

As requested by H.E. Mr. Vesa Himanen (Finland), Chairman of the Working Party, attached to this document are the "Transparency Reports" of the meetings held during the September Cycle on the Accession of Kazakhstan. These reports were initially verbally presented to Members at the Informal Meeting of the Working Party on 26 September 2014.

The reports sub-joined to this document are listed hereunder:

- 1. Plurilateral Meeting on SPS, 23 September 2014: Report by Director, Accessions Division;
- 2. Fourth Technical Verification Meeting on the Revised Consolidated Draft Schedule of Tariff Concessions and Commitments on Goods, 24 September 2014: Report by Director, Accessions Division;
- 3. Plurilateral Meeting on Tariff Adjustment, 24 September 2014: Report by the Secretariat;
- 4. Small Group Consultations on the Draft Working Party Report, 25 September 2014: Report by Chairman of the Working Party; and,
- 5. Technical Verification Meeting of the Draft Schedule of Specific Commitments on Services, 26 September 2014: Report by Director, Accessions Divisions.

PLURILATERAL MEETING ON SPS

23 September 2014

Report by Director, Accessions Division¹

- Members of the Working Party on the Accession of Kazakhstan met on 23 September 2014, in an open-ended Plurilateral Meeting. The meeting was chaired by the Director of the WTO Accessions Division. The purpose of the meeting was to review the revised Draft SPS Chapter (JOB/ACC/30/Rev.6). This Draft Chapter is yet to be mainstreamed into the main body of the Draft Working Party Report (DWPR). The Draft SPS Chapter was reviewed in conjunction with Kazakhstan's responses to Members' questions on SPS (JOB/ACC/30/Rev.5/Add.1). The meeting also considered "Next Steps".
- At the start of the meeting, the Secretariat recalled that the Accession of Kazakhstan was at the end-game stage. To this end, messages from Members, including from high levels of Government, were to accelerate the Accession of Kazakhstan and endeavour for a possible conclusion in 2014. The Secretariat underlined that if this objective was to be realized, real-time work was required that would be purposeful, non-bureaucratic, problem-solving and result-oriented. It would, therefore, be necessary, that Kazakhstan, supported by Members, depart from the cycle-to-cycle orientation and work non-stop on a rolling basis to resolve outstanding issues.
- H.E. Mrs. Gulmira Issayeva, Vice-Minister of Agriculture of Kazakhstan, offered introductory remarks. Several points, *inter alia*, were underlined in her remarks:
 - o First, Kazakhstan recalled the on-going transformation of the Customs Union (CU) between the Russian Federation (RF), Belarus and Kazakhstan into the Eurasian Economic Union (EAEU). In this context, she informed Members of the legislative changes in the area of SPS associated with this transformation;
 - Second, Kazakhstan was working in real time on the revision of the Draft SPS Chapter, which had been reflected in the updated references to the EAEU legislation and had removed square brackets in 21 commitment paragraphs which Kazakhstan considered had stabilized; and,
 - Third, Kazakhstan had provided explanations with respect to the retained brackets and expressed its readiness to engage constructively with Members on further improvements of the Draft Chapter.
- The meeting was technical and practical. The review of the Draft SPS Chapter by Members was scrupulous against the background of Members' concerns regarding regulatory restrictions in the SPS area. Members re-identified and underlined, repeatedly, their concerns and the concrete issues that had to be addressed by Kazakhstan and its CU Partners, expeditiously. Constructively, Kazakhstan agreed to promptly work on the outstanding questions, including the prompt adoption of the necessary decisions.
- The overall mood of the meeting, however, was positive and constructive. It was acknowledged that progress had been made. Collectively, Members encouraged Kazakhstan to address the issues that remained with expeditious decision-making to get its accession done.

¹ This Report is circulated by the Director of the Accessions Division on his own responsibility. It is a transparency report, requested by the Chairman of the Working Party, for all Members of the Working Party on the Accession of Kazakhstan. It is the scripted version of the preliminary oral reports to Members at the conclusion of the SPS Plurilateral on 23 September and subsequently to the Informal Meeting of the Working Party on the Accession of Kazakhstan, on Friday, 26 September 2014.

- Members expressed a range of concerns. Concerns were expressed over the pace by Kazakhstan to bring its SPS regime into consistency with WTO rules. The pace of work did not reflect the ambition to conclude the WTO accession of Kazakhstan in 2014. Considerable substantive work on the Draft Chapter remained outstanding and required before it could be mainstreamed into the DWPR. A major proportion of outstanding issues revolved around the architectural problem of the inter-relationships and jurisdictional questions between the CU/EAEU and Kazakhstan. Who had responsibility for what? Did measures taken in one jurisdiction bind other jurisdictions and how? Also, fundamentally, the ambition for a 2014 conclusion had to correspond to action on the legislative front, both at the national and the CU levels, to enact required draft laws and associated regulation. In this context, the enactment of Draft CU Decisions No. 317 and No. 834 was of particular importance.
- The technical exchanges revolved, mainly, around the following sub-chapters: (i) Trade in Goods Subject to Veterinary Control; (ii) Establishment Approval, Register and Inspections; and (iii) Compliance of the SPS Regime with the Specific Provisions of the WTO SPS Agreement. A non-exhaustive "sense" of the technical exchange between Members and Kazakhstan and associated advice to the Acceding Government, are summarized hereunder:
 - Necessity for continuous updates of the Draft Chapter to reflect all newly adopted EEC Decisions/amendments;
 - Imperative of addressing the concerns raised with respect to the questions of duplication, overlap and conflict of jurisdictions in the CU; specifically, the unanswered question regarding whether an SPS restriction applied by one CU Member would apply and be binding on other Members of the CU;
 - o Concerns expressed by Members with regard to veterinary certificates. Questions were raised, *inter alia*, on the relationship and roles of the Eurasian Economic Commission (EEC), on the one hand, and national authorities, on the other, regarding the negotiation and grant of veterinary certificates; replacement certificates; and certificates with different conditions in different CU Members. Concerns were expressed over lengthy negotiating process, preceding the issuance of veterinary certificates and receiving clear feedback on these certificates. The position of Members remained that the contradictions in this area must be resolved before accession;
 - Members also required clarification and further legislative work on the procedures for establishment approval, including the correlation of the lists of approved establishments produced at the national level, on the one hand, and at the level of the CU, on the other; as well as proper functioning of the three options available for exporting establishments (audit, guarantees and joint inspections);
 - o Members underlined that both CU regulations and decisions, and the national laws and regulations of Kazakhstan, should be compliant with international standards and recommendations; and that SPS measures should be based on sound scientific evidence (specifically, measures restricting the use of ractopamine and trenbolone acetate were mentioned). In those instances, where "risk assessments" had been used, Members noted that they would welcome a situation in which the "risk assessments" that had been used by Kazakhstan would be shared with them;
 - o An over-arching comment across the different Sections of the Draft SPS Chapter by Members was their appeal to Kazakhstan and its CU Members that draft SPS-specific commitments being considered for adoption and progress on SPS draft laws and regulations in the process of enactment should correspond to the actual operational reality "on the ground".

"Next Steps": The open-ended SPS Plurilateral made evident that the Draft SPS Chapter was not yet at a stage that would allow it to be mainstreamed into the DWPR. Further work was required. Given the time constraints, no next steps with regard to the timing for the next Plurilateral meeting and the "standard" questions and responses process were identified. Kazakhstan and Members were encouraged to intensify their negotiating engagement and work in a Small group format, on a non-stop basis. To facilitate the process, the Secretariat offered to prepare a consolidation of comments, questions and requests for clarification raised at the meeting and transmit these to the Delegation of Kazakhstan after the meeting.

WT/ACC/SPEC/KAZ/10/REV.4: REVISED CONSOLIDATED DRAFT GOODS SCHEDULE: FOURTH TECHNICAL VERIFICATION MEETING

24 September 2014

Report by Director, Accessions Division¹

- Twenty-nine Signatory Members, the Acceding Government of Kazakhstan and the Russian Federation met on 24 September 2014. The meeting was chaired by the Director, Accessions Division. The purpose was to (i) undertake the 4th Technical Verification Meeting (TVM) to review WT/ACC/SPEC/KAZ/10/Rev.4: the Revised Consolidated Draft Goods Schedule of Tariff Concessions and Commitments on the Accession of Kazakhstan; and (ii) agree to Next Steps.
- At the start of the TVM, the Secretariat recalled the specific background relating to the initial consolidation of the first version of the Draft Goods Schedule and identified remaining gaps in the revised Draft Schedule in WT/ACC/SPEC/KAZ/10.Rev.4. More specifically, two linked technical presentations by the Secretariat covered the following:
 - o First, recalled the baseline consolidation in the first version of the Draft Goods Schedule of Kazakhstan circulated in April 2012 and associated technical questions addressed;
 - o Second, reviewed the technical questions, comments and enquiries received from Signatory Members, since the circulation of the current 4th Revision, on 26 August; and
 - o Third, explained the methodologies applied by the Secretariat, in partnership with the Acceding Government of Kazakhstan, to resolve, most of the technical questions.
- The 4th TVM was technical, problem-solving and practical. Participants welcomed the Secretariat product as moving in the right direction. Participants were constructively engaged. They considered the substantive technical exchanges and the results from the 4th TVM, positive. Signatory Members provided further guidance and, as a consequence, additional impetus for continued work by the Secretariat, in collaboration with Signatory Members and Kazakhstan, on the next Revision, so as to advance towards the conclusion of the Consolidation exercise.
- The technical exchanges, emergent understanding and guidance for the Secretariat, including on Next Steps, are summarized hereunder:
 - o Ad Valorem Equivalents (AVEs): The Secretariat reported that of the 947 Tariff Lines (TL) for which FBR AVE calculations were required, it had concluded 890 and 57 remained outstanding. Consequent on the exchange with Signatory Members and Kazakhstan, it was agreed that the Secretariat would circulate the 890 AVEs already calculated, accompanied by import (trade) data used. The Secretariat also explained that in the next Rev.5, the AVE "markers" in Rev.4 would be eliminated.
 - o Tariff Line Traceability: Some Members signalled that they would submit additional TLs where they required the Secretariat to assist them in tracing the concessions they secured, which had been obscured through a range of factors: tariff line descriptions alignment, HS transpositions, etc.

¹ This Report is circulated by the Director of the Accessions Division on his own responsibility. It is a transparency report, at the request of the Chairman of the Working Party, to all Members of the Working Party on the Accession of Kazakhstan. It is the scripted version of the report initially reported to Members at the Informal Meeting of the Working Party on the Accession of Kazakhstan, on Friday, 26 September 2014.

- O Clarification of the understanding on the Chairman's Proposal on Ordinary Customs Duties (JOB/ACC/40): Kazakhstan would be required to explain how it would address a range of tariff lines (approximately 2400), where initial and/or current bound rates cross-over those of the Russian Federation. This issue affected both agriculture and non-agriculture sectors. Kazakhstan was asked to indicate whether Kazakhstan would bind at the lower level.
- At the request of a Member, Kazakhstan confirmed that "upon accession" and until the "full implementation of the FBRs agreed in bilateral negotiations with WTO Members", Kazakhstan would bind its Initial and Final Bound Rates and their staging at the lower rates agreed in its bilateral negotiations with WTO Members and the Protocol of Accession of the Russian Federation.
- Russian Federation-Kazakhstan Inconsistent FBRs: Member(s) indicated that they
 would detail and forward to the Secretariat approximately 10 TLs where the
 Russian FBRs listed, for comparison purposes, in Kazakhstan draft schedule were
 inconsistent with the FBRs of the Russian Federation.
- National Nomenclature question: Kazakhstan would be required to provide information on TLs where National Nomenclature existed for Kazakhstan but without equivalents for the Russian Federation. Kazakhstan agreed to report with additional information, as soon as possible.
- o Gaps in Rev.4:
 - Headnotes: Kazakhstan informed Members that it would submit revised Headnotes to the Secretariat, in the week of 29 September, for circulation to Signatory Members;
 - TRQs: Kazakhstan informed Members that it had decided to accept/take TRQ commitments in its Goods Schedule. It further announced that it would be meeting with Signatory Members with which it was negotiating these TRQ commitments to finalize details which would be submitted to the Secretariat as soon as possible;
 - Agriculture Inputs for Part IV of the Goods Schedule: Kazakhstan informed Members that it was in the "final stage" of its negotiations with Members to agree on inputs that would be used to complete Part IV of the Goods Schedule namely, Agricultural Support: AMS, de minimis and export subsidies; and,
 - Export Duties: The 4th TVM was informed that the Export Duties Schedule for Part V of the Goods Schedule would be submitted as soon as possible, together with associated textual language for the Draft Working Party Report.
- "Next Steps": The understanding was evident that the Secretariat could proceed with revising the Draft Schedule of Tariff Concessions and Commitments on Goods, to generate Rev.5, on the condition that all the technical questions are addressed and the identified gaps are completed.

PLURILATERAL MEETING ON TARIFF ADJUSTMENT – CHAIRMAN'S PROPOSAL ON ORDINARY CUSTOMS DUTIES

24 September 2014

Report by the Secretariat

This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

- Twenty-nine Signatory Members, ¹ the Russian Federation and the Acceding Government of Kazakhstan met on 24 September 2014. This Plurilateral meeting was chaired by Ambassador Himanen (Finland), Chairman of the Working Party on the Accession of Kazakhstan. The purpose was to: (i) focus on the outstanding technical substance, in particular on the nine draft paragraphs, (from 289 to 289 *novies*) in the Chairman's Proposal contained in document JOB/ACC/40, with a view to identifying compromise language; and, (ii) agree to Next Steps.
- At the start of the meeting, the Chairman recalled the specific background to the tariff adjustment exercise, including the first consultations held on 22 July 2014 and subsequent submission of inputs by several Members to his original proposal contained in JOB/ACC/40. Thereafter, he invited the Director of Accessions to report on two meetings, chaired by the Secretariat under the Chairman's delegated authority. These were:
 - Expert Level Technical Plurilateral Meeting on Tariff Adjustment (TA), 17 September 2014;² and,
 - Technical Verification Meeting (TVM) on the Fourth Revision of the Draft Consolidated Goods Schedule of Tariff Concessions and Commitments, 24 September 2014 (See Annex 2).
- The 2nd Plurilateral Meeting on Tariff Adjustment was well attended. Delegations comprised Lead Negotiators and Experts from Capital, in addition to the Geneva-based delegations of Signatory Members, Kazakhstan and the Russian Federation. Kazakhstan's Delegation was led by its Chief Negotiator, Minister Aitzhanova of Economic Integration. The engagement was technical, constructive and problem-solving. Several paragraphs were enhanced and progress made by the removal of square brackets. In addition to the paragraphs where outstanding work remained, Members expressed their concerns and identified areas where clarification would be required.
- Substantive exchanges revolved, largely, around the issues and questions, some of which had already been identified at the Expert Level Technical Plurilateral Meeting held on 17 September. A range of substantive exchanges made evident, the following:
 - o First, Members underscored and reiterated the importance they attached to guarantees and safeguard of their tariff concessions, predictable and uninterrupted market access, including on non-tariff measures (TRQs and SPS measures). They sought clarity by

¹ Argentina; Australia; Brazil; Canada; China; Cuba; Dominican Republic; Ecuador; Egypt; El Salvador; European Union; Georgia; Guatemala; Honduras; India; Israel; Japan; Korea, Republic of; Kyrgyz Republic; Malaysia; Mexico; Norway; Oman; Pakistan; Saudi Arabia, Kingdom of; Switzerland; Chinese Taipei; Turkey; and United States.

² JOB/ACC/43: Report by Director Accessions Division on the Proposal on Ordinary Customs Duties (Tariff Adjustment) - Informal Expert Level Technical Plurilateral Meeting, 17 September 2014.

- requesting that the list of tariff lines where tariff adjustment was envisaged, could be annexed to the Draft Working Party Report (DWPR), if possible.
- Second, some Members sought guarantees of eligibility to participate at the second level of tariff adjustment. Questions were asked regarding compensation and who would be affected.
- Third, Members noted the relationship between the conclusion of the exchanges on tariff adjustment, on the one hand, and gaps that remained to be filled, such as on TRQs, on the other hand.
- While acknowledging that the question of tariff adjustment was unique in the work of the Organization, Members demonstrated a willingness to support Kazakhstan in resolving the outstanding questions that remained.
- Other outstanding issues reviewed included: transit of the goods of those Tariff Lines which are
 exceptions to CET within the CU; as well as the applicability of commitments to CU Members
 other than Kazakhstan. On these issues, which some considered were not directly relevant in
 the Section on Ordinary Customs Duties of the DWPR, suggestions were made to explore the
 possibility of reflecting relevant commitments in other Sections of the DWPR.
- Overall, progress was registered at this Plurilateral Meeting. Members reiterated their support
 and availability for consultations. The decisions taken, so far, by Kazakhstan, were
 acknowledged, specifically, on those to bind at lower levels of tariff concessions by the Russian
 Federation. Kazakhstan was encouraged to sustain the momentum. It was understood that
 consultations would continue in different configurations to address outstanding questions.
- "Next Steps": (i) The Chairman was mandated to sustain his consultations on this proposal; (ii) small Group consultations led by Kazakhstan would continue on paragraphs 289 quater and sexies, as it considered appropriate; and (iii) the Chairman, assisted by the Secretariat, was mandated to update the Chairman's Proposal and circulate Revision 3, contained in JOB/ACC/40, with relevant inputs and with regard to consultations. The Chairman's revised Proposal would be reviewed at the next Plurilateral Meeting of Chief Negotiators. The Chairman confirmed that all ideas and suggestions in whatever format should be submitted to him for his review, consultations and reflection in a subsequent Revision 3, of his Chairman's Proposal, as appropriate.

SMALL GROUP CONSULTATIONS ON THE DRAFT WORKING PARTY REPORT

25 September 2014

Report by Chairman of the Working Party¹

- As Members already know, I am consulting in a range of formats and configurations to provide impetus to the process of developing the Draft Accession Package in keeping with guidance and signals from Members at the highest levels of our leadership to conclude the Accession of Kazakhstan, as soon as possible and, if possible, within this calendar year.
- To this end, as Chairman of the Working Party, I convened Informal Small Group Consultations on 25 September 2014. The Delegation of Kazakhstan was led by Minister Aitzhanova, Chief Negotiator for WTO Accession.
- In this on-going process, I initiated the review the 424-page Draft Working Party Report (DWPR), contained in document WT/ACC/SPEC/KAZ/9/Rev.12. The purpose of my consultations was to eliminate brackets from draft specific commitment, where possible, in stabilised draft texts and identify remaining gaps in the Draft Working Party Report. Progress was made. Participants engaged constructively. Flexibility was demonstrated.
- At the start of the consultations, the Delegation of Kazakhstan reported that it had eliminated brackets from 20 Chapters.² Of 35 paragraphs with brackets at the start of the meeting, brackets were removed from 20. Out of the 15 remaining paragraphs with brackets, Members undertook to revert after the consultations to provide feedback on my request, as Chairman, for the removal of brackets in additional 5 paragraphs³.
- The remaining 11 paragraphs with brackets in the Report relate to five issues, which have been long outstanding in the Working Party. These included: (i) state-owned enterprises⁴; (ii) trading rights⁵; (iii) trade remedies⁶; (iv) export taxes⁷; and (v) TRIMs⁸. On these issues, specific proposals are on the table. I encouraged Kazakhstan and Members to intensify their consultations with a view to finding compromises in the coming weeks, based on the proposals on the table. Some Members requested additional information or sought clarification on some other paragraphs⁹, which would be reflected in the next revision of the Report.
- I reminded Members that the Chapters on Agriculture and SPS¹⁰, and my textual proposal on Tariff Adjustment¹¹ were yet to be incorporated into the DWPR. I encouraged Kazakhstan

¹ This Report is circulated on my own responsibility as Chairman of the Working Party on the Accession of Kazakhstan. It is a transparency report to all Members of the Working Party.

² 1. Foreign Exchange and Payments; 2. Investment Regime; 3. Pricing Policy; 4. Framework for Making and Enforcing Policies; 5. Registration Requirements for Import and Export Operations; 6. Ordinary Customs Duties; 7. Other duties and charges; 8. Fees and Charges for Services Rendered; 9. Application of Internal Taxes to Imports; 10. Customs Valuation; 11. Rules of Origin; 12. Preshipment Inspection; 13. Export Regulation: b) Quantitative Export Restrictions, including Prohibitions and Quotas; 14. Industrial Policy, including Subsidies; 15. Technical Barriers to Trade; 16. Free Zones, Special Economic Areas; 17. Transit; 18. Trade-related Intellectual Property Regime; 19. Transparency; and, 20. Trade Agreements.

³ Paragraphs 341, 373, 531, 576 and 735.

⁴ Paragraphs 135, 136 and 137.

⁵ Paragraph 272.

⁶ Paragraph 517.

⁷ Paragraph 521.

⁸ Paragraphs 682 and 683.

⁹ Paragraphs 204, 248, 249, 363, 537, 539, 574.

 $^{^{10}}$ The latest versions of the draft Chapters are contained in JOB/ACC/30/Rev.6, and JOB/ACC/37/Rev.5, respectively.

¹¹ JOB/ACC/40.

and Members to work intensively with the objective of resolving outstanding questions so that these Chapters could be mainstreamed into the body of the Report as soon as possible.

- After the section-by-section review of the Draft Working Party Report, Kazakhstan provided an update to the Legislative Action Plan (LAP)¹². The latest LAP, submitted by Kazakhstan, reflected the list of legislation which would be enacted and come into force upon accession. These would be integral to the terms and conditions of its membership.
- I will sustain these Consultations on a rolling basis, when they are justified by substantive advances and decisions required for the conclusion of this accession. At this time, I request Kazakhstan and Members to stay focused on the substance.
- To conclude, I have asked technical experts in the Negotiating Team of Kazakhstan and the Secretariat to intensify their technical engagement so as to fill the remaining gaps in the Draft Working Party Report, including in the Introduction, on Documentation and, in the "Conclusions" Section, among others.
- As Chairman, I will continue to report to Members of the Working Party, including through my periodic Fax Communication, on progress as we move to conclude our work on the Accession of Kazakhstan. In doing so, I continue to appeal to all for pragmatism, in resolving the unique questions that we are faced with. I encourage the Delegation of Kazakhstan to take critical decisions sooner, rather than later, with the support of its partners in the Customs Union.

¹² WT/ACC/KAZ/73/Rev.6.

TECHNICAL VERIFICATION MEETING OF THE DRAFT SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES

26 September 2014

Report by Director, Accessions Division¹

- The Technical Verification Meeting of the Draft Consolidated Schedule of Commitments on Trade in Services (the Draft Services Schedule) of Kazakhstan took place on 26 September. The verification exercise was successfully concluded; hence making possible the emergence of the first draft component of the Draft Accession Package on the Accession of Kazakhstan.
- The verification meeting was chaired by the Director of the Accessions Division. The 15 Signatory Members² participated, the Acceding Government of Kazakhstan led by H.E. Minister Aitzhanova and, the Russian Federation.
- To initiate the verification, the Secretariat made a presentation of the Draft Services Schedule as contained in WT/ACC/SPEC/KAZ/12 and indicated changes made in WT/ACC/SPEC/KAZ/12/Rev.1 to be circulated in the week, starting 29 September.³
- Prior to circulation of the verified Draft Schedule, on a no-objection basis, one Signatory Member would revert to convey agreed adjusted language/commitment with Kazakhstan and, another Member indicated that it could revert with a possible clarification.
- This positive outcome has been reported to Director-General Roberto Azevêdo, Ambassador Vesa Himanen, Chairman of the Working Party and hereby to Members of the Working Party on the Accession of Kazakhstan.

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² Australia; Brazil; Canada; China; Egypt; European Union; India; Japan; Korea, Republic of; Norway; Saudi Arabia, Kingdom of; Switzerland; Chinese Taipei; Turkey; and United States.

³ The Draft Schedule of Specific Commitments on Services on the Accession of Kazakhstan was circulated to all Members of the Working Party on 3 October 2014, in document WT/ACC/SPEC/KAZ/12/Rev.1.